

STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

SENATE BILL NO. 79

BY: LONG (Lewis)

AS INTRODUCED

AN ACT RELATING TO PUBLIC BUILDINGS AND PUBLIC WORKS;
AMENDING 61 O.S. 1981, SECTION 113, AS LAST AMENDED
BY SECTION 12, CHAPTER 191, O.S.L. 1987 (61 O.S.
SUPP. 1990, SECTION 113), WHICH RELATES TO BONDS OR
IRREVOCABLE LETTERS OF CREDIT FOR PUBLIC PROJECTS;
MODIFYING CERTAIN TIME PERIOD; AND DECLARING AN
EMERGENCY.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 61 O.S. 1981, Section 113, as last amended by Section 12, Chapter 191, O.S.L. 1987 (61 O.S. Supp. 1990, Section 113), is amended to read as follows:

Section 113. A. Except as otherwise provided by law, within such period of time, not to exceed sixty (60) days, as shall be specified in the bid notice by the awarding public agency, a contract embodying the terms set forth in the bidding documents shall be executed by the awarding public agency and the successful bidder. No bidder shall obtain any property right in a contract awarded under the provisions of the Public Competitive Bidding Act, Section 101 et seq. of this title, until the contract has been fully executed by both the bidder and the awarding public agency.

B. Except as otherwise provided by law, within said period of time, the following shall be provided by the contractor to the awarding public agency:

1. A bond or irrevocable letter of credit complying with the provisions of Section 1 of Title 61 of the Oklahoma Statutes; and

2. A good and sufficient bond in a sum equal to the contract price, with adequate surety, or an irrevocable letter of credit containing such terms as may be prescribed by the Office of Public Affairs issued by a financial institution insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation for the benefit of the state, on behalf of the awarding public agency, in a sum equal to the contract price, to ensure the proper and prompt completion of the work in accordance with the provisions of the contract and bidding documents; and

3. A good and sufficient bond in a sum equal to the contract price or an irrevocable letter of credit containing such terms as may be prescribed by the Office of Public Affairs issued by a financial institution insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation for the benefit of the state, on behalf of the awarding public agency, in a sum equal to the contract price, to protect the awarding public agency against defective workmanship and materials for a period of ~~one (1) year~~ three (3) years after ~~acceptance~~ completion of the project; and

4. Public liability and workers' compensation insurance during construction in reasonable amounts. A public agency may require the contractor to name said public agency and its architects and/or engineers as an additional assured under said public liability insurance, which requirement, if made, shall be specifically set forth in the bidding documents.

C. If the contractor needs additional time in which to obtain the bond required pursuant to subsection B of this section, he may

request and the awarding agency may allow said contractor an additional sixty (60) days in which to obtain said bond.

D. Subsequent to the award of a contract, but prior to its execution, an awarding public agency, upon discovery of an administrative error in the award process that would void an otherwise valid award, may suspend the time of execution of the contract until the next regularly scheduled public business meeting of the governing body of the agency. At the next public business meeting, the agency, upon the record, shall present to the governing body that such an error had been made in the award process and shall state the nature of the error. The governing body, upon presentation of the facts of the error, may rescind the award and readvertise for bids, or direct correction of the error and award the contract to the lowest responsible bidder, whichever shall be in the best interests of the state.

E. An awarding public agency which has entered into a public construction contract prior to the effective date of this act, Section 85.46 of this title, shall be permitted to amend such contract by change order or other lawful means to conform with the requirements of paragraph 3 of subsection B of this section.

SECTION 2. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

43-1-188

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