

ESB 1606

THE HOUSE OF REPRESENTATIVES  
Wednesday, April 7, 2010

ENGROSSED  
**Senate Bill No. 1606**  
**As Amended**

ENGROSSED SENATE BILL NO. 1606 - By: COATES of the Senate and MCNIEL of the House.

[ public buildings and public works - Public Competitive Bidding Act of 1974 -  
effective date ]

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

1 SECTION 1. AMENDATORY 61 O.S. 2001, Section 113, as last amended by  
2 Section 18, Chapter 271, O.S.L. 2006 (61 O.S. Supp. 2009, Section 113), is amended to  
3 read as follows:  
4 Section 113. A. Except as otherwise provided by law, within the period of time, not  
5 to exceed sixty (60) days, specified in the bid notice by the awarding public agency, a  
6 contract embodying the terms set forth in the bidding documents shall be executed by the  
7 awarding public agency and the successful bidder. No bidder shall obtain any property  
8 right in a contract awarded under the provisions of the Public Competitive Bidding Act of  
9 1974 until the contract has been fully executed by both the bidder and the awarding  
10 public agency.

1 B. Except as otherwise provided by law, within the period of time specified in  
2 subsection A of this section, the following shall be provided by the contractor to the  
3 awarding public agency for contracts exceeding ~~Fifty Thousand Dollars (\$50,000.00)~~ One  
4 Hundred Thousand Dollars (\$100,000.00):

5 1. A bond or irrevocable letter of credit complying with the provisions of Section 1 of  
6 this title;

7 2. A bond in a sum equal to the contract price, with adequate surety, or an  
8 irrevocable letter of credit containing terms prescribed by the Construction and  
9 Properties Division of the Department of Central Services issued by a financial  
10 institution insured by the Federal Deposit Insurance Corporation or the Federal Savings  
11 and Loan Insurance Corporation for the benefit of the state, on behalf of the awarding  
12 public agency, in a sum equal to the contract price, to ensure the proper and prompt  
13 completion of the work in accordance with the provisions of the contract and bidding  
14 documents;

15 3. A bond in a sum equal to the contract price or an irrevocable letter of credit  
16 containing terms as prescribed by the Division issued by a financial institution insured  
17 by the Federal Deposit Insurance Corporation or the Federal Savings and Loan  
18 Insurance Corporation for the benefit of the state, on behalf of the awarding public  
19 agency, in a sum equal to the contract price, to protect the awarding public agency  
20 against defective workmanship and materials for a period of one (1) year after acceptance  
21 of the project; and

1           4. Public liability and workers' compensation insurance during construction in  
2 reasonable amounts. A public agency may require the contractor to name the public  
3 agency and its architects or engineers, or both, as an additional assured under the public  
4 liability insurance, which requirement, if made, shall be specifically set forth in the  
5 bidding documents.

6           C. A single irrevocable letter of credit may be used to satisfy paragraphs 1, 2 and 3  
7 of subsection B of this section, provided such single irrevocable letter of credit meets all  
8 applicable requirements of subsection B of this section.

9           If the contractor needs additional time in which to obtain the bond required  
10 pursuant to subsection B of this section, the contractor may request and the awarding  
11 agency may allow the contractor an additional sixty (60) days in which to obtain the  
12 bond.

13           D. 1. After the award of a contract, but prior to its execution, an awarding public  
14 agency, upon discovery of an administrative error in the award process that would void  
15 an otherwise valid award, may suspend the time of execution of the contract. The agency  
16 may rescind the award and readvertise for bids, or may direct correction of the error and  
17 award the contract to the lowest responsible bidder, whichever shall be in the best  
18 interests of the state.

19           2. If the awarding public agency has a governing body, the agency shall, at the next  
20 regularly scheduled public business meeting of the governing body of the agency, upon  
21 the record, present to the governing body that an error has been made in the award  
22 process and shall state the nature of the error. The governing body, upon presentation of

1 the facts of the error, may rescind the award and readvertise for bids, or may direct  
2 correction of the error and award the contract to the lowest responsible bidder, whichever  
3 shall be in the best interests of the state.

4 E. No public agency shall require for any public construction project, nor shall any  
5 general contractor submit a project bid based on acquiring or participating in, any wrap-  
6 up, wrap-around, or controlled insurance program. For the purposes of this subsection,  
7 “wrap-up, wrap-around, or controlled insurance program” means any insurance program  
8 that has the effect of disabling or rendering inapplicable any workers’ compensation,  
9 commercial general liability, builders’ risk, completed operations, or excess liability  
10 insurance coverage carried by a subcontractor that is engaged or to be engaged on a  
11 public construction project.

12 F. This act shall not apply to the public construction projects of constitutional  
13 agencies which had authorized a wrap-up, wrap-around, or controlled insurance program  
14 on or before April 11, 2000.

15 SECTION 2. This act shall become effective November 1, 2010.

16 COMMITTEE REPORT BY: COMMITTEE ON GOVERNMENT MODERNIZATION,  
17 dated 04-06-10 - DO PASS, As Amended.