

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

HOUSE BILL NO. 1317

By: Davis

AS INTRODUCED

An Act relating to public works; amending 61 O.S. 1991, Sections 121, as amended by Section 2, Chapter 293, O.S.L. 1993 and 130 (61 O.S. Supp. 1994, Section 121), which relate to the Public Competitive Bidding Act of 1974; modifying requirements for change orders and addendums to certain construction contracts; and providing an effective date.

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

SECTION 1. AMENDATORY 61 O.S. 1991, Section 121, as amended by Section 2, Chapter 293, O.S.L. 1993 (61 O.S. Supp. 1994, Section 121), is amended to read as follows:

Section 121. Change orders or addendums to public construction contracts of One Million Dollars (\$1,000,000.00) or less shall not exceed a fifteen percent (15%) cumulative increase in the original contract amount. Change orders or addendums to public construction contracts of over One Million Dollars (\$1,000,000.00) shall not exceed the greater of One Hundred Fifty Thousand Dollars (\$150,000.00) or a ten percent (10%) cumulative increase in the original contract amount. Change orders or addendums to construction contracts of Seven Thousand Five Hundred Dollars

(\$7,500.00) or less shall not exceed an amount that when added to the original contract amount would exceed Seven Thousand Five Hundred Dollars (\$7,500.00). Any change orders or cumulative change orders which exceed these limits shall require an advertising or a readvertising for bids on that part of the contract. Change orders in any amount shall be formally approved by the governing body of the public agency involved and the reasons therefor recorded in the permanent records. All change orders shall contain a unit price and total for each of the following items:

1. All materials with cost per item; and
2. Itemization of all labor with number of hours per operation and cost per hour; and
3. Itemization of all equipment with the type of equipment, number of each type, cost per hour for each type, and number of hours of actual operation for each type; and
4. Itemization of insurance cost, bond cost, social security, taxes, workers' compensation, employee fringe benefits and overhead cost; and
5. Profit for the contractor.

If the construction contract was bid on a unit basis, and the change order is based exactly on the unit price or basis, such a change order will not be subject to this section. When the individual change orders are less than Ten Thousand Dollars (\$10,000.00), the change order may be based on an acceptable unit price(s) basis in lieu of cost itemization as required in paragraphs 1, 2, 3, 4 and 5 of this section. Alternates or add items bid with the original bid and contained in the awarded contract as options of the awarding public agency shall not be construed as change orders under the provisions of this act, Section 101 et seq. of this title.

SECTION 2. AMENDATORY 61 O.S. 1991, Section 130, is amended to read as follows:

Section 130. A. The provisions of the Public Competitive Bidding Act with reference to notice and bids shall not apply whenever the governing body of a public agency declares by a two-thirds (2/3) vote of all of the members of the governing body that an emergency exists; provided, the Oklahoma Transportation Commission and the Oklahoma Tourism and Recreation Commission may, by majority vote of all the members of each Commission, declare that an emergency exists. The governing bodies of all public agencies are further authorized, upon approval of two-thirds (2/3) of all of the members of the governing body, to delegate to the chief administrative officer of a public agency the authority to declare an emergency situation, in which event the provisions of the Public Competitive Bidding Act with reference to notice and bids shall not apply, but such authority shall not extend to any contract exceeding Twenty-five Thousand Dollars (\$25,000.00) in amount; ~~provided, such.~~ Such authority of the Oklahoma Department of Transportation shall not extend to any contract exceeding One Hundred Fifty Thousand Dollars (\$150,000.00) in amount. Change orders or addendums to contracts entered into pursuant to this section shall not exceed an amount that when added to the original contract amount would exceed Twenty-five Thousand Dollars (\$25,000.00) or for the Oklahoma Department of Transportation would exceed One Hundred Fifty Thousand Dollars (\$150,000.00). Whenever said chief administrative officer shall declare such an emergency ~~he~~ the officer shall notify the governing body, the President Pro Tempore of the State Senate and Speaker of the House of Representatives of such action within ten (10) days. Such notification shall contain a statement of the reasons for ~~his~~ the action of the chief administrative officer, and shall be recorded in the official minutes of said governing body.

B. Emergency as used in this section shall be limited to conditions resulting from a sudden unexpected happening or

unforeseen occurrence or condition and situation wherein the public health or safety is endangered.

C. The reasons for declaring an emergency and not complying with the provisions of the Public Competitive Bidding Act shall be entered into the official minutes of the governing body of the public agency. Copies of said minutes shall be submitted to the President Pro Tempore of the State Senate and Speaker of the House of Representatives.

SECTION 3. This act shall become effective November 1, 1995.

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