

2015 Regular Session

SENATE BILL NO. 162

BY SENATOR GARY SMITH

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

PUBLIC CONTRACTS. Authorizes construction management at risk pilot program.
(8/1/15)

1 AN ACT

2 To amend and reenact R.S. 38:2225.2.4(A)(3), (F)(5), and (G)(5), relative to public
3 contracts; to authorize a construction management at risk pilot program; to provide
4 for selection of a construction management at risk contractor; to provide for entry
5 into a construction management at risk contract by an owner; and to provide for
6 related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 38:2225.2.4(A)(3), (F)(5), and (G)(5) are hereby amended to read
9 as follows:

10 §2225.2.4. Construction management at risk; public entity

11 A. * * *

12 (3) CMAR shall not be used for any project that is estimated to cost less than
13 twenty-five million dollars: **except for any project in the CMAR pilot program.**
14 **A pilot program is hereby established that authorizes a public entity to use**
15 **CMAR for only one project which is estimated to cost three million dollars or**
16 **more, provided that the CMAR pilot program is limited to no more than ten**
17 **projects on a first-come, first-served basis. Prior to proceeding to use CMAR,**

1 a public entity shall submit a proposed CMAR pilot project by name, together
2 with the reason to use CMAR, to the House and Senate transportation,
3 highways, and public works committees for review and approval.

4 * * *

5 F. Request for qualifications, or RFQ, for construction management at risk
6 contractor.

7 * * *

8 (5) ~~If the~~ **The** benefits of using the CMAR method reduce as the design
9 process progresses,~~the.~~ **The** owner shall select the CMAR contractor either before,
10 but not later than, when ~~the~~ **in the professional opinion of the owner's design**
11 **professional, the** design professional's design **of the project** is not more than thirty
12 percent complete.

13 G. After award and execution of the contract with the CMAR contractor, the
14 following actions shall proceed:

15 * * *

16 (5) Once a guaranteed maximum price is agreed upon, the owner may
17 ~~authorize~~ **contract with** the CMAR contractor to undertake construction services.
18 Additionally, the owner may determine and ~~authorize~~ **contract with** the CMAR
19 contractor to undertake specific items of construction services prior to agreement
20 upon a GMP for such items, provided such undertaking is for the benefit of the
21 project and a GMP for the undertaking can be agreed upon between the owner and
22 CMAR contractor. Such items may benefit the project, including but not limited to
23 items that require a long lead time, may further the understanding of unknown site
24 conditions, or other items.

25 * * *

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Sharon F. Lyles

DIGEST

SB 162 Engrossed

2015 Regular Session

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Present law authorizes an owner who is a public entity to use the construction management at risk (CMAR) project delivery method. The owner engages a design professional for predesign or design services, or both. The owner contracts separately with a CMAR contractor to engage in the preconstruction phase who may also provide construction services to build the project. Use of CMAR is limited to projects estimated to cost \$25 million dollars or more.

Proposed law establishes a CMAR pilot program that is limited to ten projects, each estimated to cost three million dollars or more. Pilot projects must be submitted by name for review and approval by the House and Senate committees on transportation, highways, and public works. A public entity is allowed only one CMAR pilot project.

Present law requires the owner to select the CMAR contractor either before, but not later than, when design is not more than 30% complete if the benefits of the CMAR method reduce as the design process progresses.

Proposed law declares that the benefits of using the CMAR method reduce as project design progresses and provides that determination of the design completion percentage is based on the professional opinion of the owner's design professional.

Present law provides that, if the owner and CMAR contractor are able to negotiate, establish, and agree upon a guaranteed maximum price for rendering construction services for the project, the owner may authorize the CMAR contractor to undertake construction services. Further provides that an owner may determine and authorize a CMAR contractor to undertake specific items provided such undertaking is beneficial to the project, including but not limited to items that require a long lead time, further understanding of unknown site conditions, or other issues.

Proposed law changes "authorize" to "contract with".

Effective August 1, 2015.

(Amends R.S. 38:2225.2.4(A)(3), (F)(5), and (G)(5))