

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 1719 By: Jolley of the Senate
3 and
4 Echols of the House
5
6

7 An Act relating to sole source purchase contracts;
8 amending 74 O.S. 2011, Section 85.22, as amended by
9 Section 1, Chapter 219, O.S.L. 2013 and Section 2,
10 Chapter 219, O.S.L. 2013 (74 O.S. Supp. 2013,
11 Sections 85.22 and 85.45j.1), which relate to public
12 contracts; modifying requirements for certain
13 statements; modifying requirements for substitution
14 of certain items relating to sole source contracts;
15 and declaring an emergency.

16 AMENDMENT NO. 1. Strike the title, enacting clause and entire bill
17 and insert

18 "An Act relating to sole-source purchase contracts;
19 amending 74 O.S. 2011, Section 85.22, as amended by
20 Section 1, Chapter 219, O.S.L. 2013 and Section 2,
21 Chapter 219, O.S.L. 2013 (74 O.S. Supp. 2013,
22 Sections 85.22 and 85.45j.1), which relate to public
23 contracts; modifying requirements for certain
24 statements; and modifying requirements for
substitution of certain items relating to sole-
source contracts.

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

1 SECTION 1. AMENDATORY 74 O.S. 2011, Section 85.22, as
2 amended by Section 1, Chapter 219, O.S.L. 2013 (74 O.S. Supp. 2013,
3 Section 85.22), is amended to read as follows:

4 Section 85.22 Any competitive bid submitted to the State of
5 Oklahoma or contract executed by the state for goods or services in
6 excess of Five Thousand Dollars (\$5,000.00) shall contain a
7 certification, which shall be in substantially the following form:

8 A. For purposes of competitive bids, I certify:

9 1. I am the duly authorized agent of _____, the bidder
10 submitting the competitive bid which is attached to this statement,
11 for the purpose of certifying the facts pertaining to the existence
12 of collusion among bidders and between bidders and state officials
13 or employees, as well as facts pertaining to the giving or offering
14 of things of value to government personnel in return for special
15 consideration in the letting of any contract pursuant to the bid to
16 which this statement is attached;

17 2. I am fully aware of the facts and circumstances surrounding
18 the making of the bid to which this statement is attached and have
19 been personally and directly involved in the proceedings leading to
20 the submission of such bid; and

21 3. Neither the bidder nor anyone subject to the bidder's
22 direction or control has been a party:
23
24

- 1 a. to any collusion among bidders in restraint of freedom
2 of competition by agreement to bid at a fixed price or
3 to refrain from bidding,
4 b. to any collusion with any state official or employee
5 as to quantity, quality or price in the prospective
6 contract, or as to any other terms of such prospective
7 contract,
8 c. in any discussions between bidders and any state
9 official concerning exchange of money or other thing
10 of value for special consideration in the letting of a
11 contract, nor
12 d. to any ~~efforts or offers~~ collusion with any state
13 agency or political subdivision ~~officials~~ official or
14 ~~others~~ employee as to create a ~~sole brand acquisition~~
15 ~~or a sole-source~~ acquisition in contradiction to
16 Section ~~2~~ 85.45j.1 of this ~~act~~ title.

17 B. I certify, if awarded the contract, whether competitively
18 bid or not, neither the contractor nor anyone subject to the
19 contractor's direction or control has paid, given or donated or
20 agreed to pay, give or donate to any officer or employee of the
21 State of Oklahoma any money or other thing of value, either directly
22 or indirectly, in procuring the contract to which this statement is
23 attached.

24 Certified this _____ day of _____ 20__.

1 SECTION 2. AMENDATORY Section 2, Chapter 219, O.S.L.
2 2013 (74 O.S. Supp. 2013, Section 85.45j.1), is amended to read as
3 follows:

4 Section 85.45j.1 A. Notwithstanding any other provision of law
5 or agency rule to the contrary, any bid submissions received by a
6 state agency or any political subdivision pursuant to authorized
7 sole-source bidding procedures established by the provisions of
8 Section 85.45j of ~~Title 74 of the Oklahoma Statutes~~ this title,
9 which substitute an item with one that is ~~alike~~ substantially
10 equivalent in quality, performance and design or which meets the
11 required specifications of the bid shall be considered ~~and shall not~~
12 ~~be prohibited. In terms of public construction contracts, with~~
13 ~~exception of specific products submitted and approved prior to~~
14 ~~release for bidding by the Oklahoma Attorney General for matching~~
15 ~~preexisting materials, at least three equivalent items from more~~
16 ~~than one manufacturer and more than one supplier or representative~~
17 ~~shall be included in the required specifications,~~ but only when the
18 cost is less.

19 B. In addition, no sole-source bid proposal shall require any
20 limitation that materials must be supplied from a vendor within any
21 specific geographical area. Geographic preference for vendors
22 inside the geographical boundaries may be given, but only when the
23 cost is the same or less."

24

1 ENGROSSED SENATE
2 BILL NO. 1719

By: Jolley of the Senate

3 and

4 Echols of the House

5
6 An Act relating to sole source purchase contracts;
7 amending 74 O.S. 2011, Section 85.22, as amended by
8 Section 1, Chapter 219, O.S.L. 2013 and Section 2,
9 Chapter 219, O.S.L. 2013 (74 O.S. Supp. 2013,
10 Sections 85.22 and 85.45j.1), which relate to public
11 contracts; modifying requirements for certain
12 statements; modifying requirements for substitution
of certain items relating to sole source contracts;
and declaring an emergency.

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

14 SECTION 3. AMENDATORY 74 O.S. 2011, Section 85.22, as
15 amended by Section 1, Chapter 219, O.S.L. 2013 (74 O.S. Supp. 2013,
16 Section 85.22), is amended to read as follows:

17 Section 85.22. Any competitive bid submitted to the State of
18 Oklahoma or contract executed by the state for goods or services in
19 excess of Five Thousand Dollars (\$5,000.00) shall contain a
20 certification, which shall be in substantially the following form:

21 A. For purposes of competitive bids, I certify:

22 1. I am the duly authorized agent of _____, the bidder
23 submitting the competitive bid which is attached to this statement,
24 for the purpose of certifying the facts pertaining to the existence

1 of collusion among bidders and between bidders and state officials
2 or employees, as well as facts pertaining to the giving or offering
3 of things of value to government personnel in return for special
4 consideration in the letting of any contract pursuant to the bid to
5 which this statement is attached;

6 2. I am fully aware of the facts and circumstances surrounding
7 the making of the bid to which this statement is attached and have
8 been personally and directly involved in the proceedings leading to
9 the submission of such bid; and

10 3. Neither the bidder nor anyone subject to the bidder's
11 direction or control has been a party:

12 a. to any collusion among bidders in restraint of freedom
13 of competition by agreement to bid at a fixed price or
14 to refrain from bidding,

15 b. to any collusion with any state official or employee
16 as to quantity, quality or price in the prospective
17 contract, or as to any other terms of such prospective
18 contract, nor

19 c. in any discussions between bidders and any state
20 official concerning exchange of money or other thing
21 of value for special consideration in the letting of a
22 contract, ~~nor~~

23 ~~d. to any efforts or offers with state agency or~~
24 ~~political subdivision officials or others to create a~~

1 ~~sole brand acquisition or a sole source acquisition in~~
2 ~~contradiction to Section 2 of this act.~~

3 B. I certify, if awarded the contract, whether competitively
4 bid or not, neither the contractor nor anyone subject to the
5 contractor's direction or control has paid, given or donated or
6 agreed to pay, give or donate to any officer or employee of the
7 State of Oklahoma any money or other thing of value, either directly
8 or indirectly, in procuring the contract to which this statement is
9 attached.

10 Certified this _____ day of _____ 20__.

11 SECTION 4. AMENDATORY Section 2, Chapter 219, O.S.L.
12 2013 (74 O.S. Supp. 2013, Section 85.45j.1), is amended to read as
13 follows:

14 Section 85.45j.1. A. Notwithstanding any other provision of
15 law or agency rule to the contrary, any bid submissions received by
16 a state agency or any political subdivision pursuant to authorized
17 sole source bidding procedures established by the provisions of
18 Section 85.45j of Title 74 of the Oklahoma Statutes, which
19 substitute an item with one that is ~~alike~~ substantially equivalent
20 in quality, performance and design or which meets the required
21 specifications of the bid shall be considered ~~and shall not be~~
22 ~~prohibited. In terms of public construction contracts, with~~
23 ~~exception of specific products submitted and approved prior to~~
24 ~~release for bidding by the Oklahoma Attorney General for matching~~

1 ~~preexisting materials, at least three equivalent items from more~~
2 ~~than one manufacturer and more than one supplier or representative~~
3 ~~shall be included in the required specifications, but only when the~~
4 cost is less.

5 B. In addition, no sole source bid proposal shall require any
6 limitation that materials must be supplied from a vendor within any
7 specific geographical area. Geographic preference for vendors
8 inside the geographical boundaries may be given, but only when the
9 cost is the same or less.

10 SECTION 5. It being immediately necessary for the preservation
11 of the public peace, health and safety, an emergency is hereby
12 declared to exist, by reason whereof this act shall take effect and
13 be in full force from and after its passage and approval.

14 Passed the Senate the 6th day of March, 2014.

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16 _____
17 Presiding Officer of the Senate

18 Passed the House of Representatives the ____ day of _____,
19 2014.

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21 _____
22 Presiding Officer of the House
23 of Representatives
24