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February 27, 2017

AS AMENDED

SENATE BILL NO. 320

By: Quinn of the Senate

and

Frix of the House

An Act relating to the Public Competitive Bidding Act of 1974; 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 execution of contracts; modifying certain contract period; 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 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~~ Section 61 et seq. of this title shall not apply to
4 the public construction projects of constitutional agencies which
5 had authorized a wrap-up, wrap-around, or controlled insurance
6 program on or before April 11, 2000.

7 SECTION 2. This act shall become effective November 1, 2017.

8 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT
9 February 27, 2017 - DO PASS AS AMENDED
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