

Construction Management (CM) and Design-Build (D-B) Key Events		Applies to:		
Year	Event	State Public Bodes	Higher Education	Local Public Bodies
1982	VPPA passes with an effective date of 01/01/1983 - Permits procurement of construction, with a written notice	Yes	Yes	Yes
1983	(41.2)2.2-4306 adds provision for Construction Management (CM) and Design-Build (D-B)	Yes	Yes	
1996	(41.2.02) 2.2-4307 adds DJJ provision to award with "not to exceed price" on CM and D-B	Only DJJ		
1996	Report on the effect of Authorizing DB and CM			
1996	(41.2.2)2.2-4308 adds CM and D-B eligibility requirements for CM and D-B for public bodies other than the Commonwealth (local public bodies)			Yes
1996	Creates the Design-Build/Construction Management Review Board same bill directs The Director of the Division of Engineering and Buildings or his designee shall serve as a member of the Design-Build/Construction Management Review Board and shall provide staff support to the Review Board.			Yes
2006	Higher Education Restructure act - beginning of agencies being exempt from VPPA and SOA Procedures			
2009	2.2-4308 amended the requirement for individual project review to make a one-time determination that a locality with a population in excess of 100,000 has the personnel, procedures, and expertise necessary to enter into contracts for construction on either a fixed price or not-to-exceed price design-build or construction management basis without the approval of the Review Board.			Yes
2011	Repealed the Design-Build/Construction Management Review Board			Yes
2014	General Laws Special Joint Subcommittee Studying the Virginia Public Procurement Act Final Report			
2016	Appropriation Act - requirement for reporting on CM and D-B	Yes	Yes	Yes
2017	Creates 43.1 Construction Management and Design-Build Contracting (Applicable to State, Higher Education, and Local	Yes	Yes	Yes



Review of state contracts: Findings on construction procurement methods

Recap from 2016 study

JLARC staff reviewed use of alternative construction procurement methods

- Requested data on 28 construction projects from 4 higher education institutions
 - CMAR (N=11)
 - DB (N=4)
 - DBB (N=13)
- Compared change orders, schedule delays, cost overruns

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Finding

Universities used all three methods for costly projects, but median cost of projects using alternative methods substantially exceeded cost of DBB projects.

Costs of construction projects in JLARC sample

Method	Range (\$M)	Average (\$M)	Median (\$M)
DBB (N=11)	\$0.71 -- \$22.1	\$5.6	\$2.6
DB (N=4)	\$1.5 -- \$19.1	\$10.5	\$10.6
CMAR (N=13)	\$9.9 -- \$66.4	\$32.2	\$31.7

Finding

Institutions were generally satisfied with all 3 procurement methods.

JLARC surveyed & interviewed procurement staff at state agencies and higher ed institutions

- Included procurement officers & project managers
- Most expressed satisfaction with project quality under DBB and CMAR
 - 78% satisfied with DBB*
 - 88% satisfied with CMAR
- Most expressed satisfaction with project timeliness under DBB and CMAR
 - 69% satisfied with DBB
 - 81% satisfied with CMAR

* Based on survey responses from 59 procurement officers who had conducted construction procurement

Finding

Projects procured under each method deviated from original contract provisions; at least some of each type of project experienced delays, cost overruns, change orders.

Cost overruns

Method	AVG %*	Median %	Range
DBB (N=11)	8.7%	6.5%	(0.5%) – 22.7%
DB (N=4)	13%	10%	0.9% - 30.9%
CMAR (N=13)	\$4.2%	2.8%	0.9% - 14.8%

* % of total original cost of the project

Schedule delays

Method	AVG days	Median days	Range
DBB (N=11)	41	9	(7) – 161
DB (N=4)	76	85	0 – 132
CMAR (N=13)	23	0	(25) – 155

Change orders

Method	AVG %	Median %	Range
DBB (N=11)	9%	6.9%	(0.5) – 22.7%
DB	n/a	n/a	n/a
CMAR (N=13)	4.5%	2.6%	1.2 – 14.8%

* % of total original cost of the project

No method ensures problem-free projects

Critics of the design-bid-build construction method assert that projects delivered in this way are more susceptible to schedule delays, cost overruns, and poor-quality products.

The contracts in this sample suggest that design-bid-build projects can indeed experience these performance problems, and potentially more so than other methods, and should therefore be procured and managed as effectively as possible.

However, these problems are also evident in projects constructed using the design-build and construction-manager-at-risk methods. This suggests that these alternative methods will not allow users to entirely avoid some of the problems that users of design-bid-build projects have experienced.

– JLARC report, p. 110

Finding

Vendors reported concerns about limited competition and transparency, some of which was corroborated by JLARC research.

Vendors reported concerns about competition

- 1/4 of vendors responding to JLARC survey reported
 - Winning vendors seem preselected OR
 - Selection criteria prevented vendor from qualifying to submit bid or proposal

* Based on approximately 1,400 survey responses

Staff at several higher ed institutions reported using narrow qualification criteria for CMAR

In some cases, universities allow only pre-qualified vendors that have had experience with this project delivery method to submit proposals.

Some higher education institutions have imposed even stricter criteria on vendors, requiring them to have been involved in projects nearly identical to the project being advertised in order to qualify for the contract.

While previous experience with this project delivery method is a valid consideration, using this criterion to prevent vendors from qualifying to even submit a proposal appears to unnecessarily narrow the pool of potential vendors for the contract.

– JLARC report, p. 33

JLARC recommended that DGS clarify qualifications to submit proposals/bids

- JLARC: DGS should clarify in the Construction and Professional Services Manual (CPSM) that agencies shall not automatically disqualify vendors during the Request for Qualifications stage of a procurement because of a lack of direct experience with the specific project delivery method to be used.
- CPSM (current): When evaluating the RFQ, successful completion of at least 3 projects of similar size and scope within the past 10 years, by any delivery method, meets the experience criteria. Prior CMAR experience shall not be a prerequisite for award.