

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 185

6 By: Coates

7 COMMITTEE SUBSTITUTE

8 An Act relating to the Public Building Construction
9 and Planning Act; amending 61 O.S. 2001, Section 202,
10 as last amended by Section 27, Chapter 271, O.S.L.
11 2006 (61 O.S. Supp. 2010, Section 202), which relates
12 to definitions; adding definition; authorizing use of
13 Best Value Competitive Proposals; providing for
14 promulgation of rules in awarding certain contracts;
15 providing for codification; 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 202, as last
19 amended by Section 27, Chapter 271, O.S.L. 2006 (61 O.S. Supp. 2010,
20 Section 202), is amended to read as follows:

21 Section 202. As used in the Public Building Construction and
22 Planning Act:

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

1 2. "Best Value" means an optional competitive bidding system
2 which can evaluate and rank competitive performance proposals
3 submitted by bidders on criteria additional to cost, thus
4 identifying the proposal with the greatest value to the government
5 for the lowest cost;

6 3. "Construction" means the process of planning, acquiring,
7 designing, building, equipping, altering, repairing, improving,
8 maintaining, or demolishing any structure or appurtenance thereto
9 including facilities, utilities, or other improvements to any real
10 property but not including highways, bridges, airports, railroads,
11 tunnels, sewers not related to a structure or appurtenance thereto,
12 or dams;

13 ~~3.~~ 4. "Construction administration" means a series of actions
14 required of the State Construction Administrator, of other state
15 agency employees, or, under a construction administration contract
16 or contract provision, to ensure the full, timely, and proper
17 performance of all phases of a construction project by all
18 contractors, suppliers, and other persons having responsibility for
19 project work and any guarantees or warranties pertaining thereto;

20 ~~4.~~ 5. "Construction management" means a project delivery method
21 based on an agreement whereby the owner acquires from a construction
22 entity a series of services that include, but are not necessarily
23 limited to, design review, scheduling, cost control, value
24 engineering, constructability evaluation, preparation and

1 coordination of bid packages, and construction administration;

2 "construction management" includes:

3 a. "agency construction management" whereby the
4 construction entity provides services to the owner
5 without taking on financial risks for the execution of
6 the actual construction, and

7 b. "at-risk construction management" whereby the
8 construction entity, after providing agency services
9 during the pre-construction period, takes on the
10 financial obligation to carry out construction under a
11 specified cost agreement;

12 ~~5.~~ 6. "Consultant" means an individual or legal entity
13 possessing the qualifications to provide licensed architectural,
14 registered engineering, or registered land surveying services or
15 possessing specialized credentials and qualifications as may be
16 needed to plan or design for any construction or public work
17 improvement project;

18 ~~6.~~ 7. "Design-build" means a project delivery method whereby
19 this state acquires both design and construction services in the
20 same contract from a single legal entity, referred to as the design-
21 builder, without the bid component of the traditional design-bid-
22 build process;

23 ~~7.~~ 8. "Department" means the Department of Central Services;

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1 ~~8.~~ 9. "Director" means the Director of the Department of
2 Central Services;

3 ~~9.~~ 10. "Division" means the Construction and Properties
4 Division of the Department of Central Services;

5 ~~10.~~ 11. "Energy performance index or indices" (EPI) means a
6 number describing the energy requirements at the building boundary
7 of a structure, per square foot of floor space or per cubic foot of
8 occupied volume, as appropriate under defined internal and external
9 ambient conditions over an entire seasonal cycle. As experience
10 develops on the energy performance achieved with state construction,
11 the indices (EPI) will serve as a measure of structure performance
12 with respect to energy consumption;

13 ~~11.~~ 12. "Life cycle costs" means the cost of owning, operating,
14 and maintaining the structure over the life of the structure. This
15 may be expressed as an annual cost for each year of the facility's
16 use;

17 ~~12.~~ 13. "Procurement" means buying, purchasing, renting,
18 leasing, or otherwise acquiring or disposing of supplies, services,
19 or construction;

20 ~~13.~~ 14. "Public improvement" means any beneficial or valuable
21 change or addition, betterment, enhancement or amelioration of or
22 upon any real property, or interest therein, belonging to a public
23 agency, intended to enhance its value, beauty or utility or to adapt
24 it to new or further purposes. The term does not include the direct

1 purchase of materials, provided that the materials are not purchased
2 in increments for an amount of less than Twenty-five Thousand
3 Dollars (\$25,000.00) and used for the purposes of completing a
4 single project, equipment or supplies by a public agency, or any
5 personal property as defined in paragraphs 1 and 4 of subsection B
6 of Section 430.1 of Title 62 of the Oklahoma Statutes;

7 ~~14.~~ 15. "Shared savings financing" means the financing of
8 energy conservation measures and maintenance services through a
9 private firm which may own any purchased equipment for the duration
10 of a contract. Such contract shall specify that the private firm
11 will be recompensed either out of a negotiated portion of the
12 savings resulting from the conservation measures and maintenance
13 services provided by the private firm or, in the case of a
14 cogeneration project, through the payment of a rate for energy lower
15 than would otherwise have been paid for the same energy from current
16 sources; and

17 ~~15.~~ 16. "State agency" means an agency, board, commission,
18 counsel, court, office, officer, bureau, institution, unit,
19 division, body, or house of the executive or judicial branches of
20 government of this state, whether elected or appointed, excluding
21 only political subdivisions.

22 SECTION 2. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 202.2 of Title 61, unless there
24 is created a duplication in numbering, reads as follows:

1 A. The Construction and Properties Division of the Department
2 of Central Services may award contracts using Best Value Competitive
3 Proposals.

4 B. Other awarding public agencies and political subdivisions of
5 the state may use Best Value as a basis for contract awards when
6 authorized by the State Construction Administrator.

7 C. The Department of Central Services shall, pursuant to the
8 Administrative Procedures Act, promulgate rules to effect procedures
9 as necessary for the fulfillment of its responsibilities under this
10 section.

11 SECTION 3. This act shall become effective November 1, 2011.

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