

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 HOUSE BILL 1669

By: Morrissette

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6 AS INTRODUCED

7 An Act relating to the Department of Transportation;  
8 defining terms; allowing use of design-build methods;  
9 requiring approval of Director; requiring projects  
10 meet certain criteria; addressing application of  
11 certain competitive bidding provisions; prohibiting  
12 application to certain projects; providing for the  
13 promulgation of rules; providing for codification;  
14 and providing an effective date.

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

16 SECTION 1. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 306.3 of Title 69, unless there  
18 is created a duplication in numbering, reads as follows:

19 Section 306.3 A. As used in this section:

20 1. "Construction" means the process of planning, acquiring,  
21 designing, building, equipping, altering, repairing, improving,  
22 maintaining, or demolishing any roads, highways, bridges, railroads,  
23 or tunnels or appurtenance thereto including facilities, utilities,  
24 or other improvements to any real property;

1       2. "Construction administration" means a series of actions  
2 required to ensure the full, timely, and proper performance of all  
3 phases of a construction project by all contractors, suppliers, and  
4 other persons having responsibility for project work and any  
5 guarantees or warranties pertaining thereto;

6       3. "Construction management" means a project delivery method  
7 based on an agreement whereby the Department acquires from a  
8 construction entity a series of services that include, but are not  
9 necessarily limited to, design review, scheduling, cost control,  
10 value engineering, constructability evaluation, preparation and  
11 coordination of bid packages, and construction administration;

12 "construction management" includes:

13       a. "agency construction management" whereby the  
14 construction entity provides services to the  
15 Department without taking on financial risks for the  
16 execution of the actual construction, and

17       b. "at-risk construction management" whereby the  
18 construction entity, after providing agency services  
19 during the preconstruction period, takes on the  
20 financial obligation to carry out construction under a  
21 specified cost agreement;

22       4. "Department" means the Department of Transportation;

23       5. "Design-build" means a project delivery method whereby the  
24 Department acquires both design and construction services in the

1 same contract from a single legal entity, referred to as the design-  
2 builder, without the bid component of the traditional design-bid-  
3 build process; and

4 6. "Director" means the Director of the Department of  
5 Transportation.

6 B. The Department of Transportation may use design-build and  
7 construction management project delivery methods with the written  
8 approval of the Director of the Department, or the designee of the  
9 Director. In all instances where the design-build project method is  
10 authorized, construction administration shall be performed by the  
11 Department, the designee or designees of the Director, or otherwise  
12 by contract or contract provision approved by the Director for  
13 construction administration by another party.

14 C. The design-build and construction management project  
15 delivery methods shall not be used for any project unless the  
16 project meets the criteria established by the administrative rules  
17 promulgated as required by this section and the following criteria  
18 are met:

- 19 1. The project benefits the public; and
- 20 2. There is a need for cost control.

21 D. The use of design-build and construction management project  
22 delivery methods shall not interfere or inhibit the opportunity for  
23 subcontractors to openly and freely compete for subcontracts  
24 pursuant to the Public Competitive Bidding Act of 1974.

1 E. The provisions of subsections B and C of this section shall  
2 not apply to projects by contract pursuant to an interagency  
3 agreement under Section 581 of Title 74 of the Oklahoma Statutes or  
4 to projects a state agency performs solely with the staff of the  
5 agency.

6 F. The Department shall, pursuant to the Administrative  
7 Procedures Act, promulgate any rules to effect procedures, processes  
8 and design-build and construction management fee guidelines  
9 necessary to the fulfillment of its responsibilities under this  
10 section.

11 SECTION 2. This act shall become effective November 1, 2013.

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