

**COMMITTEE AMENDMENT**  
HOUSE OF REPRESENTATIVES  
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2600 \_\_\_\_\_  
\_\_\_\_\_ Of the printed Bill  
Page \_\_\_\_\_ Section \_\_\_\_\_ Lines \_\_\_\_\_  
\_\_\_\_\_ Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: Richard

Morrissette  
Adopted: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Reading Clerk

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 PROPOSED COMMITTEE  
4 SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 2600

By: Morrissette

7 PROPOSED COMMITTEE SUBSTITUTE

8 An Act relating to public buildings and public works;  
9 amending 61 O.S. 2001, Sections 102, as last amended  
10 by Section 2, Chapter 257, O.S.L. 2009 and 103, as  
11 amended by Section 15, Chapter 271, O.S.L. 2006 (61  
12 O.S. Supp. 2009, Sections 102 and 103), which relate  
13 to the Public Competitive Bidding Act of 1974;  
14 defining term; modifying requirements for the  
15 awarding of certain contracts; 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 2, Chapter 257, O.S.L. 2009 (61 O.S. Supp. 2009,  
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. "Best value" means a system for evaluation and ranking of  
5 information provided by a bidder which may include, but is not  
6 limited to, the following:

7           a. price proposal,

8           b. past performance information,

9           c. project management, personnel and subcontractors,

10          d. proposed technical approach,

11          e. ability to deliver the project on time and within the  
12 budget,

13          f. ability to minimize project risk to owner,

14          g. additional project value that would be realized by the  
15 owner,

16          h. ability to develop a plan for project execution that  
17 establishes performance measures and outcomes, and  
18 provides for regular performance reporting to the  
19 owner,

20          i. disadvantaged business participation,

21          j. safety record, and

22          k. interview with key personnel;

23          4. "Bidding documents" means the bid notice, instruction to  
24 bidders, plans and specifications, bidding form, bidding

1 instructions, general conditions, special conditions and all other  
2 written instruments prepared by or on behalf of an awarding public  
3 agency for use by prospective bidders on a public construction  
4 contract;

5 ~~4.~~ 5. "Chief administrative officer" means an individual  
6 responsible for directing the administration of a public agency.  
7 The term does not mean one or all of the individuals that make  
8 policy for a public agency;

9 ~~5.~~ 6. "Public agency" means the State of Oklahoma, and any  
10 county, city, town, school district or other political subdivision  
11 of the state, any public trust, any public entity specifically  
12 created by the statutes of the State of Oklahoma or as a result of  
13 statutory authorization therefor, and any department, agency, board,  
14 bureau, commission, committee or authority of any of the foregoing  
15 public entities;

16 ~~6.~~ 7. "Public construction contract" or "contract" means any  
17 contract, exceeding Fifty Thousand Dollars (\$50,000.00) in amount,  
18 awarded by any public agency for the purpose of making any public  
19 improvements or constructing any public building or making repairs  
20 to or performing maintenance on the same except where the  
21 improvements, construction of any building or repairs to the same  
22 are improvements or buildings leased to a person or other legal  
23 entity exclusively for private and not for public use and no public  
24 tax revenues shall be expended on or for the contract unless the

1 public tax revenues used for the project are authorized by a  
2 majority of the voters of the applicable public agency voting at an  
3 election held for that purpose and the public tax revenues do not  
4 exceed twenty-five percent (25%) of the total project cost. The  
5 amount of public tax dollars committed to the project will not  
6 exceed a fixed amount established by resolution of the governing  
7 body prior to or concurrent with approval of the project;

8 ~~7.~~ 8. "Public improvement" means any beneficial or valuable  
9 change or addition, betterment, enhancement or amelioration of or  
10 upon any real property, or interest therein, belonging to a public  
11 agency, intended to enhance its value, beauty or utility or to adapt  
12 it to new or further purposes. The term does not include the direct  
13 purchase of materials, equipment or supplies by a public agency, or  
14 any personal property, including property as defined in paragraphs 1  
15 and 4 of subsection B of Section 430.1 of Title 62 of the Oklahoma  
16 Statutes; and

17 ~~8.~~ 9. "Retainage" means the difference between the amount  
18 earned by the contractor on a public construction contract, with the  
19 work being accepted by the public agency, and the amount paid on  
20 said contract by the public agency.

21 SECTION 2. AMENDATORY 61 O.S. 2001, Section 103, as  
22 amended by Section 15, Chapter 271, O.S.L. 2006 (61 O.S. Supp. 2009,  
23 Section 103), is amended to read as follows:

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1 Section 103. A. Unless otherwise provided by law, all public  
2 construction contracts exceeding Fifty Thousand Dollars (\$50,000.00)  
3 shall be let and awarded to the lowest responsible or best value  
4 bidder, by open competitive bidding after solicitation for sealed  
5 bids, in accordance with the provisions of the Public Competitive  
6 Bidding Act of 1974. No work shall be commenced until a written  
7 contract is executed and all required bonds and insurance have been  
8 provided by the contractor to the awarding public agency.

9 B. Except as provided in subsection D of this section, public  
10 construction contracts less than Fifty Thousand Dollars (\$50,000.00)  
11 shall be let and awarded to the lowest responsible or best value  
12 bidder by receipt of written bids. No work shall be commenced until  
13 a written contract is executed and proof of insurance has been  
14 provided by the contractor to the awarding public agency.

15 C. Except as provided in subsection D of this section, public  
16 construction contracts for less than Two Thousand Five Hundred  
17 Dollars (\$2,500.00) for minor maintenance or minor repair work may  
18 be negotiated with a qualified contractor. No work shall be  
19 commenced until a written contract is executed and proof of  
20 insurance has been provided by the contractor to the awarding public  
21 agency.

22 D. The provisions of this subsection shall apply to public  
23 construction for minor maintenance or minor repair work to public  
24 school district property. Such public construction contracts for

1 less than Twenty-five Thousand Dollars (\$25,000.00) may be  
2 negotiated with a qualified contractor. Such public construction  
3 contracts equal to or greater than Twenty-five Thousand Dollars  
4 (\$25,000.00) but less than Fifty Thousand Dollars (\$50,000.00) shall  
5 be let and awarded to the lowest responsible or best value bidder by  
6 receipt of written bids. No work shall be commenced on any such  
7 public construction contract until a written contract is executed  
8 and proof of insurance has been provided by the contractor to the  
9 awarding public agency.

10 E. For award of any contract using a best value evaluation and  
11 ranking system, the awarding public agency shall, in advance of  
12 issuing a bid solicitation, develop a written plan for criteria  
13 evaluation and ranking. Ranking criteria and requirements for bid  
14 submission information shall be stated in the bid documents. For  
15 any contract award to other than the lowest price bidder, the  
16 provisions of Section 117 of this title shall apply.

17 SECTION 3. This act shall become effective November 1, 2010.

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19 52-2-9910 LRB 02/18/10

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