

STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

SENATE BILL 465

By: Stipe

AS INTRODUCED

An Act relating to public buildings and public works; amending 61 O.S. 1991, Sections 60 and 61, as amended by Sections 2 and 3, Chapter 363, O.S.L. 2000 (61 O.S. Supp. 2000, Sections 60 and 61), which relate to state consultants; providing certain exemption; modifying definitions; defining terms; requiring the Department of Transportation and the Oklahoma Transportation Authority to establish system to develop certain list; authorizing the Department and the Authority to determine certain qualifications; authorizing certain discretion; requiring certain notification; requiring review of certain qualifications; requiring the Department and the Authority to establish certain committee; requiring negotiation of certain fees; requiring certain report to be submitted to the Governor; requiring a written evaluation to be performed; authorizing the Department and the Authority to enter into service contracts; specifying that all drawings, plans, specifications, and models made by a consultant doing work for this state shall be the property of this state; requiring the Department of Transportation and the Oklahoma Transportation Authority to provide certain notice; providing for codification; providing for noncodification; and declaring an emergency.

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

SECTION 1. AMENDATORY 61 O.S. 1991, Section 60, as amended by Section 2, Chapter 363, O.S.L. 2000 (61 O.S. Supp. 2000, Section 60), is amended to read as follows:

Section 60. All state agencies, boards, commissions, offices, institutions, and other governmental bodies of this state, and all individuals representing such entities, except the Department of Transportation and the Oklahoma Transportation Authority, shall use consultant and construction contract forms that the Director of the Department of Central Services requires to award contracts for designs to construct, renovate, alter, repair, maintain, or improve

real property or fixtures of real property of the state. The Director of the Department of Central Services may authorize, in writing, exceptions to the use of consultant and construction contract forms

SECTION 2. AMENDATORY 61 O.S. 1991, Section 61, as amended by Section 3, Chapter 363, O.S.L. 2000 (61 O.S. Supp. 2000, Section 61), is amended to read as follows:

Section 61. As used in Sections 61 through 65 of this title:

1. "Chief administrative officer" means an individual responsible for directing the administration of a state agency. The term does not mean one or all of the individuals that make policy for a state agency;

2. "Construction manager" means an individual, firm, corporation, association, partnership, copartnership, or any other legal entity possessing the qualifications to provide services of construction management which 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;

3. "Department" means the Department of Central Services;

4. "Design consultant" means an individual or legal entity possessing the qualifications to provide licensed architectural, registered engineering, or registered land surveying services for a public work improvement project;

5. "Director" means the Director of the Department of Central Services;

6. "Division" means the Construction and Properties Division of the Department of Central Services;

7. "Project" means plans or designs for a public work improvement, except the transportation facilities under the jurisdiction of the Department of Transportation or the Oklahoma Transportation Authority:

- a. to construct, renovate, alter, repair, maintain, or improve real property or fixtures of real property, and
- b. that does not constitute "construction" as defined by the Public Building Construction and Planning Act;

8. "State agency" means an office, officer, bureau, board, counsel, court, commission, institution, unit, division, or body of the executive or judicial branches of state government, whether elected or appointed, excluding only political subdivisions of the state.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 708.1 of Title 69, unless there is created a duplication in numbering, reads as follows:

As used in Sections 3, 4 and 5 of this act:

1. "Authority" means the Oklahoma Transportation Authority;
2. "Consultant" means any individual, firm, corporation, association, partnership, copartnership, or any other legal entity authorized to provide licensed architectural, registered engineering, or registered land surveying services used in the development of plans for any public work improvement project;
3. "Department" means the Department of Transportation; and
4. "Public work improvement" means any highway, bridge, street, sewer, pavement, waterline, sidewalk or any other improvement to a transportation facility which is constructed, altered, or repaired, under contract with the Department or the Authority.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 708.2 of Title 69, unless there is created a duplication in numbering, reads as follows:

1. The Department of Transportation and the Oklahoma Transportation Authority shall each develop a list of all consultants interested in and capable of performing architectural, engineering, and land surveying services specific to the transportation industry. The Department and the Authority shall

each determine the qualifications of the prospective consultants. The consultants shall be selected at the discretion of the Department or the Authority.

2. When the Department or the Authority intends to secure consultant services to perform a specifically defined project, the Department or the Authority shall notify all firms on the list, developed pursuant to paragraph 1 of this section, for such work by mail, facsimile or other electronic means. The notifications shall provide the following information:

- a. a general description of the project or work to be performed,
- b. an estimated construction cost for the proposal projects,
- c. an estimated consultant contract performance time period,
- d. a description of the funding to be utilized for the contract or the project, including explicit notice of federal funding involvement,
- e. the last date for submitting a notice of interest, and
- f. other pertinent data.

3. The Department or the Authority shall review the qualifications of the consultants who respond to the notice and shall select three consultants for consideration for each contract. In selecting the consultants, the Department or the Authority shall consider:

- a. specialized experience in the type of work to be performed,
- b. capacity of the consultant to provide the service in the State of Oklahoma in the time required,
- c. the proximity and availability of the consultant and its employees to the project location,

- d. past performance as determined from performance evaluations of public and private work,
- e. the number of Oklahoma residents employed, and
- f. other significant factors pertinent to the solicited project or function.

4. The Department and the Authority shall each establish a committee which will evaluate the consultants selected for consideration and rank the consultants in order of preference.

5. The Department or the Authority shall negotiate the contracts and reasonable fees with the first ranked consultant. If an agreement cannot be realized with the first ranked consultant, the negotiations shall be terminated and negotiations with the next ranked consultant shall commence. If an agreement cannot be realized with the next ranked consultant, the negotiations shall be terminated and negotiations with the remaining consultant shall commence. In the event the Department or the Authority cannot realize an agreement with any of the selected consultants, the proposed work shall be reevaluated and, after reevaluation and revisions, a new notice to consultants may be issued.

6. A full report of the evaluation, selection, and negotiations shall be prepared by the Department or the Authority and submitted to the Office of the Governor, unless otherwise directed by the Governor.

7. As provided for in the Transportation Commission rules or by Authority resolutions, the Department or the Authority shall perform a written evaluation of the services provided by the consultant. This evaluation shall become a part of the Department's and the Authority's consultant file. Failure of the consultant to perform the prescribed work in a timely and accurate manner shall be grounds for exclusion from the list of qualified consultants until such time as the consultant can reasonably document and demonstrate

performance improvement to the satisfaction of the Department or the Authority.

8. In addition to the foregoing provisions of this section, the Department or the Authority may enter into demand services contracts for consultant services to provide a specific project work type or activity for unspecified projects or facilities on an as-needed basis. Contract consultants for demand services shall not exceed a total of Two Hundred and Fifty Thousand Dollars (\$250,000.00) per consultant per state fiscal year. When soliciting and securing such services, the Department and the Authority shall utilize the procedure set forth in this section.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 708.3 of Title 69, unless there is created a duplication in numbering, reads as follows:

All drawings, plans, specifications, and models made by a consultant doing work for this state shall be the property of this state. The consultant receiving payment for plans paid for in whole or in part with state funds shall provide a copy of the plans to the Department of Central Services for inclusion in a library system to be maintained by the Department of Central Services. Any state department, board, commission, institution, or agency shall have access to the use of any plans or specifications filed with the Department of Central Services.

SECTION 6. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

Within sixty (60) days of the effective date of this act, the Department and the Authority shall notify each consultant on the Department of Central Services' consultant list of the provisions of this act. The notice shall further inform the consultant of the method and requirements for being listed. The consultant lists shall be maintained by the Department and the Authority.

SECTION 7. 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.

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