

ENGROSSED SENATE
BILL NO. 1100

By: Stipe of the Senate
and
Tyler of the House

An Act relating to public buildings and public works; amending 61 O.S. 1991, Sections 116, as last amended by Section 2, Chapter 341, O.S.L. 1999, and 118, as last amended by Section 2, Chapter 203, O.S.L. 1994 (61 O.S. Supp. 1999, Sections 116 and 118), which relate to disclosure of items of bid and prequalification of bidders; authorizing the Oklahoma Transportation Authority and the Transportation Commission to establish procedure for prequalification of certain bidders and procedures thereto; subjecting certain engineering cost estimates to the Oklahoma Open Records Act; and declaring an emergency.

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

SECTION 1. AMENDATORY 61 O.S. 1991, Section 116, as last amended by Section 2, Chapter 341, O.S.L. 1999 (61 O.S. Supp. 1999, Section 116), is amended to read as follows:

Section 116. A. Any disclosure by an employee of a public agency of the terms of a bid submitted in response to a bid notice issued by a public agency in advance of the time set for opening of all bids so submitted shall be unlawful. It shall also be unlawful for any person to solicit, possess or receive information which is to be contained in a bid notice of a public agency, for use in preparing a bid, in advance of the date on which said bid notice is to be made equally and uniformly known to all prospective bidders and the public, and it shall further be unlawful for any employee of a public agency to withhold or impede the distribution of said information after notice of the bid has been given, unless the solicitation of bids has been withdrawn or the particular information in question has been deleted or replaced through alteration of the bid notice and said withdrawal or alteration has

been made equally and uniformly known. ~~The public agency's engineering estimate of the actual cost of the project shall not be considered confidential and shall be open for public inspection.~~

Any violation of this ~~section~~ subsection shall be a felony and shall render the proceedings void and require solicitation and award anew.

B. The public agency's engineering estimate of the actual cost of the project shall not be considered confidential and shall be available to the public in accordance with the Oklahoma Open Records Act.

SECTION 2. AMENDATORY 61 O.S. 1991, Section 118, as last amended by Section 2, Chapter 203, O.S.L. 1994 (61 O.S. Supp. 1999, Section 118), is amended to read as follows:

Section 118. A. In order to determine the responsibility of bidders, the awarding public agency may require prospective bidders to prequalify as responsible bidders prior to submitting bids on a public construction contract. Notice of any such prequalification requirement shall be made equally and uniformly known by the awarding public agency to all prospective bidders and the public in the same manner as proposals to award public construction contracts as set forth in Section 104 of this title. Financial information including, but not limited to, audited financial statements required by the awarding public agency as part of prequalification shall remain confidential.

B. The Oklahoma Transportation Commission and the Oklahoma Turnpike Authority ~~shall~~ may establish a system for prequalifying prospective bidders on construction and maintenance contracts to be awarded by the Commission or Authority. The Commission and the Authority shall be the sole judge of the qualifications of prospective bidders and shall ascertain, to their exclusive satisfaction, the qualifications of each prequalified bidder. Any contractor or subcontractor prequalified as of the effective date of this act performing signing, highway lighting, or traffic signal

installation or maintenance for the Oklahoma Department of Transportation or the Oklahoma Turnpike Authority shall be allowed to continue to bid and perform such work without obtaining any additional license from this state or any political subdivision of this state. However, no contractor or subcontractor may transfer, convey or assign this exemption to any other person or entity.

SECTION 3. 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.

Passed the Senate the 6th day of March, 2000.

President of the Senate

Passed the House of Representatives the ____ day of _____,
2000.

Speaker of the House of
Representatives