ENGROSSED SENATE
BILL NO. 1176

By: Robinson of the Senate

and

Paulk of the House

An Act relating to public buildings and public works; amending 61 O.S. 1991, Section 113, as last amended by Section 4, Chapter 365, O.S.L. 1998 (61 O.S. Supp. 1999, Section 113), which relates to requirements for contracts under the Public Competitive Bidding Act of 1974; deleting obsolete provisions; prohibiting requirement by agencies or general contractors that subcontractors participate in specified insurance program; defining term; and declaring an emergency.

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

SECTION 1. AMENDATORY 61 O.S. 1991, Section 113, as last amended by Section 4, Chapter 365, O.S.L. 1998 (61 O.S. Supp. 1999, Section 113), is amended to read as follows:

Section 113. A. Except as otherwise provided by law, within ~~such~~ the 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 of 1974 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~~ the period of time specified in subsection A of this section, the following shall be provided by the contractor to the awarding public agency for contracts exceeding Fifteen Thousand Dollars ($15,000.00):

1. A bond or irrevocable letter of credit complying with the provisions of Section 1 of this title; 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 Department of Central Services 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 Department of Central Services 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 after acceptance 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~~ the public agency and its architects ~~and/or~~ or engineers, or both, as an additional assured under ~~said~~ the 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~~ the contractor may request and the awarding agency may allow ~~said~~ the contractor an additional sixty (60) days in which to obtain ~~said~~ the bond.

D. ~~Subsequent to~~ After 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 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.~~

No public agency shall require for any public construction project, nor shall any general contractor submit a project bid based on acquiring or participating in, any wrap-up, wrap-around, or controlled insurance program. For the purposes of this subsection, "wrap-up, wrap-around, or controlled insurance program" means any insurance program that has the effect of disabling or rendering inapplicable any workers' compensation, commercial general liability, builders' risk, completed operations, or excess liability insurance coverage carried by a subcontractor that is engaged or to be engaged on a public construction project.

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.

Passed the Senate the 8th day of March, 2000.

_____
President of the Senate

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

_____
Speaker of the House of Representatives