

STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

COMMITTEE SUBSTITUTE
FOR

HOUSE BILL NO. 3409

By: Watson

COMMITTEE SUBSTITUTE

An Act relating to public buildings and public works;
amending 61 O.S. 2011, Section 113, as last amended
by Section 1, Chapter 93, O.S.L. 2017 (61 O.S. Supp.
2017, Section 113), which relates to the Public
Competitive Bidding Act of 1974; modifying
information to be provided by contractor; and
providing an effective date.

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

SECTION 1. AMENDATORY 61 O.S. 2011, Section 113, as last
amended by Section 1, Chapter 93, O.S.L. 2017 (61 O.S. Supp. 2017,
Section 113), is amended to read as follows:

Section 113. A. Except as otherwise provided by law, within
the period of time, not to exceed sixty (60) days, specified in the
bid notice by the awarding public agency, a contract embodying the
terms set forth in the bidding documents shall be executed by the
awarding public agency and the successful bidder. No bidder shall
obtain any property right in a contract awarded under the provisions
of the Public Competitive Bidding Act of 1974 until the contract has

1 been fully executed by both the bidder and the awarding public
2 agency.

3 B. Except as otherwise provided by law, within the period of
4 time specified in subsection A of this section, the following shall
5 be provided by the contractor to the awarding public agency for
6 contracts exceeding Fifty Thousand Dollars (\$50,000.00):

7 1. A bond or irrevocable letter of credit complying with the
8 provisions of Section 1 of this title;

9 2. A bond in a sum equal to the contract price, with adequate
10 surety, or an irrevocable letter of credit containing terms
11 prescribed by the Construction and Properties Division of the Office
12 of Management and Enterprise Services issued by a financial
13 institution insured by the Federal Deposit Insurance Corporation or
14 the Federal Savings and Loan Insurance Corporation for the benefit
15 of the state, on behalf of the awarding public agency, in a sum
16 equal to the contract price, to ensure the proper and prompt
17 completion of the work in accordance with the provisions of the
18 contract and bidding documents;

19 3. A bond in a sum equal to the contract price or an
20 irrevocable letter of credit containing terms as prescribed by the
21 Division issued by a financial institution insured by the Federal
22 Deposit Insurance Corporation or the Federal Savings and Loan
23 Insurance Corporation for the benefit of the state, on behalf of the
24 awarding public agency, in a sum equal to the contract price, to

1 protect the awarding public agency against failures as a result of
2 expected usage, weather conditions, defective or inadequate
3 workmanship and materials for a period of ~~one (1) year~~ up to five
4 (5) years as determined by the awarding public agency after
5 acceptance of the project, except when the awarding public agency is
6 the Department of Transportation or the Oklahoma Turnpike Authority,
7 in such case the period shall be for one (1) year after project
8 completion; and

9 4. Public liability and workers' compensation insurance during
10 construction in reasonable amounts. A public agency may require the
11 contractor to name the public agency and its architects or
12 engineers, or both, as an additional assured under the public
13 liability insurance, which requirement, if made, shall be
14 specifically set forth in the bidding documents.

15 C. A single irrevocable letter of credit may be used to satisfy
16 paragraphs 1, 2 and 3 of subsection B of this section, provided such
17 single irrevocable letter of credit meets all applicable
18 requirements of subsection B of this section.

19 If the contractor needs additional time in which to obtain the
20 bond required pursuant to subsection B of this section, the
21 contractor may request and the awarding agency may allow the
22 contractor an additional sixty (60) days in which to obtain the
23 bond.
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1 D. 1. After the award of a contract, but prior to its
2 execution, an awarding public agency, upon discovery of an
3 administrative error in the award process that would void an
4 otherwise valid award, may suspend the time of execution of the
5 contract. The agency may rescind the award and readvertise for
6 bids, or may direct correction of the error and award the contract
7 to the lowest responsible bidder, whichever shall be in the best
8 interests of the state.

9 2. If the awarding public agency has a governing body, the
10 agency shall, at the next regularly scheduled public business
11 meeting of the governing body of the agency, upon the record,
12 present to the governing body that an error has been made in the
13 award process and shall state the nature of the error. The
14 governing body, upon presentation of the facts of the error, may
15 rescind the award and readvertise for bids, or may direct correction
16 of the error and award the contract to the lowest responsible
17 bidder, whichever shall be in the best interests of the state.

18 E. No public agency shall require for any public construction
19 project, nor shall any general contractor submit a project bid based
20 on acquiring or participating in, any wrap-up, wrap-around, or
21 controlled insurance program. For the purposes of this subsection,
22 "wrap-up, wrap-around, or controlled insurance program" means any
23 insurance program that has the effect of disabling or rendering
24 inapplicable any workers' compensation, commercial general

1 liability, builders' risk, completed operations, or excess liability
2 insurance coverage carried by a subcontractor that is engaged or to
3 be engaged on a public construction project unless this is a cost
4 savings to the public or the need exists for a specialized or
5 complex insurance program and shall not apply to contracts less than
6 Seventy-five Million Dollars (\$75,000,000.00).

7 F. This act shall not apply to the public construction projects
8 of constitutional agencies which had authorized a wrap-up, wrap-
9 around, or controlled insurance program on or before April 11, 2000.

10 SECTION 2. This act shall become effective November 1, 2018.

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