

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL NO. 127

By: Ellis of the Senate

and

Ritze of the House

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9 COMMITTEE SUBSTITUTE

10 An Act relating to the Public Competitive Bidding Act
11 of 1974; amending 61 O.S. 2001, Sections 102, as last
12 amended by Section 2, Chapter 257, O.S.L. 2009 and
13 122 (61 O.S. Supp. 2010, Section 102), which relate
14 to definitions and taxpayer suits; modifying certain
15 definition; modifying certain time limitation; and
16 providing an effective date.

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

18 SECTION 1. AMENDATORY 61 O.S. 2001, Section 102, as last
19 amended by Section 2, Chapter 257, O.S.L. 2009 (61 O.S. Supp. 2010,
20 Section 102), is amended to read as follows:

21 Section 102. As used in the Public Competitive Bidding Act of
22 1974:

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

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

7 3. "Bidding documents" means the bid notice, instruction to
8 bidders, plans and specifications, bidding form, bidding
9 instructions, general conditions, special conditions and all other
10 written instruments prepared by or on behalf of an awarding public
11 agency for use by prospective bidders on a public construction
12 contract;

13 4. "Chief administrative officer" means an individual
14 responsible for directing the administration of a public agency.
15 The term does not mean one or all of the individuals that make
16 policy for a public agency;

17 5. "Public agency" means the State of Oklahoma, and any county,
18 city, town, school district or other political subdivision of the
19 state, any public trust, any public entity specifically created by
20 the statutes of the State of Oklahoma or as a result of statutory
21 authorization therefor, and any department, agency, board, bureau,
22 commission, committee or authority of any of the foregoing public
23 entities;

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1 6. "Public construction contract" or "contract" means any
2 contract, exceeding Fifty Thousand Dollars (\$50,000.00) in amount,
3 awarded by any public agency for the purpose of making any public
4 improvements or constructing any public building or making repairs
5 to or performing maintenance on the same except where the
6 improvements, construction of any building or repairs to the same
7 are improvements or buildings leased to a person or other legal
8 entity exclusively for private and not for public use and no public
9 tax revenues shall be expended on or for the contract unless the
10 public tax revenues used for the project are authorized by a
11 majority of the voters of the applicable public agency voting at an
12 election held for that purpose and the public tax revenues do not
13 exceed twenty-five percent (25%) of the total project cost. The
14 amount of public tax dollars committed to the project will not
15 exceed a fixed amount established by resolution of the governing
16 body prior to or concurrent with approval of the project. "Public
17 construction contract" or "contract" also means any contract
18 exceeding Fifty Thousand Dollars (\$50,000.00) in amount, for the
19 construction or improvement of a road or bridge which is utilized by
20 the general public, is funded with public funds or tolls paid by
21 members of the public and which is located on property or easement
22 rights owned by a public agency;

23 7. "Public improvement" means any beneficial or valuable change
24 or addition, betterment, enhancement or amelioration of or upon any

1 real property, or interest therein, belonging to a public agency,
2 intended to enhance its value, beauty or utility or to adapt it to
3 new or further purposes. The term does not include the direct
4 purchase of materials, equipment or supplies by a public agency, or
5 any personal property, including property as defined in paragraphs 1
6 and 4 of subsection B of Section 430.1 of Title 62 of the Oklahoma
7 Statutes; and

8 8. "Retainage" means the difference between the amount earned
9 by the contractor on a public construction contract, with the work
10 being accepted by the public agency, and the amount paid on said
11 contract by the public agency.

12 SECTION 2. AMENDATORY 61 O.S. 2001, Section 122, is
13 amended to read as follows:

14 Section 122. Any taxpayer of the State of Oklahoma, or any bona
15 fide unsuccessful bidder on a particular public construction
16 contract, within ~~ten (10)~~ fifteen (15) business days after any such
17 contract has been executed, is empowered to bring suit in the
18 district court of the county where the work, or the major part of
19 it, is to be done to enjoin the performance of such contract if
20 entered into in violation of the provisions of this act.

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

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