

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

SENATE BILL 1638

By: Paxton

AS INTRODUCED

An Act relating to the Public Competitive Bidding Act of 1974; amending 61 O.S. 2011, Section 103, as last amended by Section 2, Chapter 405, O.S.L. 2019 (61 O.S. Supp. 2019, Section 103), which relates to competitive bidding; modifying the threshold for public construction contracts that must be bid in accordance with provisions of the Public Competitive Bidding Act for municipalities; and providing an effective date.

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

SECTION 1. AMENDATORY 61 O.S. 2011, Section 103, as last amended by Section 2, Chapter 405, O.S.L. 2019 (61 O.S. Supp. 2019, Section 103), is amended to read as follows:

Section 103. A. Unless otherwise provided by law, all public construction contracts exceeding Fifty Thousand Dollars (\$50,000.00) shall be let and awarded to the lowest responsible bidder, by open competitive bidding after solicitation for sealed bids, in accordance with the provisions of the Public Competitive Bidding Act of 1974, other than those for municipalities, the threshold for which shall be One Hundred Fifty Thousand Dollars (\$150,000.00). No

1 work shall be commenced until a written contract is executed and all
2 required bonds and insurance have been provided by the contractor to
3 the awarding public agency.

4 B. Notwithstanding subsection A of this section, in awarding
5 public construction contracts exceeding Fifty Thousand Dollars
6 (\$50,000.00), counties, cities, other local units of government and
7 any public trust with a county or a municipality as its sole
8 beneficiary may provide for a local bid preference of not more than
9 five percent (5%) of the bid price if the awarding public agency
10 determines that there is an economic benefit to the local area or
11 economy. Provided, however, the local bidder or contractor must
12 agree to perform the contract for the same price and terms as the
13 bid proposed by the nonlocal bidder or contractor. Any bid
14 preference granted hereunder must be in accordance with an
15 established policy adopted by the governing body of the awarding
16 public agency to clearly demonstrate the economic benefit to the
17 local area or economy. Provided, further, no local bid preference
18 shall be granted unless the local bidding entity is the second
19 lowest qualified bid on the contract. The bid specifications shall
20 clearly state that the bid is subject to a local bidder preference
21 law. For purposes of this section, "local bid" means the bidding
22 person is authorized to transact business in this state and
23 maintains a bona fide establishment for transacting such business
24 within this state. This provision does not apply to any

1 construction contract for which federal funds are available for
2 expenditure when its provisions may be in conflict with federal law
3 or regulation.

4 C. Except as provided in subsection E of this section, other
5 construction contracts for the purpose of making any public
6 improvements or constructing any public building or making repairs
7 to the same for Fifty Thousand Dollars (\$50,000.00) or less shall be
8 let and awarded to the lowest responsible bidder by receipt of
9 written bids or awarded on the basis of competitive quotes to the
10 lowest responsible qualified contractor. Work may be commenced in
11 accordance with the purchasing policies of the public agency.

12 D. Except as provided in subsection E of this section, other
13 construction contracts for less than Five Thousand Dollars
14 (\$5,000.00) may be negotiated with a qualified contractor. Work may
15 be commenced in accordance with the purchasing policies of the
16 public agency.

17 E. The provisions of this subsection shall apply to public
18 construction for minor maintenance or minor repair work to public
19 school district property. Other construction contracts for less
20 than Twenty-five Thousand Dollars (\$25,000.00) may be negotiated
21 with a qualified contractor. Construction contracts equal to or
22 greater than Twenty-five Thousand Dollars (\$25,000.00) but less than
23 Fifty Thousand Dollars (\$50,000.00) shall be let and awarded to the
24 lowest responsible bidder by receipt of written bids. No work shall

1 be commenced on any construction contract until a written contract
2 is executed and proof of insurance has been provided by the
3 contractor to the awarding public agency.

4 F. The Construction and Properties Division of the Office of
5 Management and Enterprise Services may award contracts using best
6 value competitive proposals. As used in this subsection, "best
7 value" means an optional contract award system which can evaluate
8 and rank submitted competitive performance proposals to identify the
9 proposal with the greatest value to the state. The Office of
10 Management and Enterprise Services, pursuant to the Administrative
11 Procedures Act, shall promulgate rules necessary to implement the
12 provisions of this subsection.

13 G. 1. A public agency shall not let or award a public
14 construction contract exceeding Fifty Thousand Dollars (\$50,000.00)
15 to any contractor affiliated with a purchasing cooperative unless
16 the purchasing cooperative and the contractor have complied with all
17 of the provisions of the Competitive Bidding Act of 1974, including
18 but not limited to open competitive bidding after solicitation for
19 sealed bids. A public agency shall not let or award a public
20 construction contract exceeding Five Thousand Dollars (\$5,000.00) up
21 to Fifty Thousand Dollars (\$50,000.00) to any contractor affiliated
22 with a purchasing cooperative unless the purchasing cooperative and
23 the contractor have complied with all of the provisions of the
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1 Public Competitive Bidding Act of 1974, including submission of a
2 written bid upon notice of competitive bidding.

3 2. A purchasing cooperative and its affiliated contractors
4 shall not be allowed to bid on any public construction contract
5 exceeding Fifty Thousand Dollars (\$50,000.00) unless the purchasing
6 cooperative and its affiliated contractors have complied with all of
7 the provisions of the Public Competitive Bidding Act of 1974,
8 including, but not limited to, open competitive bidding after
9 solicitation for sealed bids. A purchasing cooperative and its
10 affiliated contractors shall not be allowed to bid on any public
11 construction contract exceeding Two Thousand Five Hundred Dollars
12 (\$2,500.00) unless the purchasing cooperative and its affiliated
13 contractors have complied with all of the provisions of the Public
14 Competitive Bidding Act of 1974, including submission of a written
15 bid upon notice of open competitive bidding.

16 SECTION 2. This act shall become effective November 1, 2020.

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