

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 SENATE BILL 1052

By: Coates

4
5 AS INTRODUCED

6 An Act relating to public buildings; amending 61 O.S.
7 2011, Section 202, which relates to the Public
8 Building Construction and Planning Act; defining
9 terms; modifying requirements for master planning
10 process; authorizing fees for planning and real
11 estate related services; providing for calculation of
12 annual fees; and declaring an emergency.

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

14 SECTION 1. AMENDATORY 61 O.S. 2011, Section 202, is
15 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. "Annual capital plan" means the collective facility capital
22 improvements and real property transactions approved by the
23 Legislature relative to construction and real estate services;

24 3. "Capital planning and asset management" means the processes
delegated to the Construction and Properties Division for data

1 acquisition, data analysis and determination of capital construction
2 projects, disposition of real property and leasing of facility
3 space;

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

11 ~~3.~~ 5. "Construction administration" means a series of actions
12 required of the State Construction Administrator, of other state
13 agency employees, or, under a construction administration contract
14 or contract provision, to ensure the full, timely, and proper
15 performance of all phases of a construction project by all
16 contractors, suppliers, and other persons having responsibility for
17 project work and any guarantees or warranties pertaining thereto;

18 ~~4.~~ 6. "Construction management" means a project delivery method
19 based on an agreement whereby the owner acquires from a construction
20 entity a series of services that include, but are not necessarily
21 limited to, design review, scheduling, cost control, value
22 engineering, constructability evaluation, preparation and
23 coordination of bid packages, and construction administration;
24 "construction management" includes:

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.~~ 7. "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.~~ 8. "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.~~ 9. "Department" means the Department of Central Services;

22 ~~8.~~ 10. "Director" means the Director of the Department of
23 Central Services;

1 ~~9.~~ 11. "Division" means the Construction and Properties
2 Division of the Department of Central Services;

3 ~~10.~~ 12. "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.~~ 13. "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.~~ 14. "Procurement" means buying, purchasing, renting,
16 leasing, or otherwise acquiring or disposing of supplies, services,
17 or construction;

18 ~~13.~~ 15. "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.~~ 16. "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.~~ 17. "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. AMENDATORY 61 O.S. 2011, Section 204, is
21 amended to read as follows:

22 Section 204. A. The Construction and Properties Division of
23 the Department of Central Services shall:
24

1 1. Maintain a comprehensive master plan for utilization and
2 construction of buildings for state agencies, capital improvements,
3 and utilization of land owned by this state. Requirements of the
4 master planning process shall include:

- 5 a. reporting by each state agency concerning facility
6 needs,
- 7 b. data acquisition of condition and performance
8 benchmarking of state agency facilities,
- 9 c. analysis and audits of state agency facilities,
10 properties and leaseholds to determine critical and
11 long-range needs,
- 12 d. development of state agency long-range strategic
13 facility plans,
- 14 e. short-range project programming to identify budget
15 requests for facility capital improvements and asset
16 management decisions, and
- 17 f. an annual capital plan for all state agencies
18 submitted to the Legislature for line-item
19 appropriation requests;

20 2. Review and approve all construction plans and specifications
21 to ensure compliance with good construction practices and space
22 standards, costs of project, proposed construction timetables, and
23 agency need for the project, except as otherwise provided in
24 subsection B of this section;

1 3. Inspect prior to acceptance and final payment all completed
2 projects for which the Division issued bid solicitations to ensure
3 compliance with the plans and specifications of the project;

4 4. Provide assistance to state agencies when a state agency
5 desires to hire a consultant or construction manager for a project.
6 Except as provided by subsection B of this section, the Division
7 shall award and execute contracts to consultants and construction
8 managers that provide services to state agencies for construction
9 projects;

10 5. Develop and issue solicitations for award of state agency
11 contracts for construction. The Division shall have final approval
12 authority for contracts and contract documents. Neither the
13 Division nor any state agency shall, for performance of work that
14 requires that a contractor be licensed by this state, issue a
15 solicitation to, or make a contract with, a contractor not licensed
16 by this state;

17 6. Review inspections performed by consultants and construction
18 managers during construction, primary inspections when consultants
19 or construction managers are not used, and final inspections after
20 completion;

21 7. Recommend standards, including, but not limited to, building
22 codes, space utilization, material testing, indexes of efficiency,
23 economy, and effectiveness, pursuant to rules the Director
24 promulgates;

1 8. Monitor construction projects to ensure maximum efficiency
2 in the expenditure of state funds for construction;

3 9. Report fraud or waste in any construction project by written
4 notification with documentation for the report to the Attorney
5 General. The Attorney General shall take appropriate action to
6 protect the interest of the state; and

7 10. Prequalify as good and sufficient insurance carriers,
8 bonding companies and surety companies to meet provisions of
9 Sections 1 and 134 of this title. The Director shall promulgate
10 rules to establish criteria to determine whether a carrier or
11 company is good and sufficient. The prequalification requirement
12 and process shall not violate the provisions of Section 135 of this
13 title.

14 B. When a state agency has a licensed architect or licensed
15 engineer, as a full-time employee, to review construction plans and
16 specifications, the review and approval of all construction plans
17 and specifications required pursuant to paragraph 2 of subsection A
18 of this section shall not apply to:

19 1. The common schools subject to the jurisdiction of the State
20 Department of Education;

21 2. The Department of Transportation with respect to highways,
22 bridges and dams;

23 3. The Oklahoma State System of Higher Education;

24 4. The Military Department of the State of Oklahoma;

- 1 5. The Oklahoma Tourism and Recreation Department; and
2 6. The Department of Human Services.

3 SECTION 3. AMENDATORY 61 O.S. 2011, Section 208.1, is
4 amended to read as follows:

5 Section 208.1. The Construction and Properties Division of the
6 Department of Central Services may collect a reasonable fee for the
7 purpose of providing or contracting for architectural, engineering,
8 ~~and~~ land surveying, planning, real estate and related services to
9 state agencies and political subdivisions of the state, and from
10 persons requesting plans and notification of solicitations issued by
11 the Division. The Division may collect a reasonable fee for
12 ~~contract management for a construction project~~ services. Annual
13 fees to the Division may be calculated as a percentage of annual
14 construction and real estate services in an amount necessary to
15 support Division operation as designated in the annual capital plan.
16 All fees collected in accordance with the provisions of this section
17 shall be deposited in the "State Construction Revolving Fund"
18 created in Section 208.2 of this title.

19 SECTION 4. It being immediately necessary for the preservation
20 of the public peace, health and safety, an emergency is hereby
21 declared to exist, by reason whereof this act shall take effect and
22 be in full force from and after its passage and approval.

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