

1 **SENATE FLOOR VERSION**

2 February 28, 2011

3 COMMITTEE SUBSTITUTE
4 FOR
5 SENATE BILL NO. 185

By: Coates of the Senate

and

Liebmann of the House

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7
8 [Public Building Construction and Planning Act -
9 authorizing use of Best Value Competitive Proposals -
10 codification - effective date]

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

13 SECTION 1. AMENDATORY 61 O.S. 2001, Section 202, as last
14 amended by Section 27, Chapter 271, O.S.L. 2006 (61 O.S. Supp. 2010,
15 Section 202), is amended to read as follows:

16 Section 202. As used in the Public Building Construction and
17 Planning Act:

18 1. "Administrator" means the State Construction Administrator
19 of the Construction and Properties Division of the Department of
20 Central Services;

21 2. "Best Value" means an optional competitive bidding system
22 which can evaluate and rank competitive performance proposals
23 submitted by bidders on criteria additional to cost, thus

1 identifying the proposal with the greatest value to the government
2 for the lowest cost;

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

10 ~~3.~~ 4. "Construction administration" means a series of actions
11 required of the State Construction Administrator, of other state
12 agency employees, or, under a construction administration contract
13 or contract provision, to ensure the full, timely, and proper
14 performance of all phases of a construction project by all
15 contractors, suppliers, and other persons having responsibility for
16 project work and any guarantees or warranties pertaining thereto;

17 ~~4.~~ 5. "Construction management" means a project delivery method
18 based on an agreement whereby the owner acquires from a construction
19 entity a series of services that include, but are not necessarily
20 limited to, design review, scheduling, cost control, value
21 engineering, constructability evaluation, preparation and
22 coordination of bid packages, and construction administration;
23 "construction management" includes:

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

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

10 ~~5.~~ 6. "Consultant" means an individual or legal entity
11 possessing the qualifications to provide licensed architectural,
12 registered engineering, or registered land surveying services or
13 possessing specialized credentials and qualifications as may be
14 needed to plan or design for any construction or public work
15 improvement project;

16 ~~6.~~ 7. "Design-build" means a project delivery method whereby
17 this state acquires both design and construction services in the
18 same contract from a single legal entity, referred to as the design-
19 builder, without the bid component of the traditional design-bid-
20 build process;

21 ~~7.~~ 8. "Department" means the Department of Central Services;

22 ~~8.~~ 9. "Director" means the Director of the Department of
23 Central Services;

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1 ~~9.~~ 10. "Division" means the Construction and Properties
2 Division of the Department of Central Services;

3 ~~10.~~ 11. "Energy performance index or indices" (EPI) means a
4 number describing the energy requirements at the building boundary
5 of a structure, per square foot of floor space or per cubic foot of
6 occupied volume, as appropriate under defined internal and external
7 ambient conditions over an entire seasonal cycle. As experience
8 develops on the energy performance achieved with state construction,
9 the indices (EPI) will serve as a measure of structure performance
10 with respect to energy consumption;

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

15 ~~12.~~ 13. "Procurement" means buying, purchasing, renting,
16 leasing, or otherwise acquiring or disposing of supplies, services,
17 or construction;

18 ~~13.~~ 14. "Public improvement" means any beneficial or valuable
19 change or addition, betterment, enhancement or amelioration of or
20 upon any real property, or interest therein, belonging to a public
21 agency, intended to enhance its value, beauty or utility or to adapt
22 it to new or further purposes. The term does not include the direct
23 purchase of materials, provided that the materials are not purchased
24 in increments for an amount of less than Twenty-five Thousand

1 Dollars (\$25,000.00) and used for the purposes of completing a
2 single project, equipment or supplies by a public agency, or any
3 personal property as defined in paragraphs 1 and 4 of subsection B
4 of Section 430.1 of Title 62 of the Oklahoma Statutes;

5 ~~14.~~ 15. "Shared savings financing" means the financing of
6 energy conservation measures and maintenance services through a
7 private firm which may own any purchased equipment for the duration
8 of a contract. Such contract shall specify that the private firm
9 will be recompensed either out of a negotiated portion of the
10 savings resulting from the conservation measures and maintenance
11 services provided by the private firm or, in the case of a
12 cogeneration project, through the payment of a rate for energy lower
13 than would otherwise have been paid for the same energy from current
14 sources; and

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

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

12 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT, dated 2-21-11
13 - DO PASS, As Amended and Coauthored.

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