

CONSTRUCTION INDUSTRY SEEKS OPTION TO PUBLIC BID PROCESS

By: [Robin Shannon, Reporter](#) May 20, 2014 New Orleans City Business

A bill in the Louisiana Legislature could make it easier for public entities to use a method that would allow more input from contractors and engineers during the design of certain projects.

Senate Bill 680 authorizes use of the construction manager at-risk delivery method for certain major public projects in the future. Industry leaders say the bill could help public entities control costs on larger projects by allowing contractors and designers to work hand in hand on budgeting, scheduling and constructability before construction begins - as long as the process remains transparent.

Under current Louisiana law, public entities are typically required to independently design construction projects and open them up to a public bid process in which the entity seeks the lowest responsive bidder to build the project. Under the construction manager at-risk method, the owner of a project secures a lead contracting firm during the design period through an evaluation of the firm's qualifications, experience and history.

The selected firm then commits to deliver the final project for a set maximum price and manages the rest of the construction process for the owner. Once the management team is selected, some elements of the project are still subject to public bid law.

"There are some larger projects out there that just don't fit the design-bid-build method," said Ken Naquin, CEO of Louisiana Associated General Contractors. "This gives public owners another tool for securing contracts. When done properly and graded thoroughly, the method is very successful in its use."

With special approval from the Legislature, the state previously allowed for the CM at-risk method to be used in construction of the \$1.06 billion University Medical Center, the \$130 million Methodist Hospital rebuild in eastern New Orleans and, more recently, the planned \$546 million terminal at Armstrong International Airport.

"It's a method we have become familiar with and more open to," Naquin said. "It helps keep larger projects on time and on budget."

Dan Mobley, executive director for the American Council of Engineering Companies of Louisiana, said the bill is a result of a legislative study that examined how public projects in the state are handled. He said engineering firms were open to CM at-risk because it puts the engineer and the contractor on the same level during design.

"On state and federal projects, engineers are hired based on qualifications," Mobley said. "CM at-risk brings the contractor in at the same time under the same method to act as a consultant pre-construction."

Naquin said the bill would require public owners to form a five-person selection review committee to choose a CM at-risk contractor. The panels will include a design professional, a general contractor, a



The Louisiana Legislature is considering a law that would allow local governments and other public entities to use the construction manager at-risk method for selecting contractors for major projects. It sets a maximum price for the contractor and puts them in charge of design and other pre-construction elements, as well as the actual building.

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representative from the public entity and two other representatives from the construction or engineering field to analyze and score the qualifications of the management teams without taking costs into account.

The winning team would then be required to provide cost estimates for the project when the design is 50 percent and 90 percent complete.

"If the two sides cannot reach an agreement, the project would go out for bid as normal," Mobley said. "The contractor would be paid as a consultant, and the owner could use the information to formulate the desired budget."

The proposed law originally limited the use of CM at-risk to projects of \$25 million or more. Mobley said his organization worked on an amendment that would set up a five-project pilot program that would open it up to projects of \$5 million or more to show that the method can work.

"The state isn't seeing a large number of public projects at that \$25 million level right now," Mobley said. "We would like to see a couple of \$10 million to \$12 million projects get started under CM at-risk. The pilot would be first come, first served."

Trip Hawthorne, construction law attorney for Kean Miller, said in order for the method to work smoothly and in the best interest of the state, the process must remain as transparent as the design-bid-build method. He said policy dictates that public entities have a specific set of plans for bidding purposes so the public knows the accountability involved.

"A very bright line follows the bid process," Hawthorne said. "You get an apples-to-apples comparison because the contractors all bid on the same set of designs. There needs to be that same level of scrutiny with CM at-risk."

The bill has earned Senate approval and is awaiting a vote in the House. The amended bill would then return to the Senate for another vote.

