

AMENDED IN SENATE APRIL 9, 2013

AMENDED IN SENATE APRIL 1, 2013

SENATE BILL

No. 328

Introduced by Senator Knight

February 19, 2013

An act to add *and repeal* Section 20146-~~to~~ of the Public Contract Code, relating to public works contracts.

LEGISLATIVE COUNSEL'S DIGEST

SB 328, as amended, Knight. Counties: public works contracts.

Existing law provides that if the estimated cost of construction of any county building or the cost of any painting, or repairs thereto exceeds a specified sum, the work shall be done by contract and that any such contract not let pursuant to specified provisions is void. Existing law requires a board of supervisors to award the contract to the lowest responsible bidder. Existing law also authorizes a county, with approval of the board of supervisors, to utilize an alternative procedure for bidding on construction projects in the county in excess of \$2,500,000 and to award the project using either the lowest responsible bidder or by best value, as specified.

This bill would authorize a county, *until January 1, 2021*, with approval of the board of supervisors, to utilize construction manager at-risk construction contracts for the erection, construction, alteration, repair, or improvement of any building owned or leased by the county. The bill would provide that a construction manager at-risk contract may only be used for projects in the county in excess of \$1,000,000 and may be awarded using either the lowest responsible bidder or best value method, as defined. *This bill would require that subcontractors that were not listed by a construction manager at-risk entity as partners,*

general partners, or association members in a partnership, limited partnership, or association in the entity’s construction manager at-risk bid submission, be awarded certain work by the construction manager at-risk entity in accordance with the process set forth by the county, as provided.

This bill would require a county that elects to use a construction manager at-risk contract to submit to the office of the State Controller a copy of the construction manager at-risk contract, and would require the office of the State Controller to make the copies of the contract available for public inspection on its Internet Web site.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
 State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 20146 is added to the Public Contract
 2 Code, to read:
 3 20146. (a) A county, with approval of the board of supervisors,
 4 may utilize construction manager at-risk construction contracts
 5 for the erection, construction, alteration, repair, or improvement
 6 of any building owned or leased by the county. A construction
 7 manager at-risk construction contract may only be used for projects
 8 in the county in excess of one million dollars (\$1,000,000) and
 9 may be awarded using either the lowest responsible bidder or best
 10 value method.
 11 (b) For purposes of this section, the following definitions apply:
 12 (1) “Best value” means a value determined by objective criteria
 13 related to the experience of the entity and project personnel, project
 14 plan, financial strength of the entity, safety record of the entity,
 15 and price.
 16 (2) “Construction manager at-risk contract” means a
 17 competitively procured contract by a county with an individual,
 18 partnership, joint venture, corporation, or other recognized legal
 19 entity, that is appropriately licensed in this state and that guarantees
 20 the cost of a project and furnishes construction management
 21 services, including, but not limited to, preparation and coordination
 22 of bid packages, scheduling, cost control, value engineering,
 23 evaluation, preconstruction services, and construction
 24 administration.

1 (c) Subcontractors that were not listed by a construction
2 manager at-risk entity as partners, general partners, or association
3 members in a partnership, limited partnership, or association in
4 the entity's construction manager at-risk bid submission shall be
5 awarded by the construction manager at-risk entity in accordance
6 with the process set forth by the county. All subcontractors bidding
7 on contracts pursuant to this section shall be afforded the
8 protections contained in Chapter 4 (commencing with Section
9 4100) of Part 1. The construction manager at-risk entity shall do
10 both of the following:

11 (1) Provide public notice of the availability of work to be
12 subcontracted in accordance with the publication requirements
13 applicable to the competitive bidding process of the county.

14 (2) Provide a fixed date and time on which the subcontracted
15 work will be awarded in accordance with the procedure established
16 pursuant to this section.

17 (d) A county that elects to proceed under this section and uses
18 a construction manager at-risk contract for a building project
19 shall submit to the office of the State Controller, in electronic
20 format, a copy of the construction manager at-risk contract. The
21 office of the State Controller shall make the copies of contracts it
22 receives pursuant to this subdivision available for public inspection
23 on its Internet Web site.

24 (e) This section shall remain in effect only until January 1, 2021,
25 and as of that date is repealed, unless a later enacted statute, that
26 is enacted before January 1, 2021, deletes or extends that date.

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