

3 Senate Bill No. 1606

4 SENATE BILL NO. 1606 - By: Coates of the Senate and McNiel of the
5 House.

6 An Act relating to public buildings and public works;
7 amending 61 O.S. 2001, Section 113, as last amended by
8 Section 18, Chapter 271, O.S.L. 2006 (61 O.S. Supp. 2009,
9 Section 113), which relates to the Public Competitive
10 Bidding act of 1974; modifying certain amount; and providing
11 an effective date.

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

13 SECTION 1. AMENDATORY 61 O.S. 2001, Section 113, as last
14 amended by Section 18, Chapter 271, O.S.L. 2006 (61 O.S. Supp. 2009,
15 Section 113), is amended to read as follows:

16 Section 113. A. Except as otherwise provided by law, within
17 the period of time, not to exceed sixty (60) days, specified in the
18 bid notice by the awarding public agency, a contract embodying the
19 terms set forth in the bidding documents shall be executed by the
20 awarding public agency and the successful bidder. No bidder shall
21 obtain any property right in a contract awarded under the provisions
22 of the Public Competitive Bidding Act of 1974 until the contract has
23 been fully executed by both the bidder and the awarding public
24 agency.

25 B. Except as otherwise provided by law, within the period of
26 time specified in subsection A of this section, the following shall

1 be provided by the contractor to the awarding public agency for
2 contracts exceeding ~~Fifty Thousand Dollars (\$50,000.00)~~ One Hundred
3 Thousand Dollars (\$100,000.00):

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

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

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

1 materials for a period of one (1) year after acceptance of the
2 project; and

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

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

13 If the contractor needs additional time in which to obtain the
14 bond required pursuant to subsection B of this section, the
15 contractor may request and the awarding agency may allow the
16 contractor an additional sixty (60) days in which to obtain the
17 bond.

18 D. 1. After the award of a contract, but prior to its
19 execution, an awarding public agency, upon discovery of an
20 administrative error in the award process that would void an
21 otherwise valid award, may suspend the time of execution of the
22 contract. The agency may rescind the award and readvertise for
23 bids, or may direct correction of the error and award the contract

1 to the lowest responsible bidder, whichever shall be in the best
2 interests of the state.

3 2. If the awarding public agency has a governing body, the
4 agency shall, at the next regularly scheduled public business
5 meeting of the governing body of the agency, upon the record,
6 present to the governing body that an error has been made in the
7 award process and shall state the nature of the error. The
8 governing body, upon presentation of the facts of the error, may
9 rescind the award and readvertise for bids, or may direct correction
10 of the error and award the contract to the lowest responsible
11 bidder, whichever shall be in the best interests of the state.

12 E. No public agency shall require for any public construction
13 project, nor shall any general contractor submit a project bid based
14 on acquiring or participating in, any wrap-up, wrap-around, or
15 controlled insurance program. For the purposes of this subsection,
16 "wrap-up, wrap-around, or controlled insurance program" means any
17 insurance program that has the effect of disabling or rendering
18 inapplicable any workers' compensation, commercial general
19 liability, builders' risk, completed operations, or excess liability
20 insurance coverage carried by a subcontractor that is engaged or to
21 be engaged on a public construction project.

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

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

5 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT, dated 2-15-10
6 - DO PASS, As Coauthored.