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SB-1262 Construction Manager/General Contractor project delivery method: Department of Transportation. (2017-2018)

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Senate Bill No. 1262

CHAPTER 465

An act to amend Sections 6700 and 6701 of the Public Contract Code, relating to public contracts.

[Approved by Governor September 17, 2018. Filed with Secretary of State September 17, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1262, Beall. Construction Manager/General Contractor project delivery method: Department of Transportation.

Existing law authorizes the Department of Transportation to engage in a Construction Manager/General Contractor project delivery method (CM/GC method), as specified, for projects for the construction of a highway, bridge, or tunnel. Existing law authorizes the department to use the CM/GC method on up to 12 projects, 10 of which are required to have construction costs greater than \$10,000,000. Existing law also authorizes the department to enter into a contract using this method on 12 additional projects, 2 of which are required to be authorized for projects in the County of Riverside, as prescribed.

Existing law requires the department, on at least 16 of the projects delivered by the department utilizing the CM/GC method, to use department employees or consultants under contract with the department to perform all project design and engineering services related to design required for the CM/GC method consistent with specified existing law. Existing law requires the department, on all projects delivered by the department, to use department employees or consultants under contract with the department to perform all construction inspection services required for the CM/GC method consistent with specified existing law. Existing law requires the department to include department resources necessary to perform those services in the department's capital outlay support program for workload purposes in the annual Budget Act. Existing law requires the department to prepare and submit certain related reports to the Legislature.

This bill would remove the cap on the number of projects for which the department is authorized to use the CM/GC method and make conforming changes to existing provisions. The bill would impose the requirement to use department employees or consultants to perform project design and engineering services on at least $\frac{2}{3}$ of the projects delivered by the department utilizing the CM/GC method. The bill would require the department to submit an interim report no later than July 1, 2021, that describes each Construction Manager/General Contractor project approved under these provisions as of January 1, 2021, and that provides specified relevant data with respect to those projects, and a final report to the Legislature no later than July 1, 2025, that provides the same relevant data for projects approved under these provisions as of January 1, 2025. The bill would require both the interim and final reports to include a comprehensive assessment on the effectiveness of the Construction Manager/General Contractor project delivery method relative to project cost and time savings.

Existing law requires specified information provided to the department pursuant to these provisions to be verified under oath.

By expanding the authorization to use the CM/GC method, the bill would expand the scope of the crime of perjury, thus imposing a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. (a) The Legislature finds and declares the following:

(1) The design-bid-build method of contracting is generally sufficient for the majority of the infrastructure projects of the Department of Transportation.

(2) The Construction Manager/General Contractor method is a unique contracting tool that allows the Department of Transportation to utilize a construction manager during the design process to provide valuable input on various considerations including, but not limited to, design, scheduling, pricing, and phasing. This input helps the Department of Transportation to design more constructible projects and achieve cost savings and efficiencies when used on projects that would benefit from a contractor's input during design.

(b) It is the intent of the Legislature to enact legislation that would give the Department of Transportation the flexibility to use the Construction Manager/General Contractor procurement method for projects that would benefit from a contractor's input during the design phase, including, but not limited to, projects that are complex, have difficult constructability, or have difficult staging.

SEC. 2. Section 6700 of the Public Contract Code is amended to read:

6700. (a) This chapter provides for an alternative procurement procedure for certain transportation projects performed by the Department of Transportation.

(b) The Construction Manager/General Contractor method allows the department to engage a construction manager during the design process to provide input on the design. During the design phase, the construction manager provides advice including, but not limited to, scheduling, pricing, and phasing to assist the department to design a more constructible project.

(c) The Legislature finds and declares that utilizing a Construction Manager/General Contractor method requires a clear understanding of the roles and responsibilities of each participant in the process. The Legislature also finds and declares that cost-effective benefits are achieved by shifting the liability and risk for cost containment and project schedule to the construction manager and by permitting the coherent phasing of projects into discrete contract increments.

SEC. 3. Section 6701 of the Public Contract Code is amended to read:

6701. (a) The Construction Manager/General Contractor method provided by this chapter may be used by the department, but is not limited to, when it is anticipated that the Construction Manager/General Contractor method will reduce project costs or expedite project completion in a manner that is not achievable through the design-bid-build method. Notwithstanding any other law, for projects utilizing the Construction Manager/General Contractor method provided by this chapter, the department shall advertise, award, and administer the Construction Manager/General Contractor contract. The department shall not delegate the contracting authority, except for the two projects reserved for projects in the County of Riverside as provided for in paragraph (2) of subdivision (b).

(b) (1) The department may use the Construction Manager/General Contractor method for projects that have construction costs greater than ten million dollars (\$10,000,000).

(2) Consistent with Provision 2 of Item 2660-110-0042 of Section 2.00 of the Budget Act of 2016, as amended by Chapter 7 of the Statutes of 2017, two projects shall be authorized for projects in the County of Riverside and the Riverside County Transportation Commission may use the Construction Manager/General Contractor method for these projects, with the first priority for the projects listed in that budget item.

(c) On at least two-thirds of the projects delivered by the department utilizing the Construction Manager/General Contractor method provided by this chapter, the department shall use department employees or consultants under contract with the department to perform all project design and engineering services related to design required for Construction Manager/General Contractor project delivery consistent with Article XXII of the California Constitution. On all projects delivered by the department, the department shall use department employees or consultants under contract with the department to perform all construction inspection services required for Construction Manager/General Contractor project delivery consistent with Article XXII of the California Constitution. Department resources, including personnel requirements, necessary to perform all services described in

this subdivision shall be included in the department's capital outlay support program for workload purposes in the annual Budget Act.

(d) (1) The department shall prepare and submit to the Legislature an interim report no later than July 1, 2021, that describes each Construction Manager/General Contractor project approved under this chapter as of January 1, 2021, and that provides relevant data, including, but not limited to, district, cost, the stage of completion, and estimated time to completion. The department shall also prepare and submit to the Legislature a final report, no later than July 1, 2025, that provides the same relevant data for projects that were approved under this chapter as of January 1, 2025. Both the interim and final reports shall also provide a comprehensive assessment on the effectiveness of the Construction Manager/General Contractor project delivery method relative to project cost and time savings.

(2) A report to be submitted pursuant to this subdivision shall be submitted in compliance with Section 9795 of the Government Code.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.