

THE HOUSE OF REPRESENTATIVES
Wednesday, April 9, 2008

ENGROSSED
Senate Bill No. 1505

ENGROSSED SENATE BILL NO. 1505 - By: RABON of the Senate and THOMPSON of the House.

An Act relating to public bidding; amending 61 O.S. 2001, Sections 108, 115, as amended by Section 18, Chapter 294, O.S.L. 2002 and 118, as amended by Section 20, Chapter 294, O.S.L. 2002 (61 O.S. Supp. 2007, Sections 115 and 118), which relate to written statements to accompany bid, collusion among bidders, and prequalification of bidders; clarifying type of bidder subject to certain requirements; modifying certain requirements; stating requirements relating to prequalification and licensing requirements; and declaring an emergency.

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

1 SECTION 1. AMENDATORY 61 O.S. 2001, Section 108, is amended to read as
2 follows:

3 Section 108. Each successful bidder shall accompany ~~his bid~~ the contract with a
4 written statement under oath disclosing the following information:

5 1. The nature of any partnership, joint venture or other business relationships then
6 in effect or which existed within one (1) year prior to the date of such statement with the
7 architect, engineer or other party to the project;

8 2. Any such business relationship then in effect or which existed within one (1) year
9 prior to the date of such statement between any officer or director of the bidding company

1 and any officer or director of the architectural or engineering firm or other party to the
2 project; and

3 3. The names of all persons having any such business relationships and the
4 positions they hold with their respective companies or firms. If none of the business
5 relationships hereinabove mentioned exist, then a statement to that effect.

6 SECTION 2. AMENDATORY 61 O.S. 2001, Section 115, as amended by
7 Section 18, Chapter 294, O.S.L. 2002 (61 O.S. Supp. 2007, Section 115) is amended to
8 read as follows:

9 Section 115. Any agreement or collusion among bidders, prospective bidders or
10 material suppliers in restraint of freedom of competition by agreement to bid at a fixed
11 price or to refrain from bidding, or otherwise, shall render the bids of such bidders void.
12 Persons willfully violating this section shall be guilty of a felony. Each successful bidder
13 shall accompany ~~his bid~~ the contract with a sworn statement that ~~he~~ the bidder has not
14 been a party to any such agreement. The form of the statement shall be substantially as
15 provided in Section 85.22 of Title 74 of the Oklahoma Statutes, but modified in wording
16 to refer to the appropriate public agency requesting bids.

17 SECTION 3. AMENDATORY 61 O.S. 2001, Section 118, as amended by
18 Section 20, Chapter 294, O.S.L. 2002 (61 O.S. Supp. 2007, Section 118), is amended to
19 read as follows:

20 Section 118. A. In order to determine the responsibility of bidders, the awarding
21 public agency may require prospective bidders, general contractors, subcontractors and
22 material suppliers to prequalify as responsible bidders prior to submitting bids on a

1 public construction contract. Prequalification to bid or perform work pursuant to this
2 section does not constitute a license. Except as provided in subsection B of this section,
3 prequalification shall not serve as a substitute for a license otherwise required by law.

4 Notice of any such prequalification requirement shall be made equally and uniformly
5 known by the awarding public agency to all prospective bidders and the public in the
6 same manner as proposals to award public construction contracts as set forth in Section
7 104 of this title. Financial information including, but not limited to, audited financial
8 statements required by the awarding public agency as part of prequalification shall
9 remain confidential.

10 B. The Oklahoma Transportation Commission and the Oklahoma Transportation
11 Authority may establish a system for prequalifying prospective bidders on construction
12 and maintenance contracts to be awarded by the Commission or Authority. The
13 Commission and the Authority shall be the sole judge of the qualifications of prospective
14 bidders and shall ascertain, to their exclusive satisfaction, the qualifications of each
15 prequalified bidder. Any contractor or subcontractor prequalified as of the effective date
16 of this act performing signing, highway lighting, or traffic signal installation or
17 maintenance for the Oklahoma Department of Transportation or the Oklahoma
18 Transportation Authority shall be allowed to continue to bid and perform such work
19 without obtaining any additional license from this state or any political subdivision of
20 this state. However, no contractor or subcontractor may transfer, convey or assign this
21 exemption to any other person or entity.

1 SECTION 4. It being immediately necessary for the preservation of the public
2 peace, health and safety, an emergency is hereby declared to exist, by reason whereof
3 this act shall take effect and be in full force from and after its passage and approval.
4 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT AND
5 TRANSPORTATION, dated 04-08-08 - DO PASS.