

1 ENGROSSED SENATE  
2 BILL NO. 426

By: Brown of the Senate

and

Thomsen of the House

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7 An Act relating to the Public Competitive Bidding Act  
8 of 1974; amending 61 O.S. 2001, Section 121, as last  
9 amended by Section 3, Chapter 257, O.S.L. 2009 (61  
10 O.S. Supp. 2010, Section 121), which relates to  
11 change orders or addenda to public contracts;  
12 modifying approval requirements for certain change  
13 orders; and providing an effective date.

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

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SECTION 1. AMENDATORY 61 O.S. 2001, Section 121, as last

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amended by Section 3, Chapter 257, O.S.L. 2009 (61 O.S. Supp. 2010,

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Section 121), is amended to read as follows:

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Section 121. A. Change orders or addenda to public

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construction contracts of One Million Dollars (\$1,000,000.00) or

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less shall not exceed a fifteen percent (15%) cumulative increase in

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the original contract amount.

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B. Change orders or addenda to public construction contracts of

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over One Million Dollars (\$1,000,000.00) shall not exceed the

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greater of One Hundred Fifty Thousand Dollars (\$150,000.00) or a ten

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percent (10%) cumulative increase in the original contract amount.

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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 or technology center may delegate approval of change  
16 orders up to Forty Thousand Dollars (\$40,000.00) or ten percent  
17 (10%) of any contract, whichever is less, to the chief  
18 administrative officer of the municipality or technology center or  
19 their designee, with any approved change orders reported to the  
20 governing body at the next regularly scheduled 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  
24 delegate to the Director of the agency the authority to approve

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

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

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

- 21 1. All materials with cost per item;
- 22 2. Itemization of all labor with number of hours per operation  
23 and cost per hour;

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

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

7        5. Profit for the contractor.

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

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

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

20        SECTION 2. This act shall become effective November 1, 2011.

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1 Passed the Senate the 28th day of February, 2011.

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4 Presiding Officer of the Senate

5 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
6 2011.

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9 Presiding Officer of the House  
10 of Representatives