

THE STATE SENATE
Wednesday, March 25, 2009

ENGROSSED

House Bill No. 1753

As Amended

ENGROSSED HOUSE BILL NO. 1753 - By: Martin (Scott) of the House and Barrington of the Senate.

An Act relating to public buildings and public works; amending 61 O.S. 2001, Section 121, as last amended by Section 23, Chapter 271, O.S.L. 2006 (61 O.S. Supp. 2008, Section 121), which relates to the Public Competitive Bidding Act of 1974; modifying approval of change orders; and providing an effective date.

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

SECTION 1. AMENDATORY 61 O.S. 2001, Section 121, as last amended by Section 23, Chapter 271, O.S.L. 2006 (61 O.S. Supp. 2008, Section 121), is amended to read as follows:

Section 121. A. Change orders or addenda to public construction contracts of One Million Dollars (\$1,000,000.00) or less shall not exceed a fifteen percent (15%) cumulative increase in the original contract amount.

B. Change orders or addenda to public construction contracts of over One Million Dollars (\$1,000,000.00) shall not exceed the greater of One Hundred Fifty Thousand Dollars (\$150,000.00) or a ten percent (10%) cumulative increase in the original contract amount.

1 C. Change orders or cumulative change orders which exceed the
2 limits of subsection A or B of this section shall require a
3 readvertising for bids on the incomplete portions of the contract.

4 D. If the awarding public agency does not have a governing
5 body, the chief administrative officer of the awarding public agency
6 shall approve change orders. The State Construction Administrator
7 of the Construction and Properties Division of the Department of
8 Central Services, or the administrator's designee, shall sign and
9 execute all contracts and change orders, as they relate to state
10 agencies.

11 E. If the awarding public agency has a governing body, all
12 change orders shall be formally approved by the governing body of
13 the awarding public agency and the reasons for approval recorded in
14 the permanent records of the governing body. The governing body of
15 a municipality may delegate approval of change orders up to **Forty**
16 **Thousand Dollars (\$40,000.00) or ten percent (10%) of any contract**
17 **whichever is less** to the chief administrative officer of the
18 municipality or their designee, with any approved change orders
19 reported to the governing body at the next regularly scheduled
20 meeting.

21 F. The governing body of the Oklahoma Tourism and Recreation
22 Department is authorized, upon approval of a majority of all of the
23 members of the Oklahoma Tourism and Recreation Commission, to

1 delegate to the Director of the agency the authority to approve
2 change orders on a construction contract provided that the
3 individual change order does not exceed Twenty-five Thousand Dollars
4 (\$25,000.00) in expenditure and complies with the limits established
5 by this section. The Administrator of the Division shall sign and
6 execute all contracts and change orders.

7 G. The Transportation Commission may, by rule, authorize the
8 Director of the Department of Transportation to approve change
9 orders in an amount of not to exceed Five Hundred Thousand Dollars
10 (\$500,000.00). Change orders approved by the Director shall be
11 presented to the Transportation Commission during the next regular
12 meeting and the reasons therefor recorded in the permanent records.
13 The Oklahoma Turnpike Authority may authorize the Director of the
14 Authority to approve change orders in an amount not to exceed Two
15 Hundred Fifty Thousand Dollars (\$250,000.00). Change orders
16 approved by the Director of the Authority shall be presented to the
17 Authority during the next regular meeting and the reasons for the
18 orders recorded in permanent records.

19 H. All change orders for the Department of Transportation or
20 the Authority shall contain a unit price and total for each of the
21 following items:

22 1. All materials with cost per item;

1 2. Itemization of all labor with number of hours per operation
2 and cost per hour;

3 3. Itemization of all equipment with the type of equipment,
4 number of each type, cost per hour for each type, and number of
5 hours of actual operation for each type;

6 4. Itemization of insurance cost, bond cost, social security,
7 taxes, workers' compensation, employee fringe benefits and overhead
8 cost; and

9 5. Profit for the contractor.

10 I. 1. If a construction contract contains unit pricing, and
11 the change order pertains to the unit price, the change order will
12 not be subject to subsection A or B of this section.

13 2. When the unit price change does not exceed Ten Thousand
14 Dollars (\$10,000.00), the unit price change order computation may be
15 based on an acceptable unit price basis in lieu of cost itemization
16 as required in paragraphs 1, 2, 3, 4 and 5 of subsection H of this
17 section.

18 J. Alternates or add items bid with the original bid and
19 contained in the awarded contract as options of the awarding public
20 agency shall not be construed as change orders under the provisions
21 of the Public Competitive Bidding Act of 1974.

22 SECTION 2. This act shall become effective November 1, 2009.

23 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT, dated 3-23-09
24 - DO PASS, As Amended.