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April 3, 2017

ENGROSSED HOUSE  
BILL NO. 1599

By: Frix of the House

and

Quinn of the Senate

An Act relating to public buildings and public works; amending 61 O.S. 2011, Section 113, as amended by Section 314, Chapter 304, O.S.L. 2012 (61 O.S. Supp. 2016, Section 113), which relates to public competitive bidding procedures and requirements; modifying time period where certain bonds are required; and declaring an emergency.

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

SECTION 1. AMENDATORY 61 O.S. 2011, Section 113, as amended by Section 314, Chapter 304, O.S.L. 2012 (61 O.S. Supp. 2016, 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 defective workmanship and  
2 materials for a period of one (1) year after acceptance of the  
3 project, except when the awarding public agency is the Department of  
4 Transportation or the Oklahoma Turnpike Authority, in such case the  
5 period shall be for one (1) year after project completion; and

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

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

16 If the contractor needs additional time in which to obtain the  
17 bond required pursuant to subsection B of this section, the  
18 contractor may request and the awarding agency may allow the  
19 contractor an additional sixty (60) days in which to obtain the  
20 bond.

21 D. 1. After the award of a contract, but prior to its  
22 execution, an awarding public agency, upon discovery of an  
23 administrative error in the award process that would void an  
24 otherwise valid award, may suspend the time of execution of the

1 contract. The agency may rescind the award and readvertise for  
2 bids, or may direct correction of the error and award the contract  
3 to the lowest responsible bidder, whichever shall be in the best  
4 interests of the state.

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

14 E. No public agency shall require for any public construction  
15 project, nor shall any general contractor submit a project bid based  
16 on acquiring or participating in, any wrap-up, wrap-around, or  
17 controlled insurance program. For the purposes of this subsection,  
18 "wrap-up, wrap-around, or controlled insurance program" means any  
19 insurance program that has the effect of disabling or rendering  
20 inapplicable any workers' compensation, commercial general  
21 liability, builders' risk, completed operations, or excess liability  
22 insurance coverage carried by a subcontractor that is engaged or to  
23 be engaged on a public construction project unless this is a cost  
24 savings to the public or the need exists for a specialized or

1 complex insurance program and shall not apply to contracts less than  
2 Seventy-five Million Dollars (\$75,000,000.00).

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

6 SECTION 2. It being immediately necessary for the preservation  
7 of the public peace, health or safety, an emergency is hereby  
8 declared to exist, by reason whereof this act shall take effect and  
9 be in full force from and after its passage and approval.

10 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT  
11 April 3, 2017 - DO PASS  
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