

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 HOUSE BILL 2201

By: Richardson

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5
6 AS INTRODUCED

7 An Act relating to public buildings and public works;
8 amending 61 O.S. 2001, Sections 102, as last amended
9 by Section 14, Chapter 271, O.S.L. 2006, 103, as
10 amended by Section 15, Chapter 271, O.S.L. 2006 and
11 104, as amended by Section 14, Chapter 294, O.S.L.
12 2002 (61 O.S. Supp. 2007, Sections 102, 103 and 104),
13 which relate to the Public Competitive Bidding Act of
14 1974; modifying definitions; modifying contract
15 requirements; modifying bid notices; and providing an
16 effective date.

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

18 SECTION 1. AMENDATORY 61 O.S. 2001, Section 102, as last
19 amended by Section 14, Chapter 271, O.S.L. 2006 (61 O.S. Supp. 2007,
20 Section 102), is amended to read as follows:

21 Section 102. As used in the Public Competitive Bidding Act of
22 1974:

23 1. "Administrator" means the State Construction Administrator
24 of the Construction and Properties Division of the Department of
Central Services;

1 2. "Awarding public agency" means the public agency which
2 solicits and receives sealed bids on a particular public
3 construction contract;

4 3. "Bidding documents" means the bid notice, instruction to
5 bidders, plans and specifications, bidding form, bidding
6 instructions, general conditions, special conditions and all other
7 written instruments prepared by or on behalf of an awarding public
8 agency for use by prospective bidders on a public construction
9 contract;

10 4. "Chief administrative officer" means an individual
11 responsible for directing the administration of a public agency.
12 The term does not mean one or all of the individuals that make
13 policy for a public agency;

14 5. "Public agency" means the State of Oklahoma, and any county,
15 city, town, school district or other political subdivision of the
16 state, any public trust, any public entity specifically created by
17 the statutes of the State of Oklahoma or as a result of statutory
18 authorization therefor, and any department, agency, board, bureau,
19 commission, committee or authority of any of the foregoing public
20 entities;

21 6. "Public construction contract" or "contract" means any
22 contract, ~~exceeding Fifty Thousand Dollars (\$50,000.00) in amount,~~
23 awarded by any public agency for the purpose of making any public
24 improvements or constructing any public building or making repairs

1 to or performing maintenance on the same except where the
2 improvements, construction of any building or repairs to the same
3 are improvements or buildings leased to a person or other legal
4 entity exclusively for private and not for public use and no public
5 tax revenues shall be expended on or for the contract unless the
6 public tax revenues used for the project are authorized by a
7 majority of the voters of the applicable public agency voting at an
8 election held for that purpose and the public tax revenues do not
9 exceed twenty-five percent (25%) of the total project cost. The
10 amount of public tax dollars committed to the project will not
11 exceed a fixed amount established by resolution of the governing
12 body prior to or concurrent with approval of the project;

13 7. "Public improvement" means any beneficial or valuable change
14 or addition, betterment, enhancement or amelioration of or upon any
15 real property, or interest therein, belonging to a public agency,
16 intended to enhance its value, beauty or utility or to adapt it to
17 new or further purposes. ~~The term does not include the direct~~
18 ~~purchase of materials, provided that the materials are not purchased~~
19 ~~in increments for an amount of less than Fifty Thousand Dollars~~
20 ~~(\$50,000.00) and used for the purposes of completing a single~~
21 ~~project, equipment or supplies by a public agency, or any personal~~
22 ~~property as defined in paragraphs 1 and 4 of subsection B of Section~~
23 ~~430.1 of Title 62 of the Oklahoma Statutes; and~~

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1 8. "Retainage" means the difference between the amount earned
2 by the contractor on a public construction contract, with the work
3 being accepted by the public agency, and the amount paid on said
4 contract by the public agency.

5 SECTION 2. AMENDATORY 61 O.S. 2001, Section 103, as
6 amended by Section 15, Chapter 271, O.S.L. 2006 (61 O.S. Supp. 2007,
7 Section 103), is amended to read as follows:

8 Section 103. A. Unless otherwise provided by law, all public
9 construction contracts exceeding ~~Fifty Thousand Dollars (\$50,000.00)~~
10 Twenty-five Thousand Dollars (\$25,000.00) shall be let and awarded
11 to the lowest responsible bidder, by open competitive bidding after
12 solicitation for sealed bids, in accordance with the provisions of
13 the Public Competitive Bidding Act of 1974. No work shall be
14 commenced until a written contract is executed and proof of
15 insurance has been provided by the contractor to the awarding public
16 agency. No work on a public construction contract exceeding Fifty
17 Thousand Dollars (\$50,000.00) shall be commenced unless, in addition
18 to the execution of a written contract and the furnishing of proof
19 of all required insurance, the contractor provides all required
20 bonds and insurance have been provided by the contractor to the
21 awarding public agency.

22 B. ~~Except as provided in subsection D of this section, public~~
23 ~~construction contracts less than Fifty Thousand Dollars (\$50,000.00)~~
24 ~~shall be let and awarded to the lowest responsible bidder by receipt~~

1 ~~of written bids. No work shall be commenced until a written~~
2 ~~contract is executed and proof of insurance has been provided by the~~
3 ~~contractor to the awarding public agency.~~

4 C. ~~Except as provided in subsection D of this section, public~~
5 ~~construction contracts for less than Two Thousand Five Hundred~~
6 ~~Dollars (\$2,500.00) for minor maintenance or minor repair work may~~
7 ~~be negotiated with a qualified contractor. No work shall be~~
8 ~~commenced until a written contract is executed and proof of~~
9 ~~insurance has been provided by the contractor to the awarding public~~
10 ~~agency.~~

11 D. ~~The provisions of this subsection shall apply to public~~
12 ~~construction for minor maintenance or minor repair work to public~~
13 ~~school district property. Such public Public construction contracts~~
14 ~~for less than Twenty-five Thousand Dollars (\$25,000.00) may be~~
15 ~~negotiated with a qualified contractor. Such public construction~~
16 ~~contracts equal to or greater than Twenty five Thousand Dollars~~
17 ~~(\$25,000.00) but less than Fifty Thousand Dollars (\$50,000.00) shall~~
18 ~~be let and awarded to the lowest responsible bidder by receipt of~~
19 ~~written bids. No work shall be commenced on any such public~~
20 ~~construction contract until a written contract is executed and proof~~
21 ~~of insurance has been provided by the contractor to the awarding~~
22 ~~public agency.~~

1 SECTION 3. AMENDATORY 61 O.S. 2001, Section 104, as
2 amended by Section 14, Chapter 294, O.S.L. 2002 (61 O.S. Supp. 2007,
3 Section 104), is amended to read as follows:

4 Section 104. All proposals to award public construction
5 contracts in excess of Twenty-five Thousand Dollars (\$25,000.00)
6 shall be made equally and uniformly known by the awarding public
7 agency to all prospective bidders and the public in the following
8 manner:

9 1. Notice thereof shall be given by publication in a newspaper
10 of general circulation and published in the county where the work,
11 or the major part of it, is to be done, such notice by publication
12 to be published in two consecutive weekly issues of said newspaper,
13 with the first publication thereof to be at least twenty (20) days
14 prior to the date set for opening bids; and

15 2. Notice thereof shall be sent to trade or construction
16 publications for their use and information whenever the estimated
17 cost of the contract exceeds Fifty Thousand Dollars (\$50,000.00);
18 provided however, that this section shall not be construed as
19 requiring the publication of said notice in such trade or
20 construction publication.

21 SECTION 4. This act shall become effective November 1, 2008.
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23 51-2-8880 LRB 12/11/07
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