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General Services Administration  
Regulatory Secretariat Division  
1800 F Street NW  
Washington, DC 20405

*Via Regulations.gov*

**Re: Comments of the International Code Council on General Services Administration Acquisition Regulation (GSAR); Adoption of Construction Project Delivery Method Involving Early Industry Engagement—Construction Manager as Constructor (CMc) Proposed Rule, Docket Number GSA-GSAR-2018-0013, GSAR Case 2015-G506**

The International Code Council (ICC), a member-focused association with more than 64,000 members in the United States and abroad, is dedicated to helping the building community and the construction industry provide safe, resilient, and sustainable construction through the development and use of model codes (I-Codes) and standards used in the design, build, and compliance processes. Most U.S. states and communities, federal agencies, including the General Services Administration (GSA), and many global markets choose the I-Codes to set the standards for regulating construction, plumbing and sanitation, fire prevention, and energy conservation in the built environment. ICC appreciates the opportunity to submit the following comments on the proposed rule published November 8, 2018 in the above-named matter before GSA.

Per statute, “[e]ach building constructed or altered by the General Services Administration or any other federal agency shall be constructed or altered, to the maximum extent feasible as determined by the Administrator or the head of the federal agency, in compliance with one of the nationally recognized model building codes and with other applicable nationally recognized codes, including electrical codes, fire and life safety codes, and plumbing codes, as the Administrator decides is appropriate.”<sup>1</sup> With the exception of the National Fire Protection Association’s Life Safety Code for technical egress and electrical code, GSA satisfies these statutory requirements through adherence to the I-Codes.<sup>2</sup> For a given project, adherence to the I-Codes is ensured through the proposal submitter’s “code certification statement for compliance with specified codes and standards by each discipline with the professional seal and signature” as well as the continuous review of the design team (which includes the GSA, architect-engineer, and customer agency).<sup>3</sup>

The proposed rule and proposed Alternative II would insert into the Code of Federal Regulations (CFR) the statement that “[i]t is not the Contractor’s responsibility to ensure that the contract documents

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<sup>1</sup> 40 U.S. Code § 3312(b); *see also* 41 C.F.R. § 102-76.10.

<sup>2</sup> *See* General Services Administration, *Facilities Standards for Public Buildings Service (P-100)* (July 2018), available at [https://www.gsa.gov/cdnstatic/2018%20P100%20Final%20Updated%2010-16-18\\_0.pdf](https://www.gsa.gov/cdnstatic/2018%20P100%20Final%20Updated%2010-16-18_0.pdf).

<sup>3</sup> *Id.*



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comply with applicable laws, statutes, building codes and regulations.” GSA proposed identical language concerning Construction Contract Administration (GSAR Case 2015-G503).

ICC takes no position on this proposed language itself, but notes that based on its review, with the proposed addition, GSA’s only reference to effectuating code compliance in the CFR would be one that relieves a party of an aspect of ensuring code compliance. The GSA’s Facilities Standards for Public Buildings Service (P-100) provides considerable detail into implementing code compliance in practice, but it is not part of the CFR, amendments to which are subject to Administrative Procedure Act protections. Should GSA include in the CFR additional specifics on which parties have what obligations to adhere to the codes, ICC proposes that such additions also provide guidance on who is ultimately responsible for ensuring projects follow the I-Codes.

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Thank you for the opportunity to provide comment. If you have questions concerning ICC’s responses, please do not hesitate to contact me.

Sincerely,

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