

Construction Manager at-Risk Matrix

State	Construction Manager At-Risk Defined	Statute #	Construction Management Laws
AL	N		The law regulates who can act as a CM, and it favors general contractors. Architects can serve as CM, if registered or licensed to do so. Also, architects can serve as CM on projects for which they are the Design Professional.
AK	N		
AZ	Y	34-101 34-602 41-2578 41-2579	This law passed in 2004. It regulates who can act as a construction manager at-risk, and defines the parameters of the delivery process. A provision is included which mandates that by January 15 of each year any agent that uses construction-management-at-risk to procure construction services shall submit a report to the secretary of state on the benefits associated with the use of the procurement methods, including the number of projects completed in the previous year and cost savings and other benefits realized.
AR	Y	Ark. Stat. Ann. 19-11-801	
CA	Y	Public Contract Code §10510.4 to 10510.9	California law does not regulate construction management. However, for public works, QBS law states that construction managers must be selected according to qualifications at a negotiated fee and construction management services must be provided by an architect, engineer, or general contractor.

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		Govt. Code §4525 to 4529.5 Business and Prof. Code §7139 to 7139.10	
CO			
CT			
DE			
FL			Chapter 235 of the Florida Statutes, which addresses educational facilities, provides authorization for school boards to contract for construction of new facilities with “construction management” entities, pursuant to the CCNA, that would be responsible for all scheduling and coordination in both design and construction phases and would generally be responsible for the successful, timely, and economical completion of the construction project. The statute further states that the construction management entity “must consist of or contract with licensed or registered professionals for the specific fields or areas of construction to be performed, as required by law.”
GA		O.C.G.A. 36-91-20(c)	
HI			There is no definition or regulation as to who may offer construction management services. There is an exception though, the state and the City &

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			<p>County of Honolulu use an annual application for professional services. CM is considered a "professional service" based on internal agency practice rather than a "construction service." If a professional service provider wants to be considered for CM contracts, a box must be checked. The review committee then decides if the provider is professionally qualified to be on the list of those to be considered for cm contracts.</p> <p>Traditionally, architecture or engineering firms are hired for cm contracts, with most going to engineers. Based on a review of local historic practice, it seems that cm has been a professional service due to professional services long being considered "non-bid contracting."</p>
ID			
IL	Y	Public Act 094-0532	
IN	N	5-16-10	<p>Indiana restricts who may offer construction management services, in 5-16-10</p> <p>Section 2:</p> <p>(a) A unit of local government may not employ the architect or engineer who provided design services on a public construction project or his affiliate to be the construction manager on the project he designed.</p> <p>(b) A unit of local government may not let a general contract, or separate trade contract, to perform work on a public construction project to the construction manager of the project.</p> <p>This law was established in 1981.</p>

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IA			
KS	Y	76-786	<p>This law regulates construction management at-risk as it relates to education projects within the state. The bill defines the process, as “the services provided by a firm which has entered into a contract with the board of regents to be the construction manager at risk for the value and schedule of the contract for a project.”</p> <p>Firms engaged in construction management at-risk contracts with the state are encouraged to submit annual reports to the secretary of administration that include qualifications and performance data. When the board of regents chooses to use a construction manager at-risk they must notify the state building advisory commission. The state building advisory commission prepares a list of at least three and not more than five qualified firms for the project.</p>
KY	Y	45A.180 45A.030 65.025 45A.045	<p>A bill passed in Kentucky in 2001 stating that architects cannot do CM on <u>local government projects</u> for which they are also the architect. This does not apply to private projects or state work (only local government projects). 65.025</p> <p>In 2003, the Kentucky General Assembly passed legislation expanding the use of construction management project delivery method for public procurement by the Kentucky Finance and Administration Cabinet (“Finance Cabinet”).</p> <p>Construction Management Defined Construction Manager-Agency is defined as “services</p>

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			to assist the purchasing agency manage constructions that are procured through a contract that is qualifications-based." Construction management-at-risk is defined as "a project delivery method in which the purchasing officer enters into a single contract with an offeror that assumes the risk for construction at a contracted guaranteed maximum price as a general contractor, and provides consultation and corroboration regarding the construction during and after design of the capital project."
LA			Court case pending
ME	Y	Title 5 Section 1743	The construction-manager-at-risk method must be consistent with the agreement between an owner and a construction manager when the construction manager is also the constructor as recognized by national architect or general contractor organizations. The state must also publish request for qualifications in at least two newspapers, and create a short list of three to five firms to choose from.
MD		4-126	The use of construction management at-risk is referenced in an education statute as a form of alternative project delivery arrangement.
MA	Y	ALM GL ch. 149A, § 2 (2005) ch. 149A, § 7 149A, § 13	Construction Reform passed in 2004 states: (this requirement is mandated for any municipal project more than \$1.5M) "Owner's project manager," an individual, corporation, partnership, sole proprietorship, joint stock company, joint venture, or other entity engaged to provide project management services on behalf of a public

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			<p>agency for the construction and supervision of construction of a building project. Any individual assigned by the owner's project manager to provide the project management services for the building project shall be a person who is registered by the commonwealth as an architect or professional engineer and has at least 5 years experience in the construction and supervision of construction of buildings of similar size and complexity; or a person who is not so registered and has at least 7 years experience in the construction and supervision of construction of buildings of similar size and complexity. A public agency may utilize a member or members of its staff as owner's project manager provided such staff meets the required qualifications. The owner's project manager shall be independent of the designer and the construction management at risk firm. "Public Agency", shall have the same meaning as found in section 44A of chapter 149</p>
MI			<p>The statutes do not address CM. The contractors have been able to administratively require CM's to be licensed contractors in order to provide CM services.</p> <p>CM at risk is not legal, however there is a pilot project from the 2004 special session that will allow two CM at risk projects.</p> <p>CM is being offered in the public arena as a service. That allows the CM to be directly selected on qualifications, some times using a QBS process. It is a form of CM at agency.</p> <p>At this time the question of CM licensure has not been</p>

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			raised with the contractors board, but clarifications may come about with the pilot program.
MN	Y	2005 Minn. ALS 78; 2005 Minn. Chapter Law 78; 2005 Minn. S.F. No. 1335	This law passed in 2005. It regulates state construction contracts, and includes a provision allowing alternative project delivery processes, including construction management at-risk, to be chosen by the commissioner pursuant to established rules.
MS			Although not defined by statute, a number of Mississippi attorney general opinions describe a construction manager as providing services of a professional nature rather than “engaging in the construction process.”
MO			
MT			
NE	Y	79-2003	Alternative project delivery is applicable only to school building projects.
NV			
NH			
NJ			
NM	N	13-1-40.1 13-1-100.1	AIA-NM along with AGC and ACEC worked on the language of this legislation, SB952. The CM at risk as defined in this legislation is a General Contractor with an appropriate license in the state.
NY			NYS does not regulate construction management services or construction managers. New York’s licensing law does state that construction managers

**While every attempt has been made to ensure that the information in this publication is accurate, it is not intended to be either a source of legal advice or opinion.*

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			are not required to be architects.
NC	Y	143-128 , 143-128.1	This law defines construction management at-risk and the services related to the process. It specifies that design services for the project must be performed by a licensed A/E and that the A/E will have a separate contract with the owner. All bids in the process must be open and recorded.
ND	N	48-01.1-01 - 09	Construction management is allowed, but construction management at-risk is not authorized.
OH	N	9.33	Construction management is allowed, but construction management at-risk is not authorized.
OK	Y	61-202 61-220	This law defines construction management at-risk. This delivery process must have the written approval of the Director of Central Services or an act of the legislature specifying cm at-risk for a project. Whenever cm at-risk is used construction administration shall be performed by the State Construction Administrator, the Administrator's designee, or otherwise by contract or contract provision approved by the Director of Central Services.
OR			Construction management is included in the activities for which a contractor's license is required (see § 40.27). Construction management is defined as "the coordination of a construction project" with some specific activities listed. An exemption does exist for licensed engineers and architects operating within the limits of their licenses (see § 40.28).
PA			
RI	N	37-2-27 37-2-39	Construction management is allowed, but construction management at-risk is not authorized.
SC	N	11-35-2910	Construction management is allowed, but construction

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			management at-risk is not authorized.
SD	Y	5-18-45 46, 47, 48, 49	Construction management at-risk is defined within a larger statute, which defines construction management and services associated with this process.
TN	Y	Tenn. Code Ann. § 12-10-124 (2005)	This law passed in 2005. The statute defines the parameters under which construction management at-risk may be used. Parameters include, qualifications, experience, staff availability, technical approach, minority participation and cost, as deemed appropriate by the authority. A 10 day period is established, from public advertisement of the request for proposals to consider the evaluation factors set forth. The contract shall be awarded to the best proposer, using the evaluation criteria set forth.
TX	Y	§ 44.038 § 51.782 § 2166.2532 § 271.118 § 60.462	Construction management at-risk is expressly authorized for school districts. It is also authorized for use in other public projects for the construction, rehabilitation, alteration, and repairs of facilities. Procedures for this process are duly ascribed by the appropriate government agent.
UT			Under the definitions of Architect, Utah does include the “administration of construction contracts:” as a component of the practice of architecture. Utah does not seem to limit who can do construction management services, but does include the construction management services under the definition of a “contractor”, including an entity that performs management and counseling services on construction projects.

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VT			
VA	N	2.2-4301 2.2-4306 2.2-4308	Construction management is allowed, but construction management at-risk is not authorized.
WA		RCW 39.04.220 , 39.10.061	
WV			
WI			It is believed that construction management services are not defined or regulated by statute or administrative rule. There have not been attempts by contractors to restrict architects from offering CM services. There is currently a working group that is moving forward slowly, trying to tackle alternative project delivery methods.
WY			Wyoming law does not directly address construction management.
DC			