



AIA Government Affairs

Construction Manager at-Risk State Statute Compendium

Introduction:

Construction management at-risk is seen by many policy-makers and legislators as an innovative approach to public sector project delivery. The CM at risk delivery method is an alternative procurement process similar to long-standing private sector construction contracting. CM at-risk is a cost effective and time conscious alternative to the traditional design-bid-build process.

Many states are beginning to authorize CM at-risk as a choice for project delivery for their respective state agencies. Much like design-build, authorization for this alternative procurement method has not been uniform. Some states have authorized CM at-risk, but exempted specific state agencies, while others have authorized only demonstration projects. A few states have gladly incorporated CM at-risk into their procurement laws with little or no restrictions.

Statutes throughout the country can differ widely in scope, dependent on a broad range of issues. This compendium is meant to offer a list of these statutes in order to compare the similarities and differences that exist on this issue throughout the country.¹

Advantages of Construction Management at-Risk:

Construction management at-risk is a process that allows the client of a project to choose the CM before the design stage is complete. The CM is chosen based on qualifications, and then the entire operation is centralized under a single contract. The architect and CM work together in order to cultivate and assay the design. Then, the CM gives the client a guaranteed maximum price, and coordinates all subcontract work. The A/E is hired separately from the CM at-risk and the traditional client – A/E relationship is maintained. However, A/E's can generally perform the CM role, with various restrictions imposed based on state.

Proponents have cited many advantages to construction management at-risk over traditional methods of procurement. These advantages are:²

- Increases the speed of the project and can also strengthen coordination between the architect/engineer and the construction manager.
- The client hires the construction manager based on qualifications, thus better ensuring a construction manager with a strong allegiance to the client, because their business relies on references and repeat work.
- Construction managers, architects/engineers, and the client all collaborate. This creates enhanced synergies throughout the process.
- Transparency is enhanced, because all costs and fees are in the open, which diminishes adversarial relationships between components working on the project, while at the same time eliminating bid shopping.

¹ Please note: While every effort has been made to find statutes which cover construction management at-risk for a particular state, this list is not all inclusive. This compendium is an ongoing project which is expected to grow over time. There exists the possibility that a state may have authorized construction management at-risk through administrative, regulatory, or some other action. This compendium is for reference only and in no way is expected to take the form of legal advice. For that reason, please contact the state directly if there is a question on a state's authority to use construction management at-risk. Further, the statutes listed herein were culled from the official websites for each state. As such, the formatting and display of the statute will differ widely.

² 3D/International Essay. CM at Risk. www.3di.com



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Alabama

There are no statutes on file for this state



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Alaska

There are no statutes on file for this state



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Arizona

[34-101](#)

[34-602](#)

[41-2578](#)

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.



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Arkansas

[Ark. Stat. Ann.](#)

[19-11-801](#)



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California

PUBLIC CONTRACT CODE
SECTION 10510.4-10510.9

10510.4. For purposes of this article, the following definitions apply:

(a) "Firm" means any individual, firm, partnership, corporation, association, or other legal entity permitted by law to practice the profession of architecture, landscape architecture, engineering, environmental services, land surveying, or construction project management.

(b) "Architectural, landscape architectural, engineering, environmental, and land surveying services" include those professional services of an architectural, landscape architectural, engineering, environmental, or land surveying nature as well as incidental services that members of these professions and their employees may logically or justifiably perform.

(c) "Construction project management" means those services provided by a licensed architect, registered engineer, or licensed general contractor that meet the requirements of Section 10510.9 for management and supervision of work performed on **university construction projects**.

(d) "Environmental services" means those services performed in connection with project development and permit processing in order to comply with federal and state environmental laws. "Environmental services" also includes the processing and awarding of claims pursuant to Chapter 6.75 (commencing with Section 25299.10) of Division 20 of the Health and Safety Code.

(e) "Real property development services" means those services undertaken by a real estate developer in connection with the development of a developer-owned project on land owned or controlled by the university, including, but not limited to, environmental analysis, landscape planning, site design, market and financial feasibility, and other incidental services that a real estate developer may perform for the project.

10510.5. (a) Selection by the University of California for professional services of private architectural, landscape architectural, engineering, environmental, land surveying, real property development services, or construction project management firms shall be on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required. In order to implement this method of selection, the university shall adopt procedures that assure that these services are engaged on the basis of demonstrated competence and qualifications for the types of services to be performed and at fair and reasonable prices to the university. Furthermore, these procedures shall assure maximum participation of small business firms, as defined by the Director of General Services pursuant to Section 14837 of the Government Code.

(b) These procedures shall specifically prohibit practices that might result in unlawful activity including, but not limited to, rebates, kickbacks, or other unlawful consideration, and shall specifically prohibit university employees from participating in the selection process when those employees have a relationship with a person or business entity seeking a contract under this section.

10510.6. (a) The University of California shall follow this section in negotiating fees and executing a contract for professional consulting services of a private architectural, landscape architectural, engineering, land surveying, environmental, real property development services, or construction project management firm.

(b) After providing notification to the successful firm of its selection, the university shall provide written instructions for the

negotiations that are to follow. These instructions shall provide the private consulting firm with necessary information that shall allow the negotiations to proceed in an orderly fashion. Negotiations shall begin within 14 days after the successful firm has been notified of its selection or upon receipt of the cost proposal.

The contractor should be notified if additional time is necessary to begin negotiations.

(c) Upon the completion of negotiations, the university and the private firm shall proceed to execute a contract that the university shall complete within 45 days. The contractor should be notified if additional time is necessary to complete the contract. The university and private firm shall work together to ensure the successful delivery of the requested services in a timely fashion.

(d) In the event an impasse is reached in negotiations, the university may terminate negotiations and enter into negotiations with the next qualified firm, in the same manner as prescribed in Section 10510.8 with respect to management services contracts.

10510.7. (a) In the procurement of architectural, landscape architectural, engineering, environmental, land surveying, real property development services, and construction project management services, the university shall encourage firms engaged in the lawful practice of their profession to submit annually a statement of qualifications and performance data.

(b) (1) Statewide announcement of all projects requiring architectural, landscape architectural, engineering, environmental, land surveying, real property development services, or construction project management services shall be made by the university through advertisements placed in the California State Contracts Register and in publications of the respective professional societies and

organizations of persons that perform those services. Alternatively, the university may develop policies to provide for electronic statewide notice of the required announcements to ensure notification through, at a minimum, appropriate professional societies and organizations and the California State Contracts Register, to those persons that perform the services sought to be procured.

(2) The university, for each proposed project, shall evaluate current statements of qualifications and performance data on file with the university, together with those that may be submitted by other firms regarding the proposed project.

(3) (A) The university, for each proposed project, shall conduct discussions with no less than three firms regarding anticipated concepts and the relative utility of alternative methods of approach for furnishing the required services.

(B) The university shall select, from the firms with which it conducted discussions in order of preference, based upon criteria established and published by the university, no less than three of the firms deemed to be the most highly qualified to provide the services required.

(C) If a project announcement results in submissions from fewer than three qualified firms, the university may then select from the available qualified firms and shall document its efforts to receive submissions from additional firms.

(D) These procedures shall specifically prohibit practices that might result in unlawful activity including, but not limited to, rebates, kickbacks, or other unlawful consideration, and shall specifically prohibit university employees from participating in the selection process when those employees have a relationship with a person or business entity seeking a contract under this section.

(4) This subdivision does not apply to a contract for the services described in Section 10510.4 with a total contract cost of one

hundred thousand dollars (\$100,000) or less, provided that the type of project for which the contract is awarded is identified by the university in an annual announcement, made in accordance with the provisions of paragraph (1), that identifies the project needs of the university that are projected to have a total contract price of one hundred thousand dollars (\$100,000) or less.

10510.8. (a) The university shall negotiate a contract with the best qualified firm for architectural, landscape architectural, engineering, environmental, land surveying, real property development services, and construction project management services at compensation that the university determines is fair and reasonable to the University of California.

(b) Should the university be unable to negotiate a satisfactory contract with the firm considered to be the most qualified, at a price the university determines to be fair and reasonable to the University of California, negotiations with that firm shall be formally terminated. The university shall then undertake negotiations with the second most qualified firm. Failing accord with the second most qualified firm, the university shall terminate negotiations. The university shall then undertake negotiations with the third most qualified firm.

(c) Should the university be unable to negotiate a satisfactory contract with any of the selected firms, the university shall select additional firms in order of their competence and qualification and continue negotiations in accordance with this article until an agreement is reached.

10510.9. Any individual or firm proposing to provide construction project management services pursuant to this article shall provide

evidence that the individual or firm and its personnel carrying out onsite responsibilities have expertise and experience in construction project design review and evaluation, construction mobilization and supervision, bid evaluation, project scheduling, cost-benefit analysis, claims review and negotiation, and general management and administration of a construction project.

GOVERNMENT CODE

SECTION 4525-4529.5

4525. For purposes of this chapter, the following terms have the following meaning:

(a) "Firm" means any individual, firm, partnership, corporation, association, or other legal entity permitted by law to practice the profession of architecture, landscape architecture, engineering, environmental services, land surveying, or construction project management.

(b) "State agency head" means the secretary, administrator, or head of a department, agency, or bureau of the State of California authorized to contract for architectural, landscape architectural, engineering, environmental, land surveying, and construction project management services.

(c) "Local agency head" means the secretary, administrator, or head of a department, agency, or bureau of any city, county, city and county, whether general law or chartered, or any district which is authorized to contract for architectural, landscape architectural, engineering, environmental, land surveying, and construction project management services.

(d) "Architectural, landscape architectural, engineering, environmental, and land surveying services" includes those professional services of an architectural, landscape architectural, engineering, environmental, or land surveying nature as well as

incidental services that members of these professions and those in their employ may logically or justifiably perform.

(e) "Construction project management" means those services provided by a licensed architect, registered engineer, or licensed general contractor which meet the requirements of Section 4529.5 for management and supervision of work performed on state construction projects.

(f) "Environmental services" means those services performed in connection with project development and permit processing in order to comply with federal and state environmental laws. "Environmental services" also includes the processing and awarding of claims pursuant to Chapter 6.75 (commencing with Section 25299.10) of Division 20 of the Health and Safety Code.

4526. Notwithstanding any other provision of law, selection by a state or local agency head for professional services of private architectural, landscape architectural, engineering, environmental, land surveying, or construction project management firms shall be on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required. In order to implement this method of selection, state agency heads contracting for private architectural, landscape architectural, professional engineering, environmental, land surveying, and construction project management services shall adopt by regulation, and local agency heads contracting for private architectural, landscape architectural, professional engineering, environmental, land surveying, and construction project management services may adopt by ordinance, procedures that assure that these services are engaged on the basis of demonstrated competence and

qualifications for the types of services to be performed and at fair and reasonable prices to the public agencies. Furthermore, these procedures shall assure maximum participation of small business firms, as defined by the Director of General Services pursuant to Section 14837.

In addition, these procedures shall specifically prohibit practices which might result in unlawful activity including, but not limited to, rebates, kickbacks, or other unlawful consideration, and shall specifically prohibit government agency employees from participating in the selection process when those employees have a relationship with a person or business entity seeking a contract under this section which would subject those employees to the prohibition of Section 87100.

4526.5. A state agency head entering into a contract pursuant to this chapter shall, in addition to any other applicable statute or regulation, also follow Section 6106 of the Public Contract Code.

4527. In the procurement of architectural, landscape architectural, engineering, environmental, land surveying, and construction project management services, the state agency head shall encourage firms engaged in the lawful practice of their profession to submit annually a statement of qualifications and performance data.

(a) When the selection is by a state agency head, statewide announcement of all projects requiring architectural, landscape architectural, engineering, environmental, land surveying, or construction project management services shall be made by the agency head through publications of the respective professional societies. The agency head, for each proposed project, shall evaluate current

statements of qualifications and performance data on file with the agency, together with those that may be submitted by other firms regarding the proposed project, and shall conduct discussions with no less than three firms regarding anticipated concepts and the relative utility of alternative methods of approach for furnishing the required services and then shall select therefrom, in order of preference, based upon criteria established and published by him or her, no less than three of the firms deemed to be the most highly qualified to provide the services required.

(b) When the selection is by a local agency head, the agency head may undertake the procedures described in subdivision (a). In addition, these procedures shall specifically prohibit practices which might result in unlawful activity including, but not limited to, rebates, kickbacks, or other unlawful consideration, and shall specifically prohibit government agency employees from participating in the selection process when these employees have a relationship with a person or business entity seeking a contract under this section.

4528. (a) When the selection is by a state agency head the following procedures shall apply:

(1) The state agency head shall negotiate a contract with the best qualified firm for architectural, landscape architectural, engineering, environmental, land surveying, and construction project management services at compensation which the state agency head determines is fair and reasonable to the State of California or the political subdivision involved.

(2) Should the state agency head be unable to negotiate a satisfactory contract with the firm considered to be the most qualified, at a price the agency head determines to be fair and reasonable to the State of California or the political subdivision

involved, negotiations with that firm shall be formally terminated.

The state agency head shall then undertake negotiations with the

second most qualified firm. Failing accord with the second most

qualified firm, the state agency head shall terminate negotiations.

The state agency head shall then undertake negotiations with the

third most qualified firm.

(3) Should the state agency head be unable to negotiate a

satisfactory contract with any of the selected firms, the state

agency head shall select additional firms in order of their competence and qualification and continue negotiations in accordance

with this chapter until an agreement is reached.

(b) When the selection is by a local agency head, the local agency

head may undertake the procedures described in subdivision (a).

4529. This chapter shall not apply where the state or local agency

head determines that the services needed are more of a technical

nature and involve little professional judgment and that requiring

bids would be in the public interest.

4529.5. Any individual or firm proposing to provide construction

project management services pursuant to this chapter shall provide

evidence that the individual or firm and its personnel carrying out

onsite responsibilities have expertise and experience in construction

project design review and evaluation, construction mobilization and

supervision, bid evaluation, project scheduling, cost-benefit

analysis, claims review and negotiation, and general management and

administration of a construction project.

BUSINESS AND PROFESSIONS CODE
SECTION 7139-7139.10

7139. This article shall be known as the Construction Management Education Sponsorship Act of 1991.

7139.1. The Legislature hereby finds and declares all of the following:

(a) There is a demand and increasing need for construction management education programs and resources within the postsecondary education system that prepare graduates for the management of construction operations and companies regulated by the Contractors' State License Law and enforced by the Contractors' State License Board.

(b) Although construction management programs do exist within the state university system, these programs are woefully underfunded and insufficiently funded to provide training on state-of-the-art management information systems for either graduates or extension programs for continuing education of licensed contractors. Construction industry associations have provided some assistance through direct grants and scholarships, but the industrywide service of these programs and the need for additional assistance mandates broad based industrywide support.

(c) It is the intent of the Legislature that by enabling contractors to designate a portion of their licensure fee and providing a format for contractors to contribute funds to construction management education, this article will receive broad based industry support. In addition, this article allows the contractor to demonstrate the importance of construction management education. This assistance will enable greater development of construction management curricula and will improve the overall quality of construction by providing construction management training to California licensed contractors and their current and future management personnel.

7139.2. (a) There is hereby created the Construction Management Education Account (CMEA) as a separate account in the Contractors' License Fund for the purposes of construction management education. Funds in the account shall be available for the purposes of this article upon appropriation by the Legislature.

(b) The Contractors' State License Board shall allow a contractor to make a contribution to the Construction Management Education Account at the time of the contractor license fee payment. The license fee form shall clearly display this alternative on its face and shall clearly inform the licensee that this provision is a contribution to the Construction Management Education Account and is in addition to the fees.

(c) The board may accept grants from federal, state, or local public agencies, or from private foundations or individuals, in order to assist it in carrying out its duties, functions, and powers under this article. Grant moneys shall be deposited into the Construction Management Education Account.

7139.3. (a) The board may award grants to qualified public postsecondary educational institutions for the support of courses of study in construction management.

(b) Any organization of contractors, or organization of contractor organizations, incorporated under Division 2 (commencing with Section 5000) of the Corporations Code may request the board to award grants pursuant to subdivision (a) directly to qualified public postsecondary educational institutions of its choice. However, the total amount of money that may be awarded to one public postsecondary educational institution pursuant to subdivision (a) may not exceed an amount equal to 25 percent of the total funds available under this article.

(c) The board shall establish an advisory committee to recommend grant awards. The advisory committee shall be known as the Construction Management Education Account Advisory Committee and shall consist of 11 members, with at least one representative from each of the following: Associated General Contractors of California, Associated Builders and Contractors, California Building Industry Association, National Electrical Contractors Association, Plumbing-Heating-Cooling Contractor's Association, Southern California Contractor's Association, Associated General Contractors of San Diego, Engineering and Utility Contractors Association, Engineering Contractors Association, California Sheet Metal and Air Conditioning Contractor's Association, and one member representing the California State University and University of California construction management programs accredited by the American Council for Construction Education. Advisory committee member terms shall be for three years and the representatives shall be appointed by each identified group. Members of the advisory committee shall not receive per diem or reimbursement for traveling and other expenses pursuant to Section 103.

(d) The mission of the Construction Management Education Account Advisory Committee is to maintain, and increase the quality and availability of, education programs for the construction industry. The primary focus is to provide financial resources not now available to accredited construction management programs in California colleges and universities to maintain and upgrade facilities and provide greater access by the industry to modern construction standards and management practices. The advisory committee shall do all of the following:

(1) Confirm the qualifications of programs applying for grants.

(2) Award less than full grants when the account has insufficient funds to award full grants to all qualifying programs.

(3) Receive and review year-end reports of use and impact of funds.

(4) Affirm applications for American Council for Construction Education accreditation and, when funds are available, award grants to complete the accreditation process.

(5) Promote close ties between feeder junior colleges and four-year construction management programs.

(6) Support development of new educational programs with specific emphasis on outreach to the construction industry at large.

7139.4. Qualified public postsecondary educational institutions shall provide postsecondary construction management programs at the baccalaureate or higher level that either award or provide one of the following:

(a) A bachelor of science construction management degree accredited by the American Council for Construction Education.

(b) A degree with an American Council for Construction Education accredited option, including, but not limited to, engineering technology and industrial technology.

(c) A bachelor of science or higher degree program documenting placement of more than 50 percent of their graduates with California licensed contractors. The placement of a person who holds a master or doctorate degree in the faculty of a construction program shall be counted as though placed with a California licensed contractor.

(d) The development of a construction management curriculum to meet the American Council for Construction Education criteria.

7139.5. Grants shall be made pursuant to this article to public postsecondary educational institutions that meet the qualifications specified in Section 7139. 4 in the following amounts:

(a) Three thousand dollars (\$3,000) per graduate during the past

academic year for institutions qualifying under subdivision (a) of Section 7139.4.

(b) Three thousand dollars (\$3,000) per graduate during the past academic year for institutions qualifying under subdivision (b) of Section 7139.4.

(c) Three thousand dollars (\$3,000) per graduate placed with California licensed contractors during the past academic year for institutions qualifying under subdivision (c) of Section 7139.4. These funds shall be used for the purpose of becoming accredited by the American Council for Construction Education and shall be available for up to three years. The board may continue to provide this grant to an institution that in its judgment is meeting the intent of this act and is continuing its development towards accreditation.

(d) Institutions qualifying under subdivision (d) of Section 7139.4 may receive a grant in an amount up to twenty-five thousand dollars (\$25,000) per year for up to two years. Thereafter, these institutions may receive grants based upon the criteria described in subdivisions (a) to (c), inclusive. The board may continue to award a grant to an institution that in its judgment is meeting the intent of this article and is continuing its development towards accreditation.

7139.6. (a) The grants issued pursuant to Sections 7139.3 and 7139.5 may be used for all of the following:

(1) Instructional materials and support, equipment, curriculum development, and delivery.

(2) Support and development of outreach, continuing education, and cooperative education or internship programs.

(3) Administrative and clerical support positions.

(4) Faculty recruitment and development, to include support for postgraduate work leading to advanced degrees, visiting lecturer compensation and expenses, teaching assistant positions, and faculty

positions.

(b) Grant moneys may also be used to support general classroom and laboratory operating expenses and related administrative supplies, including, but not limited to, reference materials, testing equipment, and equipment maintenance. The list of support items in this subdivision and subdivision (a) are intended to be descriptive rather than limiting. "Support" does not include faculty salary supplements.

7139.7. The board shall report to the Legislature annually on the condition of the grant program and shall include in the report the names of the public postsecondary educational institutions involved, the amount of funds granted to each of those educational institutions, the purposes for which the funds were granted to each of those recipients, the number of students involved, the number of placements made to the construction industry for the previous academic year, and any other information the board considers relevant to the program.

7139.8. The president of each public postsecondary educational institution receiving a grant under this article shall submit, with its respective request for a grant each year following the initial year for which grants are issued, a report to the board delineating the amount of the past grant awarded from the Construction Management Education Account to that institution and the utilization of those funds. The report shall include, but not be limited to, the following:

(a) The number of graduates placed with the California licensed contractors during the previous academic year.

(b) The expected enrollment in construction management courses in the upcoming academic year.

(c) Continuing education and extension courses offered during the previous academic year and their enrollments.

7139.9. The board may allocate up to fifteen thousand dollars (\$15,000) per year from the Construction Management Education Account for the administration of this article.

7139.10. It is the intent of the Legislature that state funding for the grants authorized to be awarded under this section be provided only from the Contractors' License Fund to the extent that funds are available in that fund and that no other state funding be provided for those grants.



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Colorado

There are no statutes on file for this state



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Connecticut

There are no statutes on file for this state



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Delaware

There are no statutes on file for this state



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Florida

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."



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Georgia

[O.C.G.A. 36-91-20\(c\)](#)



AIA Government Affairs
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Compendium

Hawaii

There are no statutes on file for this state



AIA Government Affairs
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Compendium

Idaho

There are no statutes on file for this state



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Illinois

[Public Act 094-0532](#)



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Indiana

IC 5-16-10

Chapter 10. Employment of Construction Managers in Public Construction Projects

IC 5-16-10-1

Definitions

Sec. 1. As used in this chapter, the following terms have the following meanings:

(1) "Affiliate" means a parent, descendant, spouse, spouse of a descendant, brother, sister, spouse of a brother or sister, employee, director, officer, partner, limited liability company manager or member, joint venturer, a corporation subject to common control with the architect, engineer or construction manager, a shareholder or corporation who controls the architect, engineer or construction manager, or a corporation controlled by the architect, engineer, or construction manager.

(2) "Architect" means the person registered under IC 25-4-1.

(3) "Construction manager" means a person designated as a construction manager by contract who provides professional management services, which contribute to the control of time and the cost and quality of a public construction project, and who performs those services concurrent with architectural and engineering services rendered during the design and construction phases of a construction project.

(4) "Engineer" means the person registered under IC 25-31-1.

(5) "Person" means a natural person, a partnership, a limited liability company, or a corporation.

(6) "Public construction project" means the construction, remodeling, rehabilitation, or repair of any building or other facility of a unit of local government, whether the building or facility is owned by the unit or leased by the unit with an option to purchase under IC 36-1-10 or any other law. However, "public construction project" does not mean highway or bridge construction.

(7) "Unit of local government" includes any county, city, town, township, and any other political subdivision, commission, or agency created under law. However, the term does not include a school corporation or lessor corporation qualifying under IC 21-5-11 or IC 21-5-12.

As added by Acts 1981, P.L.60, SEC.1. Amended by Acts 1982, P.L.41, SEC.1; P.L.8-1993, SEC.67; P.L.25-1995, SEC.10.

IC 5-16-10-2

Limitations on employment of construction managers; contracts with construction managers prohibited

Sec. 2. (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.

(b) A unit of local government may not let a general contract, or

any separate trade contract, to perform work on a public construction project to the construction manager of the project.

As added by Acts 1981, P.L.60, SEC.1.

IC 5-16-10-3

Performance of services constituting practice of architecture and engineering

Sec. 3. The limitations expressed in section 2 of this chapter should not be interpreted to permit any person who is not a registered architect under IC 25-4-1 or a registered engineer under IC 25-31-1 to do any act which constitutes the practice of architecture or engineering nor to prevent any unit of local government from employing any person who is a registered architect under IC 25-4-1 or a registered engineer under IC 25-31-1 to perform services which constitute the practice of architecture or engineering.

As added by Acts 1981, P.L.60, SEC.1.



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Iowa

There are no statutes on file for this state



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Kansas

76-786

Chapter 76.--STATE INSTITUTIONS AND AGENCIES; HISTORICAL PROPERTY

Article 7.--STATE EDUCATIONAL INSTITUTIONS; MANAGEMENT AND OPERATION

76-786. Procedures for acquiring construction, architectural, engineering and other services for certain projects; statutory exemptions; construction manager at-risk procedures and authorities; powers, duties and functions of secretary of administration and division of facilities management; change orders; progress reports. (a) As used in this section, unless the context expressly provides otherwise:

(1) "Ancillary technical services" include, but shall not be limited to, geology services and other soil or subsurface investigation and testing services, surveying, adjusting and balancing of air conditioning, ventilating, heating and other mechanical building systems, testing and consultant services that are determined by the board of regents to be required for a project;

(2) "architectural services" means those services described by subsection (e) of K.S.A. 74-7003, and amendments thereto;

(3) "construction services" means the work performed by a construction contractor to commence and complete a project;

(4) "construction management at-risk services" means 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, which is to hold the trade contracts and execute the work for a project in a manner similar to a general contractor and which is required to solicit competitive bids for the trade packages developed for a project and to enter into the trade contracts for a project with the lowest responsible bidder therefor, and may include, but are not limited to, such services as scheduling, value analysis, systems analysis, constructability reviews, progress document reviews, subcontractor involvement and prequalification, subcontractor bonding policy, budgeting and price guarantees, and construction coordination;

(5) "division of facilities management" means the division of facilities management of the department of administration;

(6) "engineering services" means those services described by subsection (i) of K.S.A. 74-7003, and amendments thereto;

(7) "firm" means (A) with respect to architectural services, an individual, firm, partnership, corporation, association or other legal entity which is: (i) permitted by law to practice the profession of architecture; and (ii) maintaining an office in Kansas staffed by one or more architects who are licensed by the board of technical professions; or (iii) not maintaining an office in Kansas, but which is qualified to perform special architectural services that are required in special cases where in the judgment of the board of regents it is necessary to go outside the state to obtain such services; (B) with respect to engineering services or land surveying, an individual, firm, partnership, corporation, association or other legal entity permitted by law to

practice the profession of engineering and provide engineering services or practice the profession of land surveying and provide land surveying services, respectively; (C) with respect to construction management at-risk services, a qualified individual, firm, partnership, corporation, association or other legal entity permitted by law to perform construction management at-risk services; (D) with respect to ancillary technical services or other services that are determined by the board of regents to be required for a project, a qualified individual, firm, partnership, corporation, association or other legal entity permitted by law to practice the required profession or perform the other required services, as determined by the board of regents; and (E) with respect to construction services, a qualified individual, firm, partnership, corporation, association, or other legal entity permitted by law to perform construction services for a project;

(8) "land surveying" means those services described in subsection (j) of K.S.A. 74-7003, and amendments thereto;

(9) "negotiating committee" means the board of directors of the subsidiary corporation formed under K.S.A. 2004 Supp. 76-781, and amendments thereto;

(10) "project" means (A) the project for the KSU food safety and security research facility, (B) the project for the KUMC biomedical research facility, (C) the project for the WSU engineering complex expansion and research laboratory, or (D) the project for the acquisition and installation of equipment for the KU biosciences research building, which are funded from the proceeds of the bonds authorized to be issued under K.S.A. 2004 Supp. 76-783, and amendments thereto, within the limitation of \$120,000,000, in the aggregate, plus all amounts required for costs of any bond issuance, costs of interest on any bond issued or obtained for such scientific research and development facilities and any required reserves for payment of principal and interest on any such bond, and from any moneys received as gifts, grants or otherwise from any public or private nonstate source;

(11) "project services" means architectural services, engineering services, land surveying, construction management at-risk services, construction services, ancillary technical services or other construction-related services determined by the board of regents to be required for a project; and

(12) "state building advisory commission" means the state building advisory commission created by K.S.A. 75-3780, and amendments thereto.

(b) The board of regents, when acting under authority of this act, and each project authorized by the board of regents under this act are exempt from the provisions of K.S.A. 75-1269, 75-3738 through 75-3741b, 75-3742 through 75-3744, and 75-3783, and amendments thereto, except as otherwise specifically provided by this act.

(c) Notwithstanding the provisions of K.S.A. 75-3738 through 75-3744, and amendments thereto, or the provisions of any other statute to the contrary, all contracts for any supplies, materials or equipment for a project authorized by the board of regents under this act, shall be entered into in accordance with procurement procedures determined

by the board of regents, subject to the provisions of this section, except that, in the discretion of the board of regents, any such contract may be entered into in the manner provided in and subject to the provisions of any such statute otherwise applicable thereto. Notwithstanding the provisions of K.S.A. 75-3738 through 75-3744, and amendments thereto, if the board of regents does not obtain construction management at-risk services for a project, the construction services for such project shall be obtained pursuant to competitive bids and all contracts for construction services for such project shall be awarded to the lowest responsible bidder in accordance with procurement procedures determined and administered by the board of regents which shall be consistent with the provisions of K.S.A. 75-3738 through 75-3744, and amendments thereto.

(d) When it is necessary in the judgment of the board of regents to obtain project services for a particular project by conducting negotiations therefor, the board of regents shall publish a notice of the commencement of negotiations for the required project services at least 15 days prior to the commencement of such negotiations in the Kansas register in accordance with K.S.A. 75-430a, and amendments thereto, and in such other appropriate manner as may be determined by the board of regents.

(e) (1) Notwithstanding the provisions of subsection (b) of K.S.A. 75-1251, and amendments thereto, or the provisions of any other statute to the contrary, as used in K.S.A. 75-1250 through 75-1270, and amendments thereto, with respect to the procurement of architectural services for a project authorized by the board of regents under this act, "negotiating committee" shall mean the board of directors of the subsidiary corporation formed under K.S.A. 2004 Supp. 76-781, and amendments thereto, and such board of directors shall negotiate a contract with a firm to provide any required architectural services for the project in accordance with the provisions of K.S.A. 75-1250 through 75-1270, and amendments thereto, except that no limitation on the fees for architectural services for the project shall apply to the fees negotiated by the board of directors for such architectural services.

(2) Notwithstanding the provisions of subsection (e) of K.S.A. 75-5802, and amendments thereto, or the provisions of any other statute to the contrary, as used in K.S.A. 75-5801 through 75-5807, and amendments thereto, with respect to the procurement of engineering services or land surveying services for a project authorized by the board of regents under this act, "negotiating committee" shall mean the board of directors of the subsidiary corporation formed under K.S.A. 2004 Supp. 76-781, and amendments thereto, and such board of directors shall negotiate a contract with a firm to provide any required engineering services or land surveying services for the project in accordance with the provisions of K.S.A. 75-5801 through 75-5807, and amendments thereto.

(3) In any case of a conflict between the provisions of this section and the provisions of K.S.A. 75-1250 through 75-1270, or 75-5801 through 75-5807, and amendments thereto, with respect to a project

authorized by the board of regents under this act, the provisions of this section shall govern.

(f) (1) For the procurement of construction management at-risk services for projects under this act, the secretary of administration shall encourage firms engaged in the performance of construction management at-risk services to submit annually to the secretary of administration and to the state building advisory commission a statement of qualifications and performance data. Each statement shall include data relating to (A) the firm's capacity and experience, including experience on similar or related projects, (B) the capabilities and other qualifications of the firm's personnel, and (C) performance data of all consultants the firm proposes to use.

(2) Whenever the board of regents determines that a construction manager at risk is required for a project under this act, the board of regents shall notify the state building advisory commission and the state building advisory commission shall prepare a list of at least three and not more than five firms which are, in the opinion of the state building advisory commission, qualified to serve as construction manager at risk for the project. Such list shall be submitted to the negotiating committee, without any recommendation of preference or other recommendation. The negotiating committee shall have access to statements of qualifications of and performance data on the firms listed by the state building advisory commission and all information and evaluations regarding such firms gathered and developed by the secretary of administration under K.S.A. 75-3783, and amendments thereto.

(3) The negotiating committee shall conduct discussions with each of the firms so listed regarding the project. The negotiating committee shall determine which construction management at-risk services are desired and then shall proceed to negotiate with and attempt to enter into a contract with the firm considered to be most qualified to serve as construction manager at risk for the project. The negotiating committee shall proceed in accordance with the same process with which negotiations are undertaken to contract with a firm to be a project architect under K.S.A. 75-1257, and amendments thereto, to the extent that such provisions can be made to apply. Should the negotiating committee be unable to negotiate a satisfactory contract with the firm considered to be most qualified, negotiations with that firm shall be terminated and shall undertake negotiations with the second most qualified firm, and so forth, in accordance with that statute.

(4) The contract to perform construction management at-risk services for a project shall be prepared by the division of facilities management and entered into by the board of regents with the firm contracting to perform such construction management at-risk services.

(g) (1) To assist in the procurement of construction services for projects under this act, the secretary of administration shall encourage firms engaged in the performance of construction services to submit annually to the secretary of administration and to the state building advisory commission a statement of qualifications and performance data. Each statement shall include data relating to (A) the firm's

capacity and experience, including experience on similar or related projects, (B) the capabilities and other qualifications of the firm's personnel, (C) performance data of all subcontractors the firm proposes to use, and (D) such other information related to the qualifications and capability of the firm to perform construction services for projects as may be prescribed by the secretary of administration.

(2) The construction manager at risk shall publish a construction services bid notice in the Kansas register and in such other appropriate manner as may be determined by the board of regents. Each construction services bid notice shall include the request for bids and other bidding information prepared by the construction manager at risk and the state board of regents with the assistance of the division of facilities management. The current statements of qualifications of and performance data on the firms submitting bid proposals shall be made available to the construction manager at risk and the board of regents by the state building advisory commission along with all information and evaluations developed regarding such firms by the secretary of administration under K.S.A. 75-3783, and amendments thereto. Each firm submitting a bid proposal shall be bonded in accordance with K.S.A. 60-1111, and amendments thereto, and shall present evidence of such bond to the construction manager at risk prior to submitting a bid proposal. If a firm submitting a bid proposal fails to present such evidence, such firm shall be deemed unqualified for selection under this subsection. At the time for opening the bids, the construction manager at risk shall evaluate the bids and shall determine the lowest responsible bidder. The construction manager at risk shall enter into contracts with each firm performing the construction services for the project and make a public announcement of each firm selected in accordance with this subsection.

(h) The division of facilities management shall provide such information and assistance as may be requested by the board of regents or the negotiating committee for a project, including all or part of any project services as requested by the board of regents, and (1) shall prepare the request for proposals and publication information for each publication of notice under this section, subject to the provisions of this section, (2) shall prepare each contract for project services for a project, including each contract for construction services for a project, (3) shall conduct design development reviews for each project, (4) shall review and approve all construction documents for a project prior to soliciting bids or otherwise soliciting proposals from construction contractors or construction service providers for a project, (5) shall obtain and maintain copies of construction documents for each project, and (6) shall conduct periodic inspections of each project, including jointly conducting the final inspection of each project.

(i) Notwithstanding the provisions of any other statute, the board of regents shall enter into one or more contracts with the division of facilities management for each project for the services performed by the division of facilities management for the project as required by this section or at the request of the board of regents. The division of facilities management shall receive fees from the board of regents to

recover the costs incurred to provide such services pursuant to such contracts.

(j) Design development reviews and construction document reviews conducted by the division of facilities management shall be limited to ensuring only that the construction documents do not change the project description and that the construction documents comply with the standards established under K.S.A. 75-3783, and amendments thereto, by the secretary of administration for the planning, design and construction of buildings and major repairs and improvements to buildings for state agencies, including applicable building and life safety codes and appropriate and practical energy conservation and efficiency standards.

(k) Each project for a state educational institution shall receive a final joint inspection by the division of facilities management and the board of regents. Each such project shall be officially accepted by the board of regents before such project is occupied or utilized by the state educational institution, unless otherwise agreed to in writing by the contractor and the board of regents as to the satisfactory completion of the work on part of the project that is to be occupied and utilized, including any corrections of the work thereon.

(l) (1) The board of regents shall issue monthly reports of progress on each project and shall advise and consult with the joint committee on state building construction regarding each project. Change orders and changes of plans for a project shall be authorized or approved by the board of regents.

(2) No change order or change of plans for a project involving either cost increases of \$75,000 or more or involving a change in the proposed use of a project shall be authorized or approved by the board of regents without having first advised and consulted with the joint committee on state building construction.

(3) Change orders or changes in plans for a project involving a cost increase of less than \$75,000 and any change order involving a cost reduction, other than a change in the proposed use of the project, may be authorized or approved by the board of regents without prior consultation with the joint committee on state building construction. The board of regents shall report to the joint committee on state building construction all action relating to such change orders or changes in plans.

(4) If the board of regents determines that it is in the best interest of the state to authorize or approve a change order, a change in plans or a change in the proposed use of any project that the board of regents is required to first advise and consult with the joint committee on state building construction prior to issuing such approval and if no meeting of the joint committee is scheduled to take place within the next 10 business days, then the board of regents may use the procedure authorized by subsection (d) of K.S.A. 75-1264, and amendments thereto, in lieu of advising and consulting with the joint committee at a meeting. In any such case, the board of regents shall mail a summary description of the proposed change order, change in plans or change in the proposed use of any project to each member of the joint committee on state building construction and to the director of

the legislative research department. If the board of regents provides notice and information to the members of the joint committee and to such director in the manner required and subject to the same provisions and conditions that apply to the secretary of administration under such statute, and if less than two members of the joint committee contact the director of the legislative research department within seven business days of the date the summary description was mailed and request a presentation and review of any such proposed change order, change in plans or change in use at a meeting of the joint committee, then the board of regents shall be deemed to have advised and consulted with the joint committee about such proposed change order, change in plans or change in proposed use and may authorize or approve such proposed change order, change in plans or change in proposed use.

(m) The provisions of this section shall apply to each project authorized by the board of regents under this act and shall not apply to any other capital improvement project of the board of regents or of any state educational institution that is specifically authorized by any other statute.

History: L. 2002, ch. 120, § 10; May 23.



AIA Government Affairs
Construction Manager at-Risk State Statute
Compendium

Kentucky

45A.030 Definitions for code.

As used in this code, unless the context requires otherwise:

- (1) "Business" means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other legal entity through which business is conducted;
- (2) "Change order" means a written order signed by the purchasing officer, directing the contractor to make changes that the changes clause of the contract authorizes the purchasing officer to order without the consent of the contractor;
- (3) "Chief purchasing officer" means the secretary of the Finance and Administration Cabinet, who shall be responsible for all procurement of the Commonwealth except as provided by KRS Chapters 175, 176, 177, and 180;
- (4) "Construction" means the process of building, altering, repairing, improving, or demolishing any public structures or buildings, or other public improvements of any kind to any public real property. It does not include the routine maintenance of existing structures, buildings, or real property;
- (5) "Construction manager-agency" means services to assist the purchasing agency manage construction that are procured through a contract that is qualificationsbased;
- (6) "Construction management-at-risk" means 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 collaboration regarding the construction during and after design of a capital project. The contract shall be subject to the bonding requirements of KRS 45A.190;
- (7) "Contract" means all types of state agreements, including grants and orders, for the purchase or disposal of supplies, services, construction, or any other item. It includes awards; contracts of a fixed-price, cost, cost-plus-a-fixed-fee, or incentive type; contracts providing for the issuance of job or task orders; leases; letter contracts; purchase orders; and insurance contracts except as provided in KRS 45A.022. It includes supplemental agreements with respect to any of the foregoing;
- (8) "Contract modification" means any written alteration in the specifications, delivery point, rate of delivery, contract period, price, quantity, or other contract provisions of any existing contract, whether accomplished by unilateral action in accordance with a contract provision or by mutual action of the parties to the contract. It includes bilateral actions, such as supplemental agreements, and unilateral actions, such as change orders, administrative changes, notices of termination, and notices of the exercise of a contract option;
- (9) "Contractor" means any person having a contract with a governmental body;
- (10) "Data" means recorded information, regardless of form or characteristic;

- (11) "Design-bid-build" means a project delivery method in which the purchasing officer sequentially awards separate contracts, the first for architectural, engineering, or engineering-related services to design the project and the second for construction of the capital project according to the design. The contract shall be subject to the bonding requirements of KRS 45A.185;
- (12) "Design-build" means a project delivery method in which the purchasing officer enters into a single contract for design and construction of a capital project. The contract shall be subject to the bonding requirements of KRS 45A.190;
- (13) "Designee" means a duly authorized representative of a person holding a superior position;
- (14) "Document" means any physical embodiment of information or ideas, regardless of form or characteristic, including electronic versions thereof;
- (15) "Employee" means an individual drawing a salary from a governmental body, whether elected or not, and any nonsalaried individual performing personal services for any governmental body;
- (16) "Governmental body" means any department, commission, council, board, bureau, committee, institution, legislative body, agency, government corporation, or other establishment of the executive or legislative branch of the state government;
- (17) "Meeting" means all gatherings of every kind, including video teleconferences;
- (18) "Negotiation" means contracting by either the method set forth in KRS 45A.085, 45A.090, or 45A.095;
- (19) "Person" means any business, individual, organization, or group of individuals;
- (20) "Procurement" means the purchasing, buying, renting, leasing, or otherwise obtaining of any supplies, services, or construction. It includes all functions that pertain to the procurement of any supply, service, or construction item, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration;
- (21) "Purchase request" or "purchase requisition" means that document whereby a using agency requests that a contract be obtained for a specified need, and may include, but is not limited to, the technical description of the requested item, delivery schedule, transportation, criteria for evaluation of solicitees, suggested sources of supply, and information supplied for the making of any written determination and finding required by KRS 45A.025;
- (22) "Purchasing agency" means any governmental body that is authorized by this code or its implementing administrative regulations or by way of delegation from the chief purchasing officer to contract on its own behalf rather than through the central contracting authority of the chief purchasing officer;
- (23) "Purchasing officer" means any person authorized by a governmental body in accordance with procedures prescribed by administrative

regulations to enter into and administer contracts and make written determinations and findings with respect thereto. The term includes an authorized representative acting within the limits of authority;

(24) "Services" means the rendering by a contractor of its time and effort rather than the furnishing of a specific end product, other than reports that are merely incidental to the required performance of services;

(25) "Supplemental agreement" means any contract modification that is accomplished by the mutual action of the parties;

(26) "Supplies" means all property, including but not limited to leases of real property, printing, and insurance, except land or a permanent interest in land;

(27) "Using agency" means any governmental body of the state that utilizes any supplies, services, or construction purchased under this code;

(28) "Video teleconference" means one (1) meeting, occurring in two (2) or more locations, where individuals can see and hear each other by means of video and audio equipment; and

(29) "Writing" or "written" means letters, words, or numbers, or their equivalent, set down by handwriting, typewriting, printing, photostating, photographing, magnetic impulse, mechanical or electronic recording, or other form of data compilation.

Effective: June 24, 2003

History: Amended 2003 Ky. Acts ch. 98, sec. 1, effective June 24, 2003. -- Amended 1998 Ky. Acts ch. 120, sec. 9, effective July 15, 1998; and ch. 486, sec. 1, effective July 15, 1998. -- Amended 1982 Ky. Acts ch. 406, sec. 9, effective July 15, 1982. -- Amended 1980 Ky. Acts ch. 250, sec. 5, effective April 9, 1980. -- Created 1978 Ky. Acts ch. 110, sec. 7, effective January 1, 1979.

Legislative Research Commission Note (7/15/98). This section was amended by 1998 Ky. Acts chs. 120 and 486. Where these acts are not in conflict, they have been codified together. Where a conflict exists, Acts ch. 486, which was last enacted by the General Assembly, prevails under KRS 446.250.

65.025 Prohibitions relating to employment of entities providing architectural services and construction management services on capital construction projects -- Effect of violation -- Exception.

(1) As used in this section:

- (a) "Employ" means to hire, retain, or otherwise contract with an individual or entity for goods or services;
- (b) "Local government" means a city, county, charter county government, urban county government, consolidated local government, or a special district;
- (c) "Construction manager" means a person who coordinates and communicates the entire project process, clarifying cost and time consequences of design decisions as well as clarifying construction feasibility, and who manages the bidding, awarding, and construction phases of the project; and
- (d) "Design-build" means a system of contracting under which one (1) entity performs both architecture/engineering and construction under one (1) single contract.

(2) A local government shall not employ the same entity to provide both architectural services and construction management services on the same capital construction project. No local government shall knowingly employ an officer, employee, or agent of, or an immediate family member of an officer, employee, or agent of:

(a) The architectural firm that provided the architectural services to also provide construction management services for the same capital construction project for which the architectural firm provided architectural services; or

(b) The construction management firm that provided the construction management services to also provide architectural services for the same capital construction project for which the construction management firm provided construction management services.

(3) A violation of subsection (2) of this section shall suspend the local government from receiving any financial assistance from the state, or any state agency, with respect to the project for which the architectural or construction management firm was employed until the matter is resolved.

(4) Nothing in this section shall prohibit a local government from using design-build as a method of providing for capital construction services.

Effective: June 21, 2001

History: Created 2001 Ky. Acts ch. 154, sec. 1, effective June 21, 2001.



AIA Government Affairs
Construction Manager at-Risk State Statute
Compendium

Louisiana

There are no statutes on file for this state



AIA Government Affairs
Construction Manager at-Risk State Statute
Compendium

Maine

BUSINESS AND PROFESSIONS CODE
SECTION 7139-7139.10

7139. This article shall be known as the Construction Management Education Sponsorship Act of 1991.

7139.1. The Legislature hereby finds and declares all of the following:

(a) There is a demand and increasing need for construction management education programs and resources within the postsecondary education system that prepare graduates for the management of construction operations and companies regulated by the Contractors' State License Law and enforced by the Contractors' State License Board.

(b) Although construction management programs do exist within the state university system, these programs are woefully underfunded and insufficiently funded to provide training on state-of-the-art management information systems for either graduates or extension programs for continuing education of licensed contractors. Construction industry associations have provided some assistance through direct grants and scholarships, but the industrywide service of these programs and the need for additional assistance mandates broad based industrywide support.

(c) It is the intent of the Legislature that by enabling contractors to designate a portion of their licensure fee and providing a format for contractors to contribute funds to construction management education, this article will receive broad based industry support. In addition, this article allows the contractor to demonstrate the importance of construction management education. This assistance will enable greater development of construction management curricula and will improve the overall

quality of construction by providing construction management training to California licensed contractors and their current and future management personnel.

7139.2. (a) There is hereby created the Construction Management Education Account (CMEA) as a separate account in the Contractors' License Fund for the purposes of construction management education. Funds in the account shall be available for the purposes of this article upon appropriation by the Legislature.

(b) The Contractors' State License Board shall allow a contractor to make a contribution to the Construction Management Education Account at the time of the contractor license fee payment. The license fee form shall clearly display this alternative on its face and shall clearly inform the licensee that this provision is a contribution to the Construction Management Education Account and is in addition to the fees.

(c) The board may accept grants from federal, state, or local public agencies, or from private foundations or individuals, in order to assist it in carrying out its duties, functions, and powers under this article. Grant moneys shall be deposited into the Construction Management Education Account.

7139.3. (a) The board may award grants to qualified public postsecondary educational institutions for the support of courses of study in construction management.

(b) Any organization of contractors, or organization of organizations, incorporated under Division 2 (commencing with Section 5000) of the Corporations Code may request the board to award grants pursuant to subdivision (a) directly to qualified public postsecondary educational institutions of its choice. However, the

total amount of money that may be awarded to one public postsecondary educational institution pursuant to subdivision (a) may not exceed an amount equal to 25 percent of the total funds available under this article.

(c) The board shall establish an advisory committee to recommend grant awards. The advisory committee shall be known as the Construction Management Education Account Advisory Committee and shall consist of 11 members, with at least one representative from each of the following: Associated General Contractors of California, Associated Builders and Contractors, California Building Industry Association, National Electrical Contractors Association, Plumbing-Heating-Cooling Contractor's Association, Southern California Contractor's Association, Associated General Contractors of San Diego, Engineering and Utility Contractors Association, Engineering Contractors Association, California Sheet Metal and Air Conditioning Contractor's Association, and one member representing the California State University and University of California construction management programs accredited by the American Council for Construction Education. Advisory committee member terms shall be for three years and the representatives shall be appointed by each identified group. Members of the advisory committee shall not receive per diem or reimbursement for traveling and other expenses pursuant to Section 103.

(d) The mission of the Construction Management Education Account Advisory Committee is to maintain, and increase the quality and availability of, education programs for the construction industry. The primary focus is to provide financial resources not now available to accredited construction management programs in California colleges and universities to maintain and upgrade facilities and provide greater access by the industry to modern construction standards and management practices. The advisory committee shall do

all of the following:

- (1) Confirm the qualifications of programs applying for grants.
- (2) Award less than full grants when the account has insufficient funds to award full grants to all qualifying programs.
- (3) Receive and review year-end reports of use and impact of funds.
- (4) Affirm applications for American Council for Construction Education accreditation and, when funds are available, award grants to complete the accreditation process.
- (5) Promote close ties between feeder junior colleges and four-year construction management programs.
- (6) Support development of new educational programs with specific emphasis on outreach to the construction industry at large.

7139.4. Qualified public postsecondary educational institutions shall provide postsecondary construction management programs at the baccalaureate or higher level that either award or provide one of the following:

- (a) A bachelor of science construction management degree accredited by the American Council for Construction Education.
- (b) A degree with an American Council for Construction Education accredited option, including, but not limited to, engineering technology and industrial technology.
- (c) A bachelor of science or higher degree program documenting placement of more than 50 percent of their graduates with California licensed contractors. The placement of a person who holds a master or doctorate degree in the faculty of a construction program shall be counted as though placed with a California licensed contractor.
- (d) The development of a construction management curriculum to meet the American Council for Construction Education criteria.

7139.5. Grants shall be made pursuant to this article to public postsecondary educational institutions that meet the qualifications

specified in Section 7139.4 in the following amounts:

(a) Three thousand dollars (\$3,000) per graduate during the past academic year for institutions qualifying under subdivision (a) of Section 7139.4.

(b) Three thousand dollars (\$3,000) per graduate during the past academic year for institutions qualifying under subdivision (b) of Section 7139.4.

(c) Three thousand dollars (\$3,000) per graduate placed with California licensed contractors during the past academic year for institutions qualifying under subdivision (c) of Section 7139.4.

These funds shall be used for the purpose of becoming accredited by the American Council for Construction Education and shall be available for up to three years. The board may continue to provide this grant to an institution that in its judgment is meeting the intent of this act and is continuing its development towards accreditation.

(d) Institutions qualifying under subdivision (d) of Section 7139.4 may receive a grant in an amount up to twenty-five thousand dollars (\$25,000) per year for up to two years. Thereafter, these institutions may receive grants based upon the criteria described in subdivisions (a) to (c), inclusive. The board may continue to award a grant to an institution that in its judgment is meeting the intent of this article and is continuing its development towards accreditation.

7139.6. (a) The grants issued pursuant to Sections 7139.3 and 7139.5 may be used for all of the following:

(1) Instructional materials and support, equipment, curriculum development, and delivery.

(2) Support and development of outreach, continuing education, and cooperative education or internship programs.

(3) Administrative and clerical support positions.

(4) Faculty recruitment and development, to include support for postgraduate work leading to advanced degrees, visiting lecturer compensation and expenses, teaching assistant positions, and faculty positions.

(b) Grant moneys may also be used to support general classroom and laboratory operating expenses and related administrative supplies, including, but not limited to, reference materials, testing equipment, and equipment maintenance. The list of support items in this subdivision and subdivision (a) are intended to be descriptive rather than limiting. "Support" does not include faculty salary supplements.

7139.7. The board shall report to the Legislature annually on the condition of the grant program and shall include in the report the names of the public postsecondary educational institutions involved, the amount of funds granted to each of those educational institutions, the purposes for which the funds were granted to each of those recipients, the number of students involved, the number of placements made to the construction industry for the previous academic year, and any other information the board considers relevant to the program.

7139.8. The president of each public postsecondary educational institution receiving a grant under this article shall submit, with its respective request for a grant each year following the initial year for which grants are issued, a report to the board delineating the amount of the past grant awarded from the Construction Management Education Account to that institution and the utilization of those funds. The report shall include, but not be limited to, the following:

(a) The number of graduates placed with the California licensed

contractors during the previous academic year.

(b) The expected enrollment in construction management courses in the upcoming academic year.

(c) Continuing education and extension courses offered during the previous academic year and their enrollments.

7139.9. The board may allocate up to fifteen thousand dollars (\$15,000) per year from the Construction Management Education Account for the administration of this article.

7139.10. It is the intent of the Legislature that state funding for the grants authorized to be awarded under this section be provided only from the Contractors' License Fund to the extent that funds are available in that fund and that no other state funding be provided for those grants.



AIA Government Affairs
Construction Manager at-Risk State Statute
Compendium

Maryland

There are no statutes on file for this state



AIA Government Affairs
Construction Manager at-Risk State Statute
Compendium

Massachusetts

[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 over \$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 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



AIA Government Affairs
Construction Manager at-Risk State Statute
Compendium

Michigan

There are no statutes on file for this state



AIA Government Affairs
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Minnesota

[2005 Minn. ALS 78; 2005 Minn. Chapter Law 78; 2005 Minn. S.F. No. 1335](#)

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.



AIA Government Affairs
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Compendium

Mississippi

There are no statutes on file for this state



AIA Government Affairs
Construction Manager at-Risk State Statute
Compendium

Missouri

There are no statutes on file for this state



AIA Government Affairs
Construction Manager at-Risk State Statute
Compendium

Montana

There are no statutes on file for this state



AIA Government Affairs
Construction Manager at-Risk State Statute
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Nebraska

79-2003

Terms, defined.

For purposes of the Nebraska Schools Construction Alternatives Act:

(1) Construction management at risk contract means a contract by which a construction manager (a) assumes the legal responsibility to deliver a construction project within a contracted price to the school district, (b) acts as a construction consultant to the school district during the design development phase of the project when the school district's architect or engineer designs the project, and (c) is the builder during the construction phase of the project;

(2) Construction manager means the legal entity which proposes to enter into a construction management at risk contract pursuant to the act;

(3) Design-build contract means a contract which is subject to qualification-based selection between a school district and a design-builder to furnish (a) architectural, engineering, and related design services for a project pursuant to the act and (b) labor, materials, supplies, equipment, and construction services for a project pursuant to the act;

(4) Design-builder means the legal entity which proposes to enter into a design-build contract which is subject to qualification-based selection pursuant to the act;

(5) Letter of interest means a statement indicating interest to enter into a design-build contract or a construction management at risk contract for a project pursuant to the act;

(6) Performance-criteria developer means any person licensed or any organization issued a certificate of authorization to practice architecture or engineering pursuant to the Engineers and Architects Regulation Act who is selected by a school district to assist the school district in the development of project

performance criteria, requests for proposals, evaluation of proposals, evaluation of the construction under a design-build contract to determine adherence to the performance criteria, and any additional services requested by the school district to represent its interests in relation to a project;

(7) Project performance criteria means the performance requirements of the project suitable to allow the design-builder to make a proposal. Performance requirements include the following, if required by the project: Capacity, durability, standards, ingress and egress requirements, description of the site, surveys, soil and environmental information concerning the site, interior space requirements, material quality standards, design and construction schedules, site development requirements, provisions for utilities, storm water retention and disposal, parking requirements, applicable governmental code requirements, and other criteria for the intended use of the project;

(8) Proposal means an offer in response to a request for proposals (a) by a design-builder to enter into a design-build contract for a project pursuant to the act or (b) by a construction manager to enter into a construction management at risk contract for a project pursuant to the act;

(9) Qualification-based selection process means a process of selecting a design-builder based first on the qualifications of the design-builder and then on the design-builder's proposed approach to the design and construction of the project;

(10) Request for letters of interest means the documentation or publication by which a school district solicits letters of interest;

(11) Request for proposals means the documentation by which a school district solicits proposals; and

(12) School district means any school district classified under section 79-102.

Source:

Laws 2002, LB 391, § 3.

Cross Reference:

Engineers and Architects Regulation Act, see section 81-3401.



AIA Government Affairs
Construction Manager at-Risk State Statute
Compendium

Nevada

There are no statutes on file for this state



AIA Government Affairs
Construction Manager at-Risk State Statute
Compendium

New Hampshire

There are no statutes on file for this state



AIA Government Affairs
Construction Manager at-Risk State Statute
Compendium

New Jersey

There are no statutes on file for this state



AIA Government Affairs
Construction Manager at-Risk State Statute
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New Mexico

13-1-40.1. Definition; construction management and construction manager.

A. "Construction management" means consulting services related to the process of management applied to a public works project for any duration from conception to completion of the project for the purpose of controlling time, cost and quality of the project.

B. "Construction manager" means a person who acts as an agent of the state agency or local public body for construction management, for whom the state agency or local public body shall assume all the risks and responsibilities.

13-1-100.1. Construction contracts; construction management services.

A. A construction management services contract may be entered into for any construction or state or local public works project when a state agency or local public body makes a determination that it is in the public's interest to utilize construction management services. Construction management services shall not duplicate and are in addition to the normal scope of separate architect or engineer contracts, the need for which may arise due to the complexity or unusual requirements of a project as requested by a state agency or local public body.

B. To insure fair, uniform, clear and effective procedures that will strive for the delivery of a quality project, on time and within budget, the secretary, in conjunction with the appropriate and affected professional associations and contractors, shall promulgate regulations, which shall be adopted by the governing bodies of all using agencies and shall be followed by all using agencies when procuring construction management services as authorized in Subsection A of this section.

C. A state agency shall make the decision on a construction management services contract for a state public works project, and a local public body shall make that decision for a local public works project. A state agency shall not make the decision on a construction management services contract for a local public works project.



AIA Government Affairs
Construction Manager at-Risk State Statute
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New York

There are no statutes on file for this state



AIA Government Affairs
Construction Manager at-Risk State Statute
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North Carolina

§ 143-128.1. Construction management at risk contracts.

(a) For purposes of this section and G.S. 143-64.31:

- (1) "Construction management services" means services provided by a construction manager, which may include preparation and coordination of bid packages, scheduling, cost control, value engineering, evaluation, preconstruction services, and construction administration.
- (2) "Construction management at risk services" means services provided by a person, corporation, or entity that (i) provides construction management services for a project throughout the preconstruction and construction phases, (ii) who is licensed as a general contractor, and (iii) who guarantees the cost of the project.
- (3) "Construction manager at risk" means a person, corporation, or entity that provides construction management at risk services.
- (4) "First-tier subcontractor" means a subcontractor who contracts directly with the construction manager at risk.

(b) The construction manager at risk shall be selected in accordance with Article 3D of this Chapter. Design services for a project shall be performed by a licensed architect or engineer. The public owner shall contract directly with the architect or engineer.

(c) The construction manager at risk shall contract directly with the public entity for all construction; shall publicly advertise as prescribed in G.S. 143-129; and shall prequalify and accept bids from first-tier subcontractors for all construction work under this section. The prequalification criteria shall be determined by the public entity and the construction manager at risk to address quality, performance, the time specified in the bids for performance of the contract, the cost of construction oversight, time for completion, capacity to perform, and other factors deemed appropriate by the public entity. The public entity shall require the construction manager at risk to submit its plan for compliance with G.S. 143-128.2 for approval by the public entity prior to soliciting bids for the project's first-tier subcontractors. A construction manager at risk and first-tier subcontractors shall make a good faith effort to recruit and select minority businesses for participation in contracts pursuant to G.S. 143-128.2. A construction manager at risk may perform a portion of the work only if (i) bidding produces no responsible, responsive bidder for that portion of the work, the

lowest responsible, responsive bidder will not execute a contract for the bid portion of the work, or the subcontractor defaults and a prequalified replacement cannot be obtained in a timely manner, and (ii) the public entity approves of the construction manager at risk's performance of the work. All bids shall be opened publicly, and once they are opened, shall be public records under Chapter 132 of the General Statutes. The construction manager at risk shall act as the fiduciary of the public entity in handling and opening bids. The construction manager at risk shall award the contract to the lowest responsible, responsive bidder, taking into consideration quality, performance, the time specified in the bids for performance of the contract, the cost of construction oversight, time for completion, compliance with G.S. 143-128.2, and other factors deemed appropriate by the public entity and advertised as part of the bid solicitation. The public entity may require the selection of a different first-tier subcontractor for any portion of the work, consistent with this section, provided that the construction manager at risk is compensated for any additional cost incurred.

When contracts are awarded pursuant to this section, the public entity shall provide for a dispute resolution procedure as provided in G.S. 143-128(g).

(d) The construction manager at risk shall provide a performance and payment bond to the public entity in accordance with the provisions of Article 3 of Chapter 44A of the General Statutes. (2001-496, s. 2.)



AIA Government Affairs
Construction Manager at-Risk State Statute
Compendium

North Dakota

**CHAPTER 48-01.1
PUBLIC IMPROVEMENT CONTRACT BIDS**

48-01.1-01. Definitions. In this chapter, unless the context otherwise requires:

1. "Construction" includes repair and alteration.
2. "Construction administration" means administrative services provided on behalf of the governing body, either by the governing body or a registered design professional, and includes providing clarifications, submittal review, recommendations for payment, preparation of change orders, and other administrative services included in the agreement with the registered design professional. The term does not include supervision of the construction activities for the construction contracts.
3. "Construction management" means the management and supervision of the construction of a public improvement, including the management and supervision of multiple prime contracts. The term does not include construction administration performed by a design professional under the terms of a professional services agreement with the governing body.
4. "Contractor" means any person, duly licensed, that undertakes or enters a contract with a governing body for the construction or construction management of any public improvement, including multiple prime contracts.
5. "Governing body" means the governing officer or board of any state entity or of any political subdivision.
6. "Public improvement" means any improvement the cost of which is payable from taxes or other funds under the control of a governing body including improvements for which special assessments are levied. The term does not include any county road construction and maintenance, state highway, or public service commission project governed by titles 11, 24, or 38.
7. "Surety" means a bond or undertaking executed by a surety company authorized to do business in this state which is countersigned by an agent of that company.

48-01.1-02. Contracts let to lowest bidder - Emergency waiver. A governing body shall award a contract for the construction of a public improvement under this chapter to the lowest responsible bidder. The governing body may reject any bid and readvertise for proposals if no bid is satisfactory, or if it

believes any agreement has been entered into by the bidders or others to prevent competition. If the governing body determines that an emergency situation exists, a contract may be made without seeking bids.

48-01.1-03. Publication of advertisement for bids. If a contract of a governing body

for the construction of a public improvement is estimated to cost in excess of one hundred thousand dollars, the governing body shall advertise for bids by publishing for three consecutive weeks, the first publication to be at least twenty-one days before the date of the opening of bids. The advertisement must be published in the official newspaper of the political subdivision in which the public improvement is or will be located, and in a trade publication of general circulation among the contractors, building manufacturers, and dealers in this state, except the advertisement for a public improvement financed by special assessments need only be published once each week for two weeks in the official newspaper with the first publication being at least fourteen days before bid opening.

Page No. 1

48-01.1-04. Plans and specifications for public improvement contracts. If a contract

of a governing body for the construction of a public improvement is estimated to cost in excess of one hundred thousand dollars, the governing body shall procure plans, drawings, and specifications for the work from a licensed architect or registered professional engineer. For public buildings in use by or to be used by the North Dakota agricultural experiment stations in connection with farm or agricultural research operations, the plans, drawings, and specifications, with the approval of the state board of higher education, may be procured from a registered professional engineer if the engineer is in the regular employment of the agricultural experiment station. For public buildings in use by or to be used by the department of transportation for the storage and housing of road materials and road machinery, equipment, and tools, the plans, drawings, and specifications may be procured from a registered professional engineer employed by the department of transportation.

48-01.1-05. Contents of advertisement. The advertisement for bids required by section

48-01.1-03 must state:

1. When and where the plans, drawings, and specifications may be seen and examined.
2. The place, date, and time the bids will be opened.
3. That each bid must be accompanied by a separate envelope containing a bidder's bond in a sum equal to five percent of the full amount of the bid, executed by the bidder as principal and by a surety, conditioned that if the principal's bid is accepted and the contract awarded to the principal, the principal, within ten days after notice of award, shall execute a contract in accordance with the terms of the bid and a

contractor's bond as required by law and the regulations and determinations of the governing body. Countersignature of a bid bond is not required under this section.

4. That a bidder, except a bidder on a municipal, rural, and industrial water supply project authorized for funding under Public Law No. 99-294 [100 Stat. 426; 43 U.S.C.

390a], must be licensed for the full amount of the bid, as required by section

43-07-05. For projects authorized for funding under Public Law No. 99-294 [100

Stat. 426; 43 U.S.C. 390a], the advertisement must state that, unless a bidder

obtains a contractor's license for the full amount of its bid within twenty days after it

is determined the bidder is the lowest and best bidder, the bid must be rejected and

the contract awarded to the next lowest, best, and licensed bidder.

5. That no bid may be read or considered if it does not fully comply with the

requirements of this section and that any deficient bid submitted must be resealed

and returned to the bidder immediately.

6. That the right of the governing body to reject any bid is reserved.

48-01.1-06. Bid requirements for public buildings. Multiple prime bids for the general,

electrical, and mechanical portions of a project are required when any individual general,

electrical, or mechanical contract or any combination of individual contracts is in excess of one hundred thousand dollars. The governing body may also allow submission of single prime bids or bids for other portions of the project at its discretion. The governing body may not accept the single prime bid unless that bid is lower than the combined total of the lowest and best multiple bids for the project.

48-01.1-07. Opening of bids - Award of contract. At the time and place specified in

the notice, the governing body shall open publicly and read aloud all bids received and thereafter award the contract to the lowest and best bidder

or reject all bids. The governing body may advertise for new bids in accordance with this chapter until a satisfactory bid is received. The

governing body shall require the contractor to whom the contract is awarded to post a bond in accordance with chapter 48-02.

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48-01.1-08. Coordination of work under multiple prime bids. After competitive bids

for the general, electrical, and mechanical work are received as part of the multiple prime bids, the governing board may assign the electrical and mechanical contract and any other contracts to the general contractor for the project to facilitate the coordination and management of the work only.

48-01.1-09. Use of construction manager. If a governing body uses a construction manager on a public improvement, the construction manager must be a licensed contractor. The construction manager awarded the contract for construction of a public improvement shall bond the entire cost of the project through a single bond, or through bonds provided by all bid packages and the construction manager's bond for the full amount of the construction manager's services. If the total of the bonds is less than the total project bid, the construction manager shall bond the difference between the total of the bonds and the total project bid.

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Ohio

§ 9.33. Definitions.

As used in [sections 9.33](#) to [9.333](#) [9.33.3] of the Revised Code:

(A) "Construction manager" means a person with substantial discretion and authority to plan, coordinate, manage, and direct all phases of a project for the construction, demolition, alteration, repair, or reconstruction of any public building, structure, or other improvement, but does not mean the person who provides the professional design services or who actually performs the construction, demolition, alteration, repair, or reconstruction work on the project.

(B) "Qualified" means having the following qualifications:

(1) Competence to perform the required management services as indicated by the technical training, education, and experience of the construction manager's personnel, especially the technical training, education, and experience of the construction manager's employees who would be assigned to perform the services;

(2) Ability in terms of workload and the availability of qualified personnel, equipment, and facilities to perform the required management services competently and expeditiously;

(3) Past performance as reflected by the evaluations of previous clients with respect to factors such as control of costs, quality of work, and meeting of deadlines;

(4) Financial responsibility as evidenced by the capability to provide a letter of credit pursuant to [Chapter 1305](#), of the Revised Code, a surety bond, certified check, or cashier's check in an amount equal to the value of the construction management contract, or by other means acceptable to the public owner;

(5) Other similar factors.

(C) "Public owner" means the state, or any county, township, municipal corporation, school district, or other political subdivision, or any instrumentality or special purpose district of the state or a political subdivision.

HISTORY: 138 v H 243 (Eff 9-26-79); 142 v S 185 (Eff 6-14-88); 146 v H 231. Eff 11-24-95.

[§ 9.33.1] § 9.331. Advertising notice of intent to employ construction manager.

(A) Before entering into a contract to employ a construction manager, a public owner shall advertise, in a newspaper of general circulation in the county where the contract is to be performed, notice of its intent to employ a construction manager. The notice shall invite interested parties to submit proposals for consideration and shall be published at least thirty days prior to the date for accepting the proposals. The public owner also may advertise the information contained in the notice in appropriate trade journals and otherwise notify persons believed to be interested in employment as a construction manager.

(B) The advertisement shall include a general description of the project, a statement of the specific management services required, and a description of the qualifications required for the project.

HISTORY: 142 v S 185. Eff 6-14-88.

[§ 9.33.2] § 9.332. Evaluation of proposals and selection of construction managers; negotiation of contract.

For every construction management contract, the public owner planning to contract for construction management services shall evaluate the proposals submitted and may hold discussions with individual construction managers to explore further their proposals, the scope and nature of the services they would provide, and the various technical approaches they may take regarding the project. Following this evaluation, the public owner shall:

(A) Select and rank no fewer than three construction managers that it considers to be the most qualified to provide the required construction management services, except when the public owner determines in writing that fewer than three qualified construction managers are available in which case it shall select and rank them;

(B) Negotiate a contract with the construction manager ranked most qualified to perform the required services at a compensation determined in writing to be fair and reasonable. Contract negotiations shall be directed toward:

(1) Ensuring that the construction manager and the public owner have a mutual understanding of the essential requirements involved in providing the required services;

(2) Determining that the construction manager will make available the necessary personnel, equipment, and facilities to perform the services within the required time.

(C) Upon failure to negotiate a contract with the construction manager ranked most qualified, the public owner shall inform the construction manager in writing of the termination of negotiations and enter into negotiations with the construction manager ranked next most qualified. If negotiations again fail, the same procedure shall be followed with each next most qualified construction manager selected and ranked pursuant to division (A) of this section, in order of ranking, until a contract is negotiated.

(D) If the public owner fails to negotiate a contract with any of the construction managers selected pursuant to division (A) of this section, the public owner shall select and rank additional construction managers, based on their qualifications, and negotiations shall continue as with the construction managers selected and ranked initially until a contract is negotiated.

HISTORY: 142 v S 185 (Eff 6-14-88); 146 v H 231. Eff 11-24-95.

[§ 9.33.3] § 9.333. Construction manager to provide financial assurance; waiver.

No public owner shall enter into a contract with a construction manager unless the construction manager provides a letter of credit pursuant to [Chapter 1305](#). of the Revised Code, a surety bond pursuant to [sections](#)

[153.54](#) and [153.57](#) of the Revised Code, a certified check or cashier's check in an amount equal to the value of the construction management contract for the project, or provides other reasonable financial assurance of a nature and in an amount satisfactory to the owner. The public owner may waive this requirement for good cause.

HISTORY: 146 v H 231. Eff 11-24-95.



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Oklahoma

§61-202. Definitions.

As used in the Public Building Construction and Planning Act:

1. "Administrator" means the State Construction Administrator of the Construction and Properties Division of the Department of Central Services;

2. "Construction" means the process of planning, acquiring, designing, building, equipping, altering, repairing, improving, maintaining, or demolishing any structure or appurtenance thereto including facilities, utilities, or other improvements to any real property but not including highways, bridges, airports, railroads, tunnels, sewers not related to a structure or appurtenance thereto, or dams;

3. "Construction administration" means a series of actions required of the State Construction Administrator, of other state agency employees, or, under a construction administration contract or contract provision, to ensure the full, timely, and proper performance of all phases of a construction project by all contractors, suppliers, and other persons having responsibility for project work and any guarantees or warranties pertaining thereto;

4. "Construction management" means a project delivery method based on an agreement whereby the owner acquires from a construction entity a series of services that include, but are not necessarily limited to, design review, scheduling, cost control, value engineering, constructability evaluation, preparation and coordination of bid packages, and construction administration; "construction management" includes:

- a. "agency construction management" whereby the construction entity provides services to the owner without taking on financial risks for the execution of the actual construction, and
- b. "at-risk construction management" whereby the construction entity, after providing agency services during the pre-construction period, takes on the financial obligation

to carry out construction under a specified cost agreement;

5. "Design-build" means a project delivery method whereby this state acquires both design and construction services in the same contract from a single legal entity, referred to as the design-builder, without the bid component of the traditional design-bid-build process;

6. "Department" means the Department of Central Services;

7. "Design consultant" means any individual, firm, corporation, association, partnership, copartnership, or any other legal entity possessing the required qualifications to provide licensed architectural, registered engineering, or registered land surveying services for any construction project;

8. "Director" means the Director of the Department of Central Services;

9. "Division" means the Construction and Properties Division of the Department of Central Services;

10. "Energy performance index or indices" (EPI) means a number describing the energy requirements at the building boundary of a structure, per square foot of floor space or per cubic foot of occupied volume, as appropriate under defined internal and external ambient conditions over an entire seasonal cycle. As experience develops on the energy performance achieved with state construction, the indices (EPI) will serve as a measure of structure performance with respect to energy consumption;

11. "Life cycle costs" means the cost of owning, operating, and maintaining the structure over the life of the structure. This may be expressed as an annual cost for each year of the facility's use;

12. "Procurement" means buying, purchasing, renting, leasing, or otherwise acquiring or disposing of supplies, services, or construction;

13. "Shared savings financing" means the financing of energy conservation measures and maintenance services through a private firm which may own any purchased equipment for the duration of a contract. Such contract shall specify that the private firm will be recompensed either out of a negotiated portion of the savings resulting

from the conservation measures and maintenance services provided by the private firm or, in the case of a cogeneration project, through the payment of a rate for energy lower than would otherwise have been paid for the same energy from current sources; and

14. "State agency" means an agency, board, commission, counsel, court, office, officer, bureau, institution, unit, division, body, or house of the executive or judicial branches of government of this state, whether elected or appointed, excluding only political subdivisions. Added by Laws 1983, c. 304, § 170, eff. Jan. 1, 1984. Amended by Laws 1986, c. 83, § 1; Laws 1986, c. 301, § 21, operative July 1, 1986; Laws 2000, c. 365, § 1, emerg. eff. June 6, 2000; Laws 2001, c. 5, § 33, emerg. eff. March 21, 2001; Laws 2002, c. 294, § 28, eff. Nov. 1, 2002.

NOTE: Laws 2000, c. 363, § 14 repealed by Laws 2001, c. 5, § 34, emerg. eff. March 21, 2001.

§61-202.1. Advisory Task Force on Public Construction and Renovation Laws - Purpose - Scope of responsibility - Reporting to Legislature.

A. The design-build and at-risk construction management project delivery methods shall not be used without the written approval of the Director of Central Services or an act of the Legislature specifying design-build or at-risk construction management for a project. In all instances where the design-build project or at-risk construction management delivery method is authorized, construction administration shall be performed by the State Construction Administrator, the Administrator's designee or designees, or otherwise by contract or contract provision approved by the Director of Central Services for construction administration by another party.

B. The provisions of subsection A of this section shall not apply to projects by contract pursuant to an interagency agreement under Section 581 of Title 74 of the Oklahoma Statutes or to projects a state agency performs solely with the staff of the agency.

C. The Department of Central Services shall, pursuant to the Administrative Procedures Act,

promulgate rules to effect procedures and processes necessary to the fulfillment of its responsibilities under subsection A of this section.

Added by Laws 2000, c. 365, § 2, eff. June 6, 2000. Amended by Laws 2003, c. 277, § 1, eff. July 1, 2003.



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Oregon

There are no statutes on file for this state



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Compendium

Pennsylvania

There are no statutes on file for this state



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Rhode Island

TITLE 37
Public Property and Works

CHAPTER 37-2
State Purchases

SECTION 37-2-27

§ 37-2-27 Prequalification – Construction management. – A person who bids on a construction management contract shall provide the following information, which information shall constitute the prequalifications for a construction management contract.

(1) Firm history.

(i) Name of the firm.

(ii) Location of principal and branch offices.

(iii) Length of time in business.

(iv) Firm ownership structure.

(v) Annual construction management volume for each of the past five (5) years including number of projects and total construction volume.

(2) Personnel.

(i) Total number of the firm's personnel, other than secretarial/clerical, by professional or skill group.

(ii) Outside firms which will be used to provide such services as estimating, value engineering analysis, scheduling, or computer services.

(3) Experience.

(i) Projects which the firm has constructed during the past five (5) years, including, those where the firm has served as construction manager including the project name and address, year completed, type of project, construction cost and reference.

(4) Project staffing.

(i) The firm's proposed management staff for the project including an organizational chart identifying the firm's key staff members and showing how each staff member interacts with other staff members assigned to the project.

(ii) Detailed resume for each key staff member which summarizes education, professional registration, professional society membership, construction experience, and construction management project experience.

(5) Services.

(i) Scope of preconstruction phase services, including how those services are provided, with specific attention to the first budget estimate, methods of cost control, scheduling, value engineering, and the method of reporting project status and schedule position.

(ii) Scope of construction phase services and how those services are to be provided.

(iii) The firm's method of working with the project architects, engineers, consultants, and other planning team members.

(iv) The firm's method of coordinating the efforts of the various trade contractors.



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South Carolina

**ARTICLE 9. CONSTRUCTION, ARCHITECT-ENGINEER,
CONSTRUCTION MANAGEMENT, AND LAND SURVEYING
SERVICES**

SUBARTICLE 1. DEFINITIONS

SECTION 11-35-2910. Definitions of terms used in this article. [SC ST SEC 11-35-2910]

(1) "Architect-engineer and land surveying services" are those professional services associated with the practice of architecture, professional engineering, land surveying, landscape architecture, and interior design pertaining to construction, as defined by the laws of this State, as well as incidental services that members of these professions and those in their employ may logically or justifiably perform, including studies, investigations, surveys, evaluations, consultations, planning, programming conceptual designs, plans and specifications, cost estimates, inspections, shop drawing reviews, sample recommendations, preparation of operating and maintenance manuals, and other related services.

(2) "Construction" means the process of building, altering, repairing, remodeling, improving, or demolishing any public structure or building or other public improvements of any kind to any public real property. It does not include the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property.

(3) "Construction management services" are those professional services associated with a system in which the using agency directly contracts with a professional **construction manager** to provide that group of management activities required to plan, schedule, coordinate, and manage the design and construction plan of a state project in a manner that contributes to the control of time, cost, and quality of construction as specified in the construction management contract.



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South Dakota

5-18-45. "Construction management" defined. For the purposes of this chapter, the term, construction management, means any project delivery system based on an agreement whereby a construction manager provides leadership to the construction process through a series of services to the public corporation.

Source: SL 2003, ch 38, § 1.

5-18-46. "Construction management services" defined. For the purpose of this chapter, the term, construction management services, means the following:

- (1) Services provided in the planning and design phases of a public improvement project including the following:
 - (a) Consulting with, advising, assisting, and making recommendations to the public corporation and architect or engineer on all aspects of planning for project construction;
 - (b) Reviewing all plans and specifications as they are being developed and making recommendations with respect to construction feasibility, availability of material and labor, time requirements for procurement and construction, and projected costs;
 - (c) Making, reviewing, and refining budget estimates based on the public corporation's program and other available information;
 - (d) Making recommendations to the public corporation and the architect or engineer regarding the division of work in the plans and specifications to facilitate bidding and awarding of contracts;
 - (e) Soliciting the interest of capable contractors and assisting the public corporation in taking bids on the project;
 - (f) Analyzing the bids received and awarding contracts; and
 - (g) Preparing and monitoring a progress schedule during the design phase of the project and preparation of a proposed construction schedule; and
- (2) Services provided in the construction phase of the public improvement project including the following:
 - (a) Maintaining competent supervisory staff to coordinate and provide general direction of the work and progress of the contractors on the project;

(b) Observing the work as it is being performed for general conformance with working drawings and specifications;

(c) Establishing procedures for coordinating among the public corporation, architect or engineer, contractors, and construction manager with respect to all aspects of the project and implementing labor policy in conformance with the requirements of the public corporation's policy and making recommendations;

(d) Reviewing and processing all applications for payment by involved contractors and material suppliers in accordance with the terms of the contract;

(e) Making recommendations for and processing requests for changes in the work and maintaining records of change orders;

(f) Scheduling and conducting job meetings to ensure orderly progress of the work;

(g) Developing and monitoring a project progress schedule, coordinating and expediting the work of all contractors, and providing periodic status reports to the owner and the architect and engineer; and

(h) Establishing and maintaining a cost control system and conducting meetings to review costs.

Source: SL 2003, ch 38, § 2.

5-18-47. "Construction manager" defined. For the purposes of this chapter, the term, construction manager, means any person or entity providing construction management services for a public corporation, and either a construction manager-agent or construction manager-at-risk.

Source: SL 2003, ch 38, § 3.

5-18-48. "Construction manager-agent" defined. For the purposes of this chapter, the term, construction manager-agent, means any construction manager that provides construction management services to a public corporation in a fiduciary capacity. No construction manager-agent may contract directly with any contractor or supplier for the project.

Source: SL 2003, ch 38, § 4.

5-18-49. "Construction manager-at-risk" defined. For the purposes of this chapter, the term, construction manager-at-risk, means any construction manager that assumes the risk for construction, rehabilitation, alteration, or repair of a public improvement, and provides construction management services to the public corporation. The construction manager-at-risk shall directly contract with subcontractors and suppliers for the project.

Source: SL 2003, ch 38, § 5.



AIA Government Affairs
Construction Manager at-Risk State Statute
Compendium

Tennessee

[Tenn. Code Ann. § 12-10-124 \(2005\)](#)

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.



AIA Government Affairs
Construction Manager at-Risk State Statute
Compendium

Texas

§ 44.038. CONTRACTS FOR FACILITIES: CONSTRUCTION[0]
MANAGER[0]-AT-RISK[0]. (a) A school district may use the
construction[0]
manager[0]-at-risk[0] method for the construction,
rehabilitation,
alteration, or repair of a facility. In using that method
and in
entering into a contract for the services of a
construction[0]
manager[0]-at-risk[0], a district shall follow the
procedures prescribed
by this section.

(b) A construction[0] manager[0]-at-risk[0] is a
sole
proprietorship, partnership, corporation, or other legal
entity
that assumes the risk for construction, rehabilitation,
alteration, or repair of a facility at the contracted price
as a
general contractor and provides consultation to the school
district
regarding construction during and after the design of the
facility.

(c) Before or concurrently with selecting a
construction[0]
manager[0]-at-risk[0], the district shall select or
designate an engineer
or architect who shall prepare the construction documents
for the
project and who has full responsibility for complying with
Chapter
1001 or 1051, Occupations Code, as applicable. If the
engineer or
architect is not a full-time employee of the district, the
district
shall select the engineer or architect on the basis of
demonstrated
competence and qualifications as provided by Section
2254.004,
Government Code. The district's engineer, architect, or
construction manager-agent for a project may not serve,
alone or in
combination with another, as the construction[0]
manager[0]-at-risk[0]
unless the engineer or architect is hired to serve as the
construction[0] manager[0]-at-risk[0] under a separate or
concurrent
procurement conducted in accordance with this subchapter.
This
subsection does not prohibit the district's engineer or
architect
from providing customary construction phase services under
the
engineer's or architect's original professional service
agreement
in accordance with applicable licensing laws.

(d) The district shall provide or contract for,

independently of the construction[0] manager[0]-at-risk[0], the inspection services, the testing of construction materials engineering, and the verification testing services necessary for acceptance of the facility by the district. The district shall select those services for which it contracts in accordance with Section 2254.004, Government Code.

(e) The district shall select the construction[0] manager[0]-at-risk[0] in either a one-step or two-step process. The district shall prepare a request for proposals, in the case of a one-step process, or a request for qualifications, in the case of a two-step process, that includes general information on the project site, project scope, schedule, selection criteria, estimated budget, and the time and place for receipt of proposals or qualifications, as applicable, a statement as to whether the selection process is a one-step or two-step process, and other information that may assist the district in its selection of a construction[0] manager[0]-at-risk[0]. The district shall state the selection criteria in the request for proposals or qualifications, as applicable. The selection criteria may include the offeror's experience, past performance, safety record, proposed personnel and methodology, and other appropriate factors that demonstrate the capability of the construction[0] manager[0]-at-risk[0]. If a one-step process is used, the district may request, as part of the offeror's proposal, proposed fees and prices for fulfilling the general conditions. If a two-step process is used, the district may not request fees or prices in step one. In step two, the district may request that five or fewer offerors, selected solely on the basis of qualifications, provide additional information, including the construction[0] manager[0]-at-risk's[0] proposed fee and its price for fulfilling the general conditions.

(f) At each step, the district shall receive, publicly open,

and read aloud the names of the offerors. At the appropriate step, the district shall also read aloud the fees and prices, if any, stated in each proposal as the proposal is opened. Within 45 days after the date of opening the proposals, the district shall evaluate and rank each proposal submitted in relation to the criteria set forth in the request for proposals.

(g) The district shall select the offeror that submits the proposal that offers the best value for the district based on the published selection criteria and on its ranking evaluation. The district shall first attempt to negotiate with the selected offeror a contract. If the district is unable to negotiate a satisfactory contract with the selected offeror, the district shall, formally and in writing, end negotiations with that offeror and proceed to negotiate with the next offeror in the order of the selection ranking until a contract is reached or negotiations with all ranked offerors end.

(h) A construction[0] manager[0]-at-risk[0] shall publicly advertise, in accordance with Section 44.031(g), and receive bids or proposals from trade contractors or subcontractors for the performance of all major elements of the work other than the minor work that may be included in the general conditions. A construction[0] manager[0]-at-risk[0] may seek to perform portions of the work itself if the construction[0] manager[0]-at-risk[0] submits its bid or proposal for those portions of the work in the same manner as all other trade contractors or subcontractors and if the district determines that the construction[0] manager[0]-at-risk's[0] bid or proposal provides the best value for the district.

(i) The construction[0] manager[0]-at-risk[0] and the district or its representative shall review all trade contractor or subcontractor bids or proposals in a manner that does not disclose the contents of the bid or proposal during the selection process to

a person not employed by the construction[0] manager[0]-at-risk[0], engineer, architect, or district. All bids or proposals shall be made public after the award of the contract or within seven days after the date of final selection of bids or proposals, whichever is later.

(j) If the construction[0] manager[0]-at-risk[0] reviews, evaluates, and recommends to the district a bid or proposal from a trade contractor or subcontractor but the district requires another bid or proposal to be accepted, the district shall compensate the construction[0] manager[0]-at-risk[0] by a change in price, time, or guaranteed maximum cost for any additional cost and risk that the construction[0] manager[0]-at-risk[0] may incur because of the district's requirement that another bid or proposal be accepted.

(k) If a selected trade contractor or subcontractor defaults in the performance of its work or fails to execute a subcontract after being selected in accordance with this section, the construction[0] manager[0]-at-risk[0] may, without advertising, itself fulfill the contract requirements or select a replacement trade contractor or subcontractor to fulfill the contract requirements.

(l) If a fixed contract amount or guaranteed maximum price has not been determined at the time the contract is awarded, the penal sums of the performance and payment bonds delivered to the district must each be in an amount equal to the project budget, as specified in the request for qualifications. The construction manager shall deliver the bonds not later than the 10th day after the date the construction manager executes the contract unless the construction manager furnishes a bid bond or other financial security acceptable to the district to ensure that the construction manager will furnish the required performance and payment bonds when a guaranteed maximum price is established.

Added by Acts 1997, 75th Leg., ch. 1179, § 2, eff. Sept. 1, 1997.

Amended by Acts 1999, 76th Leg., ch. 1225, § 8, eff. Sept. 1,

1999; Acts 2003, 78th Leg., ch. 1229, § 3, eff. Sept. 1, 2003;

Acts 2003, 78th Leg., ch. 1276, § 14A.759, eff. Sept. 1, 2003.

§ 51.782. CONTRACTS FOR FACILITIES: CONSTRUCTION[0] MANAGER[0]-AT-RISK[0]. (a) An institution may use the construction[0] manager[0]-at-risk[0] method for the construction, rehabilitation, alteration, or repair of a facility. In using that method and in entering into a contract for the services of a construction[0] manager[0]-at-risk[0], a board shall follow the procedures prescribed by this section.

(b) A construction[0] manager[0]-at-risk[0] is a sole proprietorship, partnership, corporation, or other legal entity that assumes the risk for construction, rehabilitation, alteration, or repair of a facility at the contracted price as a general contractor and provides consultation to the institution regarding construction during and after the design of the facility.

(c) Before or concurrently with selecting a construction[0] manager[0]-at-risk[0], the board shall select or designate an engineer or architect who shall prepare the construction documents for the project and who has full responsibility for complying with Chapter 1001 or 1051, Occupations Code, as applicable. If the engineer or architect is not a full-time employee of the institution, the board shall select the engineer or architect on the basis of demonstrated competence and qualifications as provided by Section 2254.004, Government Code. The institution's engineer, architect, or construction manager-agent for a project may not serve, alone or in combination with another, as the construction[0] manager[0]-at-risk[0] unless the engineer or architect is hired to serve as the

construction[0] manager[0]-at-risk[0] under a separate or concurrent procurement conducted in accordance with this subchapter. This subsection does not prohibit the institution's engineer or architect from providing customary construction phase services under the engineer's or architect's original professional service agreement in accordance with applicable licensing laws.

(d) The board shall provide or contract for, independently of the construction[0] manager[0]-at-risk[0], the inspection services, the testing of construction materials engineering, and the verification testing services necessary for acceptance of the facility by the institution. The board shall select those services for which it contracts in accordance with Section 2254.004, Government Code.

(e) The board shall select the construction[0] manager[0]-at-risk[0] in either a one-step or two-step process. The board shall prepare a request for proposals, in the case of a one-step process, or a request for qualifications, in the case of a two-step process, that includes general information on the project site, project scope, schedule, selection criteria, estimated budget, and the time and place for receipt of proposals or qualifications, as applicable, a statement as to whether the selection process is a one-step or two-step process, and other information that may assist the board in its selection of a construction[0] manager[0]-at-risk[0]. The board shall state the selection criteria in the request for proposals or qualifications, as applicable. The selection criteria may include the offeror's experience, past performance, safety record, proposed personnel and methodology, and other appropriate factors that demonstrate the capability of the construction[0] manager[0]-at-risk[0]. If a one-step process is used, the board may request, as part of the offeror's proposal, proposed fees and prices for fulfilling the general conditions. If a two-step process is used, the board may not request fees or prices in step

one. In step two, the board may request that five or fewer offerors, selected solely on the basis of qualifications, provide additional information, including the [construction\[0\] manager\[0\]-at-risk's\[0\]](#) proposed fee and its price for fulfilling the general conditions.

(f) The board shall publish the request for qualifications in a manner prescribed by the board.

(g) At each step, the board shall receive, publicly open, and read aloud the names of the offerors. At the appropriate step, the board shall also read aloud the fees and prices, if any, stated in each proposal as the proposal is opened. Within 45 days after the date of opening the proposals, the board or its representative shall evaluate and rank each proposal submitted in relation to the criteria set forth in the request for proposals.

(h) The board or its representative shall select the offeror that submits the proposal that offers the best value for the institution based on the published selection criteria and on its ranking evaluation. The board or its representative shall first attempt to negotiate with the selected offeror a contract. If the board or its representative is unable to negotiate a satisfactory contract with the selected offeror, the board or its representative shall, formally and in writing, end negotiations with that offeror and proceed to negotiate with the next offeror in the order of the selection ranking until a contract is reached or negotiations with all ranked offerors end.

(i) A [construction\[0\] manager\[0\]-at-risk\[0\]](#) shall publicly advertise, in the manner prescribed by the institution, and receive bids or proposals from trade contractors or subcontractors for the performance of all major elements of the work other than general conditions work. A [construction\[0\] manager\[0\]-at-risk\[0\]](#) may seek to perform major elements of the work itself if the [construction\[0\]](#)

manager[0]-at-risk[0] submits its bid or proposal for that work in the same manner as all other trade contractors or subcontractors and if the board determines that the construction[0] manager[0]-at-risk's[0] bid or proposal provides the best value for the institution. If no satisfactory bid or proposal for a major element of the work is received in the time allowed, the board may negotiate directly with the construction[0] manager[0]-at-risk[0] for performance of that work. The board may negotiate directly with the manager-at-risk for the performance of minor elements of the work that are not included in major work packages.

(j) The construction[0] manager[0]-at-risk[0] and the board or its representative shall review all trade contractor or subcontractor bids or proposals in a manner that does not disclose the contents of the bid or proposal during the selection process to a person not employed by the construction[0] manager[0]-at-risk[0], engineer, architect, or institution. All bids or proposals shall be made public after the award of the contract or within seven days after the date of final selection of bids and proposals, whichever is later.

(k) If the construction[0] manager[0]-at-risk[0] reviews, evaluates, and recommends to the board a bid or proposal from a trade contractor or subcontractor but the board requires another bid or proposal to be accepted, the institution shall compensate the construction[0] manager[0]-at-risk[0] by a change in price, time, or guaranteed maximum cost for any additional cost and risk that the construction[0] manager[0]-at-risk[0] may incur because of the board's requirement that another bid or proposal be accepted.

(l) If a selected trade contractor or subcontractor defaults in the performance of its work or fails to execute a subcontract after being selected in accordance with this section, the construction[0] manager[0]-at-risk[0] may, without advertising, itself fulfill the contract requirements or select a replacement trade

contractor or subcontractor to fulfill the contract requirements.

(m) If a fixed contract amount or guaranteed maximum price has not been determined at the time the contract is awarded, the penal sums of the performance and payment bonds delivered to the institution must each be in an amount equal to the project budget, as set forth in the request for qualifications. The construction manager shall deliver the bonds not later than the 10th day after the date the construction manager executes the contract unless the construction manager furnishes a bid bond or other financial security acceptable to the institution to ensure that the construction manager will furnish the required performance and payment bonds when a guaranteed maximum price is established.

Added by Acts 1997, 75th Leg., ch. 1179, § 3, eff. Sept. 1, 1997.

Amended by Acts 1999, 76th Leg., ch. 1225, § 16, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1229, § 5, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1266, § 4.01, eff. June 20, 2003; Acts 2003, 78th Leg., ch. 1276, § 14A.766, eff. Sept. 1, 2003.

§ 2166.2532. CONSTRUCTION[0] MANAGER[0]-AT-RISK[0] METHOD. (a) The commission may use the construction[0] manager[0]-at-risk[0] method for a project. In using that method and in entering into a contract for the services of a construction[0] manager[0]-at-risk[0], the commission shall follow the procedures prescribed by this section.

(b) A construction[0] manager[0]-at-risk[0] is a sole proprietorship, partnership, corporation, or other legal entity that assumes the risk for construction, rehabilitation, alteration, or repair of a facility at the contracted price as a general contractor and provides consultation to the commission regarding construction during and after the design of the facility.

(c) Before or concurrently with selecting a construction[0]

manager[0]-at-risk[0], the commission shall select or designate an engineer or architect who shall prepare the construction documents for the project and who has full responsibility for complying with Chapter 1001 or 1051, Occupations Code, as applicable. If the engineer or architect is not a full-time employee of the commission, the commission shall select the engineer or architect on the basis of demonstrated competence and qualifications as provided by Section 2254.004. The commission's engineer or architect for a project may not serve, alone or in combination with another, as the construction[0] manager[0]-at-risk[0] unless the engineer or architect is hired to serve as the construction[0] manager[0]-at-risk[0] under a separate or concurrent procurement conducted in accordance with this subchapter. This subsection does not prohibit a commission engineer or architect from providing customary construction phase services under the engineer's or architect's original professional service agreement in accordance with applicable licensing laws.

(d) The commission shall provide or contract for, independently of the construction[0] manager[0]-at-risk[0], the inspection services, the testing of construction materials engineering, and the verification testing services necessary for acceptance of the facility by the commission. The commission shall select those services for which it contracts in accordance with Section 2254.004.

(e) The commission shall select the construction[0] manager[0]-at-risk[0] in either a one-step or two-step process. The commission shall prepare a request for proposals, in the case of a one-step process, or a request for qualifications, in the case of a two-step process, that includes general information on the project site, project scope, schedule, selection criteria, and the time and place for receipt of proposals or qualifications, as applicable; a statement as to whether the selection process is a one-step or two-step process; and other information that may assist the

commission in its selection of a construction[0] manager[0]-at-risk[0]. The commission shall state the selection criteria in the request for proposals or qualifications, as applicable. The selection criteria may include the offeror's experience, past performance, safety record, proposed personnel and methodology, and other appropriate factors that demonstrate the capability of the construction[0] manager[0]-at-risk[0]. If a one-step process is used, the commission may request, as part of the offeror's proposal, proposed fees and prices for fulfilling the general conditions. If a two-step process is used, the commission may not request fees or prices in step one. In step two, the commission may request that five or fewer offerors, selected solely on the basis of qualifications, provide additional information, including the construction[0] manager[0]-at-risk's[0] proposed fee and its price for fulfilling the general conditions.

(f) The commission shall publish the request for qualifications in a manner prescribed by the commission.

(g) At each step, the commission shall receive, publicly open, and read aloud the names of the offerors. Within 45 days after the date of opening the proposals, the commission or its representative shall evaluate and rank each proposal submitted in relation to the criteria set forth in the request for proposals.

(h) The commission or its representative shall select the offeror that submits the proposal that offers the best value for the commission or using agency based on the published selection criteria and on its ranking evaluation. The commission or its representative shall first attempt to negotiate a contract with the selected offeror. If the commission or its representative is unable to negotiate a satisfactory contract with the selected offeror, the commission or its representative shall, formally and in writing, end negotiations with that offeror and proceed to

negotiate with the next offeror in the order of the selection ranking until a contract is reached or negotiations with all ranked offerors end.

(i) A construction[0] manager[0]-at-risk[0] shall publicly advertise, in the manner prescribed by the commission, and receive bids or proposals from trade contractors or subcontractors for the performance of all major elements of the work other than the minor work that may be included in the general conditions. A construction[0] manager[0]-at-risk[0] may seek to perform portions of the work itself if the construction[0] manager[0]-at-risk[0] submits its bid or proposal for those portions of the work in the same manner as all other trade contractors or subcontractors and if the commission determines that the construction[0] manager[0]-at-risk's[0] bid or proposal provides the best value for the commission or using agency.

(j) The construction[0] manager[0]-at-risk[0] and the commission or its representative shall review all trade contractor or subcontractor bids or proposals in a manner that does not disclose the contents of the bid or proposal during the selection process to a person not employed by the construction[0] manager[0]-at-risk[0], engineer, architect, or commission. All bids or proposals shall be made public after the award of the contract or within seven days after the date of final selection of bids and proposals, whichever is later.

(k) If the construction[0] manager[0]-at-risk[0] reviews, evaluates, and recommends to the commission a bid or proposal from a trade contractor or subcontractor but the commission requires another bid or proposal to be accepted, the commission shall compensate the construction[0] manager[0]-at-risk[0] by a change in price, time, or guaranteed maximum cost for any additional cost and risk that the construction[0] manager[0]-at-risk[0] may incur because of the commission's requirement that another bid or proposal be accepted.

(l) If a selected trade contractor or subcontractor defaults in the performance of its work or fails to execute a subcontract after being selected in accordance with this section, the construction[0] manager[0]-at-risk[0] may, without advertising, itself fulfill the contract requirements or select a replacement trade contractor or subcontractor to fulfill the contract requirements.

(m) If a fixed contract amount or guaranteed maximum price has not been determined at the time the contract is awarded, the penal sums of the performance and payment bonds delivered to the commission must each be in an amount equal to the project budget, as set forth in the request for qualifications. The construction[0] manager[0]-at-risk[0] shall deliver the bonds not later than the 10th day after the date the construction[0] manager[0]-at-risk[0] executes the contract unless the construction[0] manager[0]-at-risk[0] furnishes a bid bond or other financial security acceptable to the commission to ensure that the construction[0] manager[0]-at-risk[0] will furnish the required performance and payment bonds when a guaranteed maximum price is established.

Added by Acts 2001, 77th Leg., ch. 1422, § 9.06, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 309, § 7.41, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 1229, § 2, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1276, § 14A.782, eff. Sept. 1, 2003.

§ 271.118. CONTRACTS FOR FACILITIES: CONSTRUCTION[0] MANAGER[0]-AT-RISK[0]. (a) A governmental entity may use the construction[0] manager[0]-at-risk[0] method for the construction, rehabilitation, alteration, or repair of a facility. In using that method and in entering into a contract for the services of a

construction[0] manager[0]-at-risk[0], a governmental entity shall follow the procedures prescribed by this section.

(b) A construction[0] manager[0]-at-risk[0] is a sole proprietorship, partnership, corporation, or other legal entity that assumes the risk for construction, rehabilitation, alteration, or repair of a facility at the contracted price as a general contractor and provides consultation to the governmental entity regarding construction during and after the design of the facility.

(c) Before or concurrently with selecting a construction[0] manager[0]-at-risk[0], the governmental entity shall select or designate an engineer or architect who shall prepare the construction documents for the project and who has full responsibility for complying with Chapter 1001 or 1051, Occupations Code, as applicable. If the engineer or architect is not a full-time employee of the governmental entity, the governmental entity shall select the engineer or architect on the basis of demonstrated competence and qualifications as provided by Section 2254.004, Government Code. The governmental entity's engineer, architect, or construction manager-agent for a project may not serve, alone or in combination with another, as the construction[0] manager[0]-at-risk[0] unless the engineer or architect is hired to serve as the construction[0] manager[0]-at-risk[0] under a separate or concurrent procurement conducted in accordance with this subchapter.

(d) The governmental entity shall provide or contract for, independently of the construction[0] manager[0]-at-risk[0], the inspection services, the testing of construction materials engineering, and the verification testing services necessary for acceptance of the facility by the governmental entity. The governmental entity shall select those services for which it contracts in accordance with Section 2254.004, Government Code.

(e) The governmental entity shall select the construction[0]

manager[0]-at-risk[0] in either a one-step or two-step process. The governmental entity shall prepare a request for proposals, in the case of a one-step process, or a request for qualifications, in the case of a two-step process, that includes general information on the project site, project scope, schedule, selection criteria, estimated budget, and the time and place for receipt of proposals or qualifications, as applicable, and other information that may assist the governmental entity in its selection of a construction[0] manager[0]-at-risk[0]. The governmental entity shall state the selection criteria in the request for proposals or qualifications, as applicable. The selection criteria may include the offeror's experience, past performance, safety record, proposed personnel and methodology, and other appropriate factors that demonstrate the capability of the construction[0] manager[0]-at-risk[0]. If a one-step process is used, the governmental entity may request, as part of the offeror's proposal, proposed fees and prices for fulfilling the general conditions. If a two-step process is used, the governmental entity may not request fees or prices in step one. In step two, the governmental entity may request that five or fewer offerors, selected solely on the basis of qualifications, provide additional information, including the construction[0] manager[0]-at-risk's[0] proposed fee and its price for fulfilling the general conditions.

(f) At each step, the governmental entity shall receive, publicly open, and read aloud the names of the offerors. At the appropriate step, the governmental entity shall also read aloud the fees and prices, if any, stated in each proposal as the proposal is opened. Not later than the 45th day after the date of opening the proposals, the governmental entity shall evaluate and rank each proposal submitted in relation to the criteria set forth in the request for proposals.

(g) The governmental entity shall select the offeror that submits the proposal that offers the best value for the governmental entity based on the published selection criteria and on its ranking evaluation. The governmental entity shall first attempt to negotiate a contract with the selected offeror. If the governmental entity is unable to negotiate a satisfactory contract with the selected offeror, the governmental entity shall, formally and in writing, end negotiations with that offeror and proceed to negotiate with the next offeror in the order of the selection ranking until a contract is reached or negotiations with all ranked offerors end.

(h) A construction[0] manager[0]-at-risk[0] shall publicly advertise, as prescribed for a governmental entity under Section 271.025, and receive bids or proposals from trade contractors or subcontractors for the performance of all major elements of the work other than the minor work that may be included in the general conditions. A construction[0] manager[0]-at-risk[0] may seek to perform portions of the work itself if the construction[0] manager[0]-at-risk[0] submits its bid or proposal for those portions of the work in the same manner as all other trade contractors or subcontractors and if the governmental entity determines that the construction[0] manager[0]-at-risk's[0] bid or proposal provides the best value for the governmental entity.

(i) The construction[0] manager[0]-at-risk[0] and the governmental entity or its representative shall review all trade contractor or subcontractor bids or proposals in a manner that does not disclose the contents of the bid or proposal during the selection process to a person not employed by the construction[0] manager[0]-at-risk[0], engineer, architect, or governmental entity. All bids or proposals shall be made public after the award of the contract or not later

than the seventh day after the date of final selection of bids or proposals, whichever is later.

(j) If the construction[0] manager[0]-at-risk[0] reviews, evaluates, and recommends to the governmental entity a bid or proposal from a trade contractor or subcontractor but the governmental entity requires another bid or proposal to be accepted, the governmental entity shall compensate the construction[0] manager[0]-at-risk[0] by a change in price, time, or guaranteed maximum cost for any additional cost and risk that the construction[0] manager[0]-at-risk[0] may incur because of the governmental entity's requirement that another bid or proposal be accepted.

(k) If a selected trade contractor or subcontractor defaults in the performance of its work or fails to execute a subcontract after being selected in accordance with this section, the construction[0] manager[0]-at-risk[0] may, without advertising, fulfill the contract requirements itself or select a replacement trade contractor or subcontractor to fulfill the contract requirements.

(l) If a fixed contract amount or guaranteed maximum price has not been determined at the time the contract is awarded, the penal sums of the performance and payment bonds delivered to the governmental entity must each be in an amount equal to the project budget, as specified in the request for qualifications. The construction manager shall deliver the bonds not later than the 10th day after the date the construction manager executes the contract unless the construction manager furnishes a bid bond or other financial security acceptable to the governmental entity to ensure that the construction manager will furnish the required performance and payment bonds when a guaranteed maximum price is established.

Added by Acts 2001, 77th Leg., ch. 1409, § 5, eff. Sept. 1, 2001.

Amended by Acts 2003, 78th Leg., ch. 1276, § 14A.794, eff. Sept. 1, 2003.

§ 60.462. CONTRACTS FOR FACILITIES:

CONSTRUCTION[0]
MANAGER[0]-AT-RISK[0]. (a) A district may award a contract to a construction[0] manager[0]-at-risk[0] for the construction, rehabilitation, alteration, or repair of a facility provided that the construction[0] manager[0]-at-risk[0] and the district follow the procedures prescribed by this section.

(b) Before or concurrently with selecting a construction[0] manager[0]-at-risk[0], the district shall select or designate an engineer or architect who shall prepare the construction documents for the project and who has full responsibility for complying with Chapter 1001 or 1051, Occupations Code, as applicable. If the engineer or architect is not a full-time employee of the district, the district shall select the engineer or architect in accordance with Section 2254.004, Government Code. The district's engineer, architect, or construction manager-agent for a project may not serve, alone or in combination with another, as the construction[0] manager[0]-at-risk[0].

(c) The district shall provide or contract for, independently of the construction[0] manager[0]-at-risk[0], the inspection services, the testing of construction materials, and the verification testing services necessary for acceptance of the facility by the district. The district shall select those services for which it contracts in accordance with Section 2254.004, Government Code.

(d) The district shall select the construction[0] manager[0]-at-risk[0] in either a one-step or two-step process. The district shall prepare a request for proposals, in the case of a one-step process, or a request for qualifications, in the case of a

two-step process, that includes general information on the project site, project scope, schedule, selection criteria, and estimated budget, the time and place for receipt of proposals or qualifications, as applicable, a statement as to whether the selection process is a one-step or two-step process, and other information that may assist the district in its selection of a construction[0] manager[0]-at-risk[0]. The district shall state the selection criteria in the request for proposals or qualifications, as applicable. The selection criteria may include the offeror's experience, past performance, safety record, proposed personnel and methodology, and other appropriate factors that demonstrate the capability of the construction[0] manager[0]-at-risk[0]. If a one-step process is used, the district may request, as part of the offeror's proposal, proposed fees and prices for fulfilling the general conditions.

(e) If a two-step process is used, the district may not request fees or prices in step one. In step two, the district may request that five or fewer offerors, selected solely on the basis of qualifications, provide additional information, including the construction[0] manager[0]-at-risk's[0] proposed fee and its price for fulfilling the general conditions.

(f) At each step, the district shall receive, publicly open, and read aloud the names of the offerors. At the appropriate step, the district shall also read aloud the fees and prices, if any, stated in each proposal as the proposal is opened. Not later than the 45th day after the date of opening the proposals, the district shall evaluate and rank each proposal submitted in relation to the criteria set forth in the request for proposals.

(g) The district shall select the offeror that submits the proposal that offers the best value for the district based on

the published selection criteria and on its ranking evaluation.
The district shall first attempt to negotiate a contract with the selected offeror. If the district is unable to negotiate a satisfactory contract with the selected offeror, the district shall, formally and in writing, end negotiations with that offeror and proceed to negotiate with the next offeror in the order of the selection ranking until a contract is reached or negotiations with all ranked offerors end.

(h) If a fixed contract amount or guaranteed maximum price has not been determined at the time the contract is awarded, the penal sums of the performance and payment bonds delivered to the district must each be in an amount equal to the project budget, as specified in the request for proposals or qualifications. The construction[0] manager[0]-at-risk[0] shall deliver the bonds not later than the 10th day after the date the construction[0] manager[0]-at-risk[0] executes the contract unless the construction[0] manager[0]-at-risk[0] furnishes a bid bond or other financial security acceptable to the district to ensure that the construction[0] manager[0]-at-risk[0] will furnish the required performance and payment bonds when a guaranteed maximum price is established.

Added by Acts 2003, 78th Leg., ch. 307, § 1, eff. June 18, 2003.

Subchapter O, Purchase Contracts, consisting of Secs. 60.451 to 60.465, was added by Acts 2003, 78th Leg., ch. 307, § 1.

For another Subchapter O, Financial Disclosure by Members of Governing Body, consisting of Secs. 60.451 and 60.452, added by Acts 2003, 78th Leg., ch. 249, § 6.05, see § 60.451 et seq., ante.



AIA Government Affairs
Construction Manager at-Risk State Statute
Compendium

Utah

There are no statutes on file for this state



AIA Government Affairs
Construction Manager at-Risk State Statute
Compendium

Vermont

There are no statutes on file for this state



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Construction Manager at-Risk State Statute
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Virginia

§ 2.2-4301. Definitions.

As used in this chapter:

"Affiliate" means an individual or business that controls, is controlled by, or is under common control with another individual or business. A person controls an entity if the person owns, directly or indirectly, more than 10 percent of the voting securities of the entity. For the purposes of this definition "voting security" means a security that (i) confers upon the holder the right to vote for the election of members of the board of directors or similar governing body of the business or (ii) is convertible into, or entitles the holder to receive, upon its exercise, a security that confers such a right to vote. A general partnership interest shall be deemed to be a voting security.

"Best value," as predetermined in the solicitation, means the overall combination of quality, price, and various elements of required services that in total are optimal relative to a public body's needs.

"Business" means any type of corporation, partnership, limited liability company, association, or sole proprietorship operated for profit.

"Competitive negotiation" is a method of contractor selection that includes the following elements:

1. Issuance of a written Request for Proposal indicating in general terms that which is sought to be procured, specifying the factors that will be used in evaluating the proposal and containing or incorporating by reference the other applicable contractual terms and conditions, including any unique capabilities or qualifications that will be required of the contractor.
2. Public notice of the Request for Proposal at least 10 days prior to the date set for receipt of proposals by posting in a public area normally used for posting of public notices and by publication in a newspaper or newspapers of general circulation in the area in which the contract is to be performed so as to provide reasonable notice to the maximum number of offerors that can be reasonably anticipated to submit proposals in response to the particular request. Public notice may also be published on the Department of General Services' central electronic procurement website and other appropriate websites. Effective July 1, 2002, publishing by state agencies, departments and institutions on the public Internet procurement website designated by the Department of General Services shall be required. In addition, proposals may be solicited directly from potential contractors.
3. a. Procurement of professional services. The public body shall engage in individual discussions with two or more offerors deemed fully qualified, responsible and suitable on the basis of initial responses and with emphasis on professional competence, to provide the required

services. Repetitive informal interviews shall be permissible. The offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project, as well as alternative concepts. The Request for Proposal shall not, however, request that offerors furnish estimates of man-hours or cost for services. At the discussion stage, the public body may discuss nonbinding estimates of total project costs, including, but not limited to, life-cycle costing, and where appropriate, nonbinding estimates of price for services. Proprietary information from competing offerors shall not be disclosed to the public or to competitors. At the conclusion of discussion, outlined in this subdivision, on the basis of evaluation factors published in the Request for Proposal and all information developed in the selection process to this point, the public body shall select in the order of preference two or more offerors whose professional qualifications and proposed services are deemed most meritorious. Negotiations shall then be conducted, beginning with the offeror ranked first. If a contract satisfactory and advantageous to the public body can be negotiated at a price considered fair and reasonable, the award shall be made to that offeror. Otherwise, negotiations with the offeror ranked first shall be formally terminated and negotiations conducted with the offeror ranked second, and so on until such a contract can be negotiated at a fair and reasonable price. Should the public body determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to that offeror.

A contract for architectural or professional engineering services relating to construction projects may be negotiated by a public body, for multiple projects provided (i) the projects require similar experience and expertise, (ii) the nature of the projects is clearly identified in the Request for Proposal, and (iii) the contract term is limited to one year or when the cumulative total project fees reach the maximum cost authorized in this paragraph, whichever occurs first. For state public bodies, such contract, except those awarded for environmental, location, design and inspection work regarding highways and bridges by the Commonwealth Transportation Commissioner may be renewable for four additional one-year terms at the option of the public body. For local public bodies, such contract may be renewable for two additional one-year terms at the option of the public body. Under such contract, (a) the fair and reasonable prices, as negotiated, shall be used in determining the cost of each project performed, (b) except those awarded for environmental, location, design and inspection work regarding highways and bridges by the Commonwealth Transportation Commissioner, the sum of all projects performed in one contract term shall not exceed \$500,000 or, in the case of a state agency, as defined in § [2.2-4347](#), such greater amount as may be determined by the Director of the Department of General Services, not to exceed \$1 million, except that in any locality or any authority or sanitation

district with a population in excess of 80,000, the sum of all such projects shall not exceed \$1 million; and (c) except those awarded for environmental, location, design and inspection work regarding highways and bridges by the Commonwealth Transportation Commissioner, the project fee of any single project shall not exceed \$100,000 or, in the case of a state agency, such greater amount as may be determined by the Director of the Department of General Services not to exceed \$200,000, except that in any locality or any authority or sanitation district with a population in excess of 80,000, such fee shall not exceed \$200,000. Any unused amounts from the first contract term shall not be carried forward to the additional term. Competitive negotiations for such contracts may result in awards to more than one offeror provided (1) the Request for Proposal so states and (2) the public body has established procedures for distributing multiple projects among the selected contractors during the contract term. For contracts for environmental location, design and inspection work regarding highways and bridges by the Commonwealth Transportation Commissioner, the sum of all projects in one contract term shall not exceed \$2 million and such contract may be renewable for two additional one-year terms at the option of the Commissioner.

Multiphase professional services contracts satisfactory and advantageous to the Department of Transportation for environmental, location, design and inspection work regarding highways and bridges may be negotiated and awarded based on a fair and reasonable price for the first phase only, when completion of the earlier phases is necessary to provide information critical to the negotiation of a fair and reasonable price for succeeding phases.

Multiphase professional services contracts satisfactory and advantageous to a local public body for environmental, location, design and inspection work regarding construction of infrastructure projects may be negotiated and awarded based on qualifications at a fair and reasonable price for the first phase only, when completion of the earlier phases is necessary to provide information critical to the negotiation of a fair and reasonable price for succeeding phases. Prior to the procurement of any such contract, the local public body shall state the anticipated intended total scope of the project and determine in writing that the nature of the work is such that the best interests of such public body require awarding the contract.

b. Procurement of other than professional services. Selection shall be made of two or more offerors deemed to be fully qualified and best suited among those submitting proposals, on the basis of the factors involved in the Request for Proposal, including price if so stated in the Request for Proposal. Negotiations shall then be conducted with each of the offerors so selected. Price shall be considered, but need not be the sole determining factor. After negotiations have been conducted with each offeror so selected, the public body shall select the offeror which, in its opinion, has made the best proposal, and shall award the contract to that offeror. When

the terms and conditions of multiple awards are so provided in the Request for Proposal, awards may be made to more than one offeror. Should the public body determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror.

"Competitive sealed bidding" is a method of contractor selection, other than for professional services, which includes the following elements:

1. Issuance of a written Invitation to Bid containing or incorporating by reference the specifications and contractual terms and conditions applicable to the procurement. Unless the public body has provided for prequalification of bidders, the Invitation to Bid shall include a statement of any requisite qualifications of potential contractors. When it is impractical to prepare initially a purchase description to support an award based on prices, an Invitation to Bid may be issued requesting the submission of unpriced offers to be followed by an Invitation to Bid limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation.
2. Public notice of the Invitation to Bid at least 10 days prior to the date set for receipt of bids by posting in a designated public area, or publication in a newspaper of general circulation, or both. Public notice may also be published on the Department of General Services' central electronic procurement website and other appropriate websites. Effective July 1, 2002, posting by state agencies, departments and institutions on the public Internet procurement website designated by the Department of General Services shall be required. In addition, bids may be solicited directly from potential contractors. Any additional solicitations shall include businesses selected from a list made available by the Department of Minority Business Enterprise.
3. Public opening and announcement of all bids received.
4. Evaluation of bids based upon the requirements set forth in the invitation, which may include special qualifications of potential contractors, life-cycle costing, value analysis, and any other criteria such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose, which are helpful in determining acceptability.
5. Award to the lowest responsive and responsible bidder. When the terms and conditions of multiple awards are so provided in the Invitation to Bid, awards may be made to more than one bidder.

"Construction" means building, altering, repairing, improving or demolishing any structure, building or highway, and any draining, dredging, excavation, grading or similar work upon real property.

"Construction management contract" means a contract in which a party is retained by the owner to coordinate and administer contracts for construction services for the benefit of the owner, and may also include, if provided in the contract, the furnishing of construction services to the owner.

"Design-build contract" means a contract between a public body and another party in which the party contracting with the public body agrees to both design and build the structure, roadway or other item specified in the contract.

"Goods" means all material, equipment, supplies, printing, and automated data processing hardware and software.

"Informality" means a minor defect or variation of a bid or proposal from the exact requirements of the Invitation to Bid, or the Request for Proposal, which does not affect the price, quality, quantity or delivery schedule for the goods, services or construction being procured.

"Multiphase professional services contract" means a contract for the providing of professional services where the total scope of work of the second or subsequent phase of the contract cannot be specified without the results of the first or prior phase of the contract.

"Nonprofessional services" means any services not specifically identified as professional services in the definition of professional services.

"Potential bidder or offeror" for the purposes of §§ [2.2-4360](#) and [2.2-4364](#) means a person who, at the time a public body negotiates and awards or proposes to award a contract, is engaged in the sale or lease of goods, or the sale of services, insurance or construction, of the type to be procured under the contract, and who at such time is eligible and qualified in all respects to perform that contract, and who would have been eligible and qualified to submit a bid or proposal had the contract been procured through competitive sealed bidding or competitive negotiation.

"Professional services" means work performed by an independent contractor within the scope of the practice of accounting, actuarial services, architecture, land surveying, landscape architecture, law, dentistry, medicine, optometry, pharmacy or professional engineering. "Professional services" shall also include the services of an economist procured by the State Corporation Commission.

"Public body" means any legislative, executive or judicial body, agency, office, department, authority, post, commission, committee, institution, board or political subdivision created by law to exercise some sovereign power or to perform some governmental duty, and empowered by law to undertake the activities described in this chapter.

"Public contract" means an agreement between a public body and a nongovernmental source that is enforceable in a court of law.

"Responsible bidder" or "offeror" means a person who has the capability, in all respects, to perform fully the contract requirements and the moral and business integrity and reliability that will assure good faith performance, and who has been prequalified, if required.

"Responsive bidder" means a person who has submitted a bid that conforms in all material respects to the Invitation to Bid.

"Reverse auctioning" means a procurement method wherein bidders are invited to bid on specified goods or nonprofessional services through real-time electronic bidding, with the award being made to the lowest responsive and responsible bidder. During the bidding process, bidders' prices are revealed and bidders shall have the opportunity to modify their bid prices for the duration of the time period established for bid opening.

"Services" means any work performed by an independent contractor wherein the service rendered does not consist primarily of acquisition of equipment or materials, or the rental of equipment, materials and supplies.

"Sheltered workshop" means a work-oriented rehabilitative facility with a controlled working environment and individual goals that utilizes work experience and related services for assisting the handicapped person to progress toward normal living and a productive vocational status.

(1982, c. 647, § 11-37; 1984, cc. 279, 764; 1985, c. 164; 1987, cc. 176, 218, 474; 1989, cc. 309, 323; 1991, c. 559; 1996, cc. 460, 683; 2000, cc. 621, 638, 643, 644, 647, 665, 692, 703; 2001, cc. 395, 675, 844; 2003, cc. 185, 644, 895, 994, 1006; 2004, c. 458.)



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Washington

[RCW 39.04.](#)
[220, 39.10.](#)
[061](#)



AIA Government Affairs
Construction Manager at-Risk State Statute
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West Virginia

There are no statutes on file for this state



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Wisconsin

There are no statutes on file for this state



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Wyoming

There are no statutes on file for this state



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Washington, DC

There are no statutes on file for this state