

STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 1250

By: Robinson of the Senate

and

Paulk of the House

COMMITTEE SUBSTITUTE

An Act relating to public buildings and public works; amending 61 O.S. 1991, Section 60, which relates to bid forms for capital improvement projects; updating and clarifying references; amending 61 O.S. 1991, Section 202, which relates to Public Building Construction and Planning Act; modifying definitions and adding definitions; prohibiting use of design-build project delivery method without certain approval or specific act of the Legislature; requiring certain construction administration when design-build is authorized; stating applicability of law; and providing for codification.

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

SECTION 1. AMENDATORY 61 O.S. 1991, Section 60, is amended to read as follows:

Section 60. All state agencies, boards, commissions, offices, institutions, and other governmental bodies of ~~the State of Oklahoma~~ this state, and all individuals representing such ~~governmental bodies~~ entities, shall use consultant ~~contract forms~~ and construction contract forms ~~developed by the State Construction Administrator for the purpose of use when awarding~~ that the Director of the Department of Central Services requires to award contracts for ~~designing or constructing new buildings and for other capital improvements and for equipping, remodeling, modernizing, and repairing any and all existing buildings and capital improvements~~

designs to construct, renovate, alter, repair, maintain, or improve real property or fixtures of real property of the state. ~~Any~~ The Director of the Department of Central Services may authorize, in writing, exceptions to the use of consultant ~~contract forms~~ and construction contract forms ~~developed by the Administrator must be authorized in writing by the Director of Public Affairs.~~

SECTION 2. AMENDATORY 61 O.S. 1991, Section 202, is amended to read as follows:

Section 202. As used in the Public Building Construction and Planning Act:

1. "Administrator" means the State Construction Administrator within the ~~Office of Public Affairs~~ Department of Central Services;

2. "Construction" means the process of planning, acquiring, designing, building, equipping, altering, repairing, improving, or demolishing any structure or appurtenance thereto including facilities, utilities, or other improvements to any real property but not including highways, bridges, airports, railroads, tunnels, sewers not related to a structure or appurtenance thereto, or dams;

3. "Construction administration" means a series of actions required of the State Construction Administrator, of other state agency employees or, under a construction administration contract or contract provision, required of the contractor that ensure the full, timely, and proper performance of all phases of a construction project by all contractors, suppliers, and other persons having responsibility for project work and any guarantees or warranties thereof;

4. "Construction management" means a project delivery method based on an agreement whereby the owner acquires from a construction entity a series of services that include, but are not necessarily limited to, design review, scheduling, cost control, value engineering, constructability evaluation, preparation and

coordination of bid packages, and construction administration;

"construction management" includes:

- a. "agency construction management", in which the construction entity provides services to the owner without taking on financial risks for the execution of the actual construction, and
- b. "at-risk construction management", whereby the construction entity, after providing agency services during the pre-construction period, takes on the financial obligation to carry out construction under a specified cost agreement;

5. "Consultant" means any individual, firm, corporation, association, partnership, copartnership, or any other legal entity possessing the required qualifications to provide licensed architectural, registered engineering, or registered land surveying services for any construction project;

~~4.~~ 6. "Contractor" means any person, corporation, partnership, business, or other organization, entity, or group of individuals who perform construction services;

~~5.~~ 7. "Design-build" means a project delivery method in which the state acquires both design and construction services in the same contract from a single legal entity, referred to as the design-builder, without the bid component of the traditional design-bid-build process;

8. "Division" means the Construction and Properties Division within the ~~Office of Public Affairs~~ Department of Central Services;

~~6.~~ 9. "Energy performance index or indices" (EPI) means a number describing the energy requirements at the building boundary of a structure, per square foot of floor space or per cubic foot of occupied volume, as appropriate under defined internal and external ambient conditions over an entire seasonal cycle. As experience develops on the energy performance achieved with state construction,

the indices (EPI) will serve as a measure of structure performance with respect to energy consumption;

~~7.~~ 10. "Life cycle costs" means the cost of owning, operating, and maintaining the structure over the life of the structure. This may be expressed as an annual cost for each year of the facility's use;

~~8.~~ 11. "Procurement" means buying, purchasing, renting, leasing, or otherwise acquiring or disposing of supplies, services, or construction;

~~9.~~ 12. "Services" means the furnishing of labor, effort, or time by a contractor;

~~10.~~ 13. "Shared savings financing" means the financing of energy conservation measures and maintenance services through a private firm which may own any purchased equipment for the duration of a contract. Such contract shall specify that the private firm will be recompensed either out of a negotiated portion of the savings resulting from the conservation measures and maintenance services provided by the private firm or, in the case of a cogeneration project, through the payment of a rate for energy lower than would otherwise have been paid for the same energy from current sources;

~~11.~~ 14. "State agency" ~~or "department"~~ means any agency, board, commission, office, institution, or other governmental body of ~~the~~ this state which receives its operating monies through the Office of State Finance;

~~12.~~ 15. "State funds" means monies which are disbursed through the Division of the Budget; and

~~13.~~ 16. "Supplies" means for the purpose of expenses all property including but not limited to equipment, materials, printing, insurance, and the purchase or lease of real property.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 202.1 of Title 61, unless there is created a duplication in numbering, reads as follows:

A. The design-build project delivery method shall not be used without the written approval of the Director of the Department of Central Services or an act of the Legislature specifying design-build for a particular project. In all instances where the design-build project delivery method is authorized, construction administration shall be performed by the State Construction Administrator, the Administrator's designees, or by contract approved by the Director of the Department of Central Services.

B. The provisions of this section shall not apply to projects by contract pursuant to an interagency agreement under Section 581 of Title 74 of the Oklahoma Statutes, or to projects a state agency performs solely with the staff of the agency.

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