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## **Design-Build and General Contractor/ Construction Manager ("gc/cm") Authorization Revisions Looming**

### *New Alternative Procurement Opportunities Available for State and Local Governments*

As you may be aware, the current authorization for certain public entities to use design-build and gc/cm project delivery systems for public works expires on July 1, 2007. The state legislature, with the recommendation of the Capital Projects Advisory Review Board (CPARB), is drafting new authorization for all public entities to use these methods in defined circumstances until July, 2013. (House Bill 1506/Senate Bill 5489)

In the past, a number of public entities were precluded by statute from using design-build and gc/cm. The good news is that the bills open up these options for state and local governments that have wanted to avail themselves of the opportunity to utilize these approaches on complex and time sensitive projects. However, the opportunity will come with state oversight.

As initially introduced, the reauthorization bills would expand the number of public entities eligible to use alternative project delivery systems. However, such entities would have to either receive programmatic certification from a review committee to use these alternative procurement methods on their projects or would be required to submit applications to the committee for permission to use one of them on individual projects. The review committee would be composed of a subcommittee of CPARB members.

Certification or approval would occur if the public entity demonstrated experience, staffing, and project management skills to deal with these alternative project delivery systems. In most cases, owners could not use the design-build process on projects whose projected costs are less than \$10 million. Job order contracting, another alternative procurement method, would require similar approval procedures. During and after construction, CPARB and the review committee would each have an oversight role of the overall project, though this does not mean a "hands on" role in the project itself.

A number of other details accompanying the bills appear to be aimed towards a broader reauthorization of these alternate procurement methods, while increasing state oversight on the award and construction management operations of public agencies.

The Construction & Engineering team at K&L Gates is knowledgeable about the existing law and we are carefully tracking the current reauthorization bills. Now is the time to comment and have input on this important legislation.

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