



House Government and Veterans Affairs

HB1028

January 30, 2025

Representative Austen Schauer, Chair

Summary of Points:

- The City of Bismarck **opposes** excluding our architect or engineer of record from participating in the Construction Manager at Risk (CMAR) selection process.
- The City of Bismarck **opposes** the requirement to weigh the CMAR manager's proposed fee at 20% during the selection process.
- The City of Bismarck **opposes** the requirement for the CMAR manager to take the lowest bid.

My name is Jason Tomanek, and I am the City Administrator of the City of Bismarck. On behalf of the City of Bismarck, I am providing testimony in opposition to HB1028 and respectfully request a **"Do Not Pass"** recommendation. As a political subdivision of the state of North Dakota, we have several concerns with the language in HB1028 and the negative affects it will have on the Construction Management at Risk (CMAR) project delivery method if HB 1028 passes.

First, we are opposed to the language excluding the architect or engineer of record from participating on the CMAR selection committee. These consultants are extremely familiar with our organization's policies, resources, structure, past projects, and future needs. By excluding the architect or engineer of record from being able to participate in the selection, the selection committee is losing the valuable insight they have on the project.

Second, we are opposed to the requirement that CMAR Manager's fee must be weighed at twenty percent in the selection process. The owner should have the ability to weigh the selection criteria according to their priorities. Also, it appears that the State Office of Management and Budget (OMB) will need to approve our selection forms. We feel that political subdivisions should have the ability to control and develop their own forms and processes that follow the North Dakota Century Code without having to gain approval from OMB.

Finally, we oppose the requirement that a CMAR Manager must issue to the lowest responsible bidder. An advantage of the CMAR delivery method is it allows the owner to have one contract with a CMAR Manager that allows the CMAR Manager to effectively manage the project. The language adding a requirement to take the lowest responsible bidder is removing the CMAR Manager's flexibility to manage the project in the best interest of the owner. There may be times when the lowest bid is not in the best interest of the project and a higher bid may need to be selected.

In closing, CMAR is one the most transparent project delivery methods for political subdivisions. The changes suggested in HB1028 create additional bureaucracy for political subdivisions. During an interim study focusing on CMAR, all affected stakeholder groups, including the American Institute of Architects of ND, ACEC of ND, Associated General Contractors of ND, ND Association of Counties, ND League of Cities, recommended no changes to the CMAR statue because the current CMAR delivery method is mutually beneficial for contractors, sub-contractors, design professionals, and political subdivisions.

Again, we respectfully request a “**Do Not Pass**” recommendation on HB1028. Any questions can be directed to me at 701-355-1300 or jtomanek@bismarcknd.gov

Respectfully,

Jason Tomanek

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City Administrator

Greg Haug

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