

ENROLLED SENATE
BILL NO. 291

By: Weedn, Herbert and
Leftwich of the Senate

and

Mitchell, Ervin, Benson
and Glover of the House

An Act relating to economic development; authorizing Oklahoma Department of Commerce to administer certain federal funds; defining term; authorizing and directing Department of Transportation to transfer certain federal funds to the Oklahoma Department of Commerce; requiring Department to contract with certain entity for certain purposes; exempting certain contracts from certain competitive bidding procedures; requiring entity utilize funds for certain purpose and authorizing entity to contract with a consultant for certain purpose; stating procedures and requirements for selection of and negotiation with consultant; requiring certain report be filed with Department; providing for codification; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5003.10b of Title 74, unless there is created a duplication in numbering, reads as follows:

A. 1. The Oklahoma Department of Commerce is hereby authorized to administer any federal funds received by this state that are allocated for the purposes of completion of traffic and feasibility studies for, and the development of a trade center and industrial park by, the Continental Gateway Authority, a public trust in McClain County, Oklahoma.

2. For purposes of this section, "administer any federal funds" means to provide oversight administration and includes, but is not limited to, approval or rejection by the Department of expenditures of the Authority and review by the Department of contracts proposed by the Authority for noncompliance with federal and state law, rules, regulations, and the provisions set forth herein, and the rejection by the Department of such contracts prior to their execution by the Authority if determined by the Department to be out of compliance with law determined to be applicable by the Department.

B. The Department of Transportation is hereby authorized and directed to transfer to the Oklahoma Department of Commerce for use by the Continental Gateway Authority any federal funds received and allocated for the purposes set forth in subsection A of this section.

C. The Oklahoma Department of Commerce shall utilize such funds to contract with the Continental Gateway Authority for the provision of the study authorized by federal appropriation and subsection A of this section. Such contract shall be exempt from the competitive bidding procedures set forth in Section 85.7 of Title 74 of the Oklahoma Statutes and shall contain provisions as required by law.

D. The Continental Gateway Authority shall utilize the funds for the studies set out in subsection A of this section and may contract with a consultant for such studies. Such contract shall be exempt from the competitive bidding procedures set forth in Section 85.7 of the Oklahoma Statutes but shall comply with the following requirements:

1. The Continental Gateway Authority shall issue requests for proposals to no less than three and no more than five consultants to perform the studies. Detailed consideration, including interviews, shall be given to those responding to the request for proposals. The initial screening should consider the requirements of a consultant interview evaluation sheet as well as the following factors to be determined from Authority staff and replies to inquiries to former clients:

- a. specialized experience in the type of work contemplated,
- b. capacity of the consultant to perform the work in the required time, and
- c. past performance;

2. A full report of the evaluation procedures and recommendations of the Authority shall be prepared by the Authority and submitted to the Oklahoma Department of Commerce for an independent review of the entire process; and

3. The Authority shall negotiate the contract with the selected consultant, which contract shall include a fair and reasonable fee. The negotiated scope and fee shall be reported to the Oklahoma Department of Commerce for review of compliance with state and federal laws, rules and regulations. If the Authority and the first choice consultant cannot reach an agreement, their negotiations shall be terminated and negotiations with the second-choice consultant shall commence. If the Authority and the second-choice consultant cannot reach an agreement, their negotiations shall be terminated and negotiations with the third-choice consultant shall commence. If the Authority and the third-choice consultant cannot reach an agreement, then all negotiations shall be terminated. Should the Authority be unable to negotiate a satisfactory contract with any of the three selected consultants, the Authority shall select additional consultants in order of their competence and

qualifications and shall continue negotiations in accordance with the provisions of this subsection until an agreement is reached.

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 21st day of May, 1999.

President of the Senate

Passed the House of Representatives the 25th day of May, 1999.

Speaker of the House of
Representatives