

ENROLLED SENATE
BILL NO. 246

By: Leftwich of the Senate

and

Paulk of the House

An Act relating to public buildings and public works; amending 61 O.S. 2001, Sections 202.1, 204, as amended by Section 29, Chapter 294, O.S.L. 2002, 208.1, as amended by Section 31, Chapter 294, O.S.L. 2002, and 209, as amended by Section 33, Chapter 294, O.S.L. 2002 (61 O.S. Supp. 2002, Sections 204, 208.1 and 209), which relate to the Public Building Construction and Planning Act, duties of the Construction and Properties Division, architectural, engineering and land surveying fees, and rulemaking; deleting limiting language related to rulemaking; adding certain duties to the Division; authorizing Division to provide contracts and collect certain fee for construction project; specifying provisions for certain Divisions of state agencies to follow; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 61 O.S. 2001, Section 202.1, is amended to read as follows:

Section 202.1 A. The design-build and at-risk construction management project delivery methods 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 or at-risk construction management for a ~~particular~~ project. In all instances where the design-build project or at-risk construction management delivery method is authorized, construction administration shall be performed by the State Construction Administrator, the Administrator's designee or designees, or otherwise by contract or contract provision approved by the Director of ~~the Department of~~ Central Services for construction administration by another party.

B. The provisions of subsection A 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.

C. The Department of Central Services shall, pursuant to the Administrative Procedures Act ~~and with regard for such recommendations or other assistance as it may receive from the Advisory Task Force on Public Construction and Renovation Laws,~~ promulgate rules to effect procedures and processes necessary to the fulfillment of its responsibilities under subsection A of this section.

SECTION 2. AMENDATORY 61 O.S. 2001, Section 204, as amended by Section 29, Chapter 294, O.S.L. 2002 (61 O.S. Supp. 2002, Section 204), is amended to read as follows:

Section 204. A. The Construction and Properties Division of the Department of Central Services shall:

1. Maintain a comprehensive master plan for utilization and construction of buildings for state agencies, capital improvements, and utilization of land owned by this state;

2. Maintain a comprehensive inventory of state-owned real property and its use excluding property of the public schools and property subject to the jurisdiction of the Commissioners of the Land Office:

- a. each state agency shall, within thirty (30) days of the closing date for lands newly acquired, provide to the Division a list of records, deeds, abstracts and other title instruments showing the description of and relating to any and all such lands or interests therein,
- b. the provisions of paragraph a of this subsection shall apply to all lands of public trusts having a state agency as the primary beneficiary, but shall not apply to lands of municipalities, counties, school districts, or agencies thereof, or Department of Transportation rights of way, and
- c. a state agency that sells or otherwise disposes of land shall notify the Division within thirty (30) days of the disposition closing date;

3. Review and approve all construction plans and specifications to ensure compliance with good construction practices and space standards, costs of project, proposed construction timetables, and agency need for the project, except as otherwise provided in subsection B of this section;

4. Inspect prior to acceptance and final payment all completed projects for which the Division issued bid solicitations to ensure compliance with the plans and specifications of the project;

5. Provide assistance to state agencies when a state agency desires to hire a design consultant or construction manager for a project. Except as provided by subsection B of this section, the Division shall award and execute contracts to design consultants and

construction managers that provide services to state agencies for construction projects;

6. Develop and issue solicitations for award of state agency contracts for construction. The Division shall have final approval authority for contracts and contract documents. Neither the Division nor any state agency shall, for performance of work that requires that a contractor be licensed by this state, issue a solicitation to, or make a contract with, a contractor not licensed by this state;

7. Review inspections performed by design consultants and construction managers during construction, primary inspections when consultants are not used, and final inspections after completion;

8. Recommend standards, including but not limited to building codes, space utilization, material testing, indexes of efficiency, economy, and effectiveness, pursuant to rules the Director promulgates;

9. Monitor construction projects to ensure maximum efficiency in the expenditure of state funds for construction; ~~and~~

10. Report fraud or waste in any construction project by written notification with documentation for the report to the Attorney General. The Attorney General shall take appropriate action to protect the interest of the state; and

11. Prequalify as good and sufficient insurance carriers, bonding companies and surety companies to meet provisions of Sections 1 and 134 of this title. The Director shall promulgate rules to establish criteria to determine whether a carrier or company is good and sufficient. The prequalification requirement and process shall not violate the provisions of Section 135 of this title.

B. When a state agency has a licensed architect or licensed engineer, as a full-time employee, to review construction plans and specifications, the review and approval of all construction plans and specifications required pursuant to paragraph 3 of subsection A of this section shall not apply to:

1. The common schools subject to the jurisdiction of the State Department of Education;

2. The Department of Transportation with respect to highways, bridges and dams;

3. The Oklahoma State System of Higher Education;

4. The Military Department of the State of Oklahoma; and

5. The Oklahoma Tourism and Recreation Department.

SECTION 3. AMENDATORY 61 O.S. 2001, Section 208.1, as amended by Section 31, Chapter 294, O.S.L. 2002 (61 O.S. Supp. 2002, Section 208.1), is amended to read as follows:

Section 208.1 The Construction and Properties Division of the Department of Central Services may collect a reasonable fee for the purpose of providing or contracting for architectural, engineering, and land surveying services to state agencies and from persons requesting plans and notification of solicitations issued by the Division. The Division may collect a reasonable fee for contract management for a construction project. All fees collected in accordance with the provisions of this section shall be deposited in the "State Construction Revolving Fund" created in Section 208.2 of this title.

SECTION 4. AMENDATORY 61 O.S. 2001, Section 209, as amended by Section 33, Chapter 294, O.S.L. 2002 (61 O.S. Supp. 2002, Section 209), is amended to read as follows:

Section 209. The Director ~~of the Department~~ of Central Services shall promulgate rules:

1. For state agencies to perform minor construction projects;
2. Specifying building codes for construction projects;
3. Permitting state agencies who have the expertise, upon written application to the Construction and Properties Division of the Department of Central Services, to perform any part of the responsibilities of the Division pursuant to the provisions of the Public Building Construction and Planning Act for a specific project;
4. Specifying procedures and guidelines for the implementation of shared savings financing by state agencies;
5. Specifying energy conservation performance guidelines, for conducting a life cycle cost analysis of alternative architectural and engineering designs and alternative major items of energy-consuming equipment to be retrofitted in existing state-owned or leased structures and for developing energy performance indices to evaluate the efficiency of energy utilization for completing designs in the construction of state-financed and leased structures;
6. The time, manner, authentication, and form of making requisitions to the Division;
7. The form and manner of submission for bids or proposals and the manner of accepting and opening bids or proposals;
8. The manner for a state agency to acquire services for construction projects not exceeding the amount for which competitive bids are required pursuant to Section 102 of this title;
9. Conditions under which any of the rules herein authorized may be waived; ~~and~~
10. The form of any document the Director requires; and

11. Specifying provisions the Division of a state agency shall follow to adhere to acquisition, contract, contract management and other provisions of this title.

SECTION 5. This act shall become effective July 1, 2003.

SECTION 6. 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 15th day of May, 2003.

Presiding Officer of the Senate

Passed the House of Representatives the 19th day of May, 2003.

Presiding Officer of the House
of Representatives