

1 ENGROSSED SENATE  
2 BILL NO. 1181

By: Rabon of the Senate

and

Thompson of the House

3  
4  
5  
6  
7 An Act relating to roads, bridges and ferries;  
8 amending 69 O.S. 2001, Section 708.1, which relates  
9 to transportation construction projects; modifying  
10 definition; amending 69 O.S. 2001, Section 708.2,  
11 which relates to construction managers; requiring  
12 certain notice to construction managers; describing  
13 notice; requiring submission of notice within certain  
14 time period; requiring cooperation on certain  
15 contracts; authorizing certain contracts for design  
16 consultant services; providing an effective date; and  
17 declaring an emergency.

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

19 SECTION 1. AMENDATORY 69 O.S. 2001, Section 708.1, is  
20 amended to read as follows:

21 Section 708.1 As used in Sections 4 708.2 and 5 708.3 of this  
22 ~~act~~ title:

- 23 1. "Authority" means the Oklahoma Transportation Authority;
- 24 2. "Construction manager" means any 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

1 engineering, constructability evaluation, preparation and  
2 coordination of bid packages and construction administration;

3 3. "Department" means the Department of Transportation;

4 4. "Design consultant" means an individual or legal entity  
5 possessing the qualifications to provide licensed architectural, or  
6 registered engineering ~~or registered land surveying~~ services for the  
7 ~~design~~ construction of a transportation public work improvement  
8 project; and

9 5. "Public work improvement" means any highway, bridge, street,  
10 sewer, pavement, waterline, sidewalk or any other improvement to a  
11 transportation facility which is constructed, altered, or repaired,  
12 under contract with the Department or the Authority.

13 SECTION 2. AMENDATORY 69 O.S. 2001, Section 708.2, is  
14 amended to read as follows:

15 Section 708.2 A. The Department of Transportation and the  
16 Oklahoma Transportation Authority shall each compile a list of all  
17 persons and entities interested in and capable of performing  
18 construction management and design consultant services specific to  
19 the transportation industry. The consultant list shall include, but  
20 shall not be limited to, qualified construction managers and design  
21 consultants capable of performing such services as solicited from  
22 the Department of Central Services file on an annual basis. The  
23 Department and the Authority shall each determine the qualifications  
24 of the prospective construction managers and design consultants.

1 The construction managers and design consultants shall be selected  
2 at the discretion of the Department or the Authority.

3 B. The Department or the Authority shall issue a solicitation  
4 to ~~construction managers or~~ design consultants capable of providing  
5 the services desired. The solicitation shall, at a minimum,  
6 contain:

7 1. A description and scope of the projects;

8 2. An estimated construction cost, anticipated starting date,  
9 and completion date the Department or the Authority desires for the  
10 project;

11 3. A certification of funds available for the ~~construction~~  
12 ~~manager or~~ design consultant fee, including federal, state or other  
13 participation;

14 4. The closing date for ~~construction manager or~~ design  
15 consultant to give notice of interest; and

16 5. Additional data the Department or the Authority requires  
17 from the ~~construction manager or~~ design consultant. The closing  
18 date for submission of construction manager or design consultant  
19 notice of interest for consideration shall be within thirty (30)  
20 days of the date the notice is issued by the Department or the  
21 Authority.

22 C. The Department or Authority shall issue a solicitation to  
23 construction managers capable of providing the services desired.

24 The solicitation shall, at a minimum, contain:

1        1. A general description of the services anticipated to be  
2 required;

3        2. A general description of the type of projects that the  
4 services could be required for;

5        3. The anticipated effective time period of the contract or  
6 contracts; and

7        4. Additional data the Department or Authority requires from  
8 the construction manager.

9        The closing date for submission of the construction manager  
10 notice of interest for consideration shall be within thirty (30)  
11 days of the date the notice is issued by the Department or the  
12 Authority.

13        D. The Department or the Authority shall review the  
14 qualifications of the entities on the consultant list and shall  
15 select no less than three and no more than five consultants per  
16 contract for further consideration. The review shall include  
17 consideration of the following information:

18        1. Professional qualifications for the type of work  
19 contemplated;

20        2. Capacity for completing the project in the specified time  
21 period;

22        3. Past performance on projects of a similar nature; and

23        4. Percentage of work to be performed by residents of Oklahoma.  
24

1       ~~D.~~ E. The Department and the Authority shall each establish a  
2 committee which will evaluate the construction managers or design  
3 consultants selected for consideration and rank the construction  
4 managers or design consultants in order of preference.

5       ~~E.~~ F. The Department or the Authority shall enter into  
6 negotiations with the first-choice consultant. If the Department or  
7 Authority and the first-choice consultant cannot reach an agreement,  
8 their negotiations shall be terminated and negotiations with the  
9 second-choice consultant shall commence. If the Department or the  
10 Authority and the second-choice consultant cannot reach an  
11 agreement, their negotiations shall be terminated and negotiations  
12 with the third-choice consultant shall commence. If the Department  
13 or the Authority and the third-choice consultant cannot reach an  
14 agreement, then all negotiations shall be terminated. Should the  
15 Department or the Authority be unable to negotiate a satisfactory  
16 contract with any of the three selected consultants, the Department  
17 or the Authority shall reevaluate the proposed work and send out a  
18 new notice.

19       ~~F.~~ G. When contracting for construction managers, the  
20 Department or Authority shall work cooperatively with the consultant  
21 to establish the desired scope of services and then enter into  
22 negotiations based on the nature of the work to be performed.

23       H. As provided for in the Transportation Commission rules or by  
24 Authority resolutions, the Department or the Authority shall perform

1 a written evaluation of the services provided by the consultant.  
2 This evaluation shall become a part of the Department's and the  
3 Authority's consultant file. Failure of the consultant to perform  
4 the prescribed work in a timely and accurate manner shall be grounds  
5 for exclusion from the list of qualified construction managers or  
6 design consultants until such time as the consultant can reasonably  
7 document and demonstrate performance improvement to the satisfaction  
8 of the Department or the Authority.

9 ~~G. I.~~ In addition to the foregoing provisions of this section,  
10 the Department or the Authority may enter into demand services  
11 contracts for design consultant services ~~to provide a specific~~  
12 ~~project work type or activity~~ for unspecified projects or facilities  
13 on an as-needed basis. Contract consultants for demand services  
14 shall not exceed a total of Two Hundred Fifty Thousand Dollars  
15 (\$250,000.00) per consultant per state fiscal year. When soliciting  
16 and securing such services, the Department and the Authority shall  
17 utilize the procedure as set forth in this section.

18 SECTION 3. This act shall become effective July 1, 2008.

19 SECTION 4. It being immediately necessary for the preservation  
20 of the public peace, health and safety, an emergency is hereby  
21 declared to exist, by reason whereof this act shall take effect and  
22 be in full force from and after its passage and approval.

23

24

