

1 ENGROSSED HOUSE
2 BILL NO. 2600

By: Morrissette, Scott, Hoskin
and McAffrey of the House

3 and

4 Corn of the Senate

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6
7 An Act relating to public buildings and public works;
8 amending 61 O.S. 2001, Sections 102, as last amended
9 by Section 2, Chapter 257, O.S.L. 2009 and 103, as
10 amended by Section 15, Chapter 271, O.S.L. 2006 (61
11 O.S. Supp. 2009, Sections 102 and 103), which relate
12 to the Public Competitive Bidding Act of 1974;
13 defining term; modifying requirements for the
14 awarding of certain contracts; and providing an
15 effective date.

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

17 SECTION 1. AMENDATORY 61 O.S. 2001, Section 102, as last
18 amended by Section 2, Chapter 257, O.S.L. 2009 (61 O.S. Supp. 2009,
19 Section 102), is amended to read as follows:

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

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

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

1 3. "Best value" means a system for evaluation and ranking of
2 information provided by a bidder which may include, but is not
3 limited to, the following:

4 a. price proposal,

5 b. past performance information,

6 c. project management, personnel and subcontractors,

7 d. proposed technical approach,

8 e. ability to deliver the project on time and within the
9 budget,

10 f. ability to minimize project risk to owner,

11 g. additional project value that would be realized by the
12 owner,

13 h. ability to develop a plan for project execution that
14 establishes performance measures and outcomes, and
15 provides for regular performance reporting to the
16 owner,

17 i. safety record, and

18 j. interview with key personnel;

19 4. "Bidding documents" means the bid notice, instruction to
20 bidders, plans and specifications, bidding form, bidding
21 instructions, general conditions, special conditions and all other
22 written instruments prepared by or on behalf of an awarding public
23 agency for use by prospective bidders on a public construction
24 contract;

1 ~~4.~~ 5. "Chief administrative officer" means an individual
2 responsible for directing the administration of a public agency.
3 The term does not mean one or all of the individuals that make
4 policy for a public agency;

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

12 ~~6.~~ 7. "Public construction contract" or "contract" means any
13 contract, exceeding Fifty Thousand Dollars (\$50,000.00) in amount,
14 awarded by any public agency for the purpose of making any public
15 improvements or constructing any public building or making repairs
16 to or performing maintenance on the same except where the
17 improvements, construction of any building or repairs to the same
18 are improvements or buildings leased to a person or other legal
19 entity exclusively for private and not for public use and no public
20 tax revenues shall be expended on or for the contract unless the
21 public tax revenues used for the project are authorized by a
22 majority of the voters of the applicable public agency voting at an
23 election held for that purpose and the public tax revenues do not
24 exceed twenty-five percent (25%) of the total project cost. The

1 amount of public tax dollars committed to the project will not
2 exceed a fixed amount established by resolution of the governing
3 body prior to or concurrent with approval of the project;

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

13 ~~8.~~ 9. "Retainage" means the difference between the amount
14 earned by the contractor on a public construction contract, with the
15 work being accepted by the public agency, and the amount paid on
16 said contract by the public agency.

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

20 Section 103. A. Unless otherwise provided by law, all public
21 construction contracts exceeding Fifty Thousand Dollars (\$50,000.00)
22 shall be let and awarded to the lowest responsible or best value
23 bidder, by open competitive bidding after solicitation for sealed
24 bids, in accordance with the provisions of the Public Competitive

1 Bidding Act of 1974. No work shall be commenced until a written
2 contract is executed and all required bonds and insurance have been
3 provided by the contractor to the awarding public agency.

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

10 C. Except as provided in subsection D of this section, public
11 construction contracts for less than Two Thousand Five Hundred
12 Dollars (\$2,500.00) for minor maintenance or minor repair work may
13 be negotiated with a qualified contractor. 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.

17 D. The provisions of this subsection shall apply to public
18 construction for minor maintenance or minor repair work to public
19 school district property. Such public construction contracts for
20 less than Twenty-five Thousand Dollars (\$25,000.00) may be
21 negotiated with a qualified contractor. Such public construction
22 contracts equal to or greater than Twenty-five Thousand Dollars
23 (\$25,000.00) but less than Fifty Thousand Dollars (\$50,000.00) shall
24 be let and awarded to the lowest responsible or best value bidder by

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

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

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

13 Passed the House of Representatives the 2nd day of March, 2010.

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17 Presiding Officer of the House of
Representatives

18 Passed the Senate the ____ day of _____, 2010.

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22 Presiding Officer of the Senate