

1 ENGROSSED HOUSE  
2 BILL NO. 4080

By: Wallace of the House

3 and

4 Leewright of the Senate

5  
6  
7 An Act relating to public buildings and public works;  
8 amending 61 O.S. 2021, Sections 1, 4, 6, 11, and 12,  
9 which relate to the bonding, contracting, and  
10 construction of public buildings and works; modifying  
11 construction bonds; regulating public contracts and  
12 hours worked during a day; modifying preference  
13 requirements for products produced in Oklahoma;  
14 modifying requirements for accommodations for people  
15 with disabilities; requiring submission of certain  
16 plans to certain authorities; amending 61 O.S. 2021,  
17 Sections 60, 61, 62, 62.2, 63, and 65, which relate  
18 to construction management and consultant services;  
19 regulating certain mandatory contract forms;  
20 modifying definitions; eliminating references to the  
21 Department of Real Estate Services and its Director;  
22 regulating registration and selection of construction  
23 managers and consultants; amending requirements for  
24 contracts for on-call minor services; providing for  
what shall be considered state property; establishing  
procedures for when an emergency exists; amending 61  
O.S. 2021, Section 84, which relates to the Fair and  
Open Competition in Governmental Construction Act;  
modifying prohibited contract terms; amending 61 O.S.  
2021, Sections 102, 103.4, 103.7, 104, 105, 106, 107,  
109, 110, 112, 113, 113.1, 119.1, 121, and 130, which  
relate to the Public Competitive Bidding Act of 1974;  
modifying definitions; modifying requirements for  
school buildings and force accounts; modifying  
contract requirements relating to fish and wildlife  
conservation; modifying required bids and bid  
notices; modifying bid documents on file; regulating  
late bids; providing exemptions for open bid  
requirements; providing public inspection  
requirement; modifying the requirements for the  
execution of a contract; regulating payment and

1 partial payment; providing for contract negotiations  
2 when no bid is received; defining emergency  
3 situations; amending 61 O.S. 2021, Sections 202, 204,  
4 207.2, 208, 208.1, 208.2, 209, 210, 211, and 212,  
5 which relate to the Public Facilities Act; modifying  
6 definitions; providing for the reviewing and approval  
7 of projects; modifying process for contract approval;  
8 allowing for fees; modifying the State Construction  
9 Revolving Fund; establishing the nature of the fund;  
10 declaring funds appropriated; granting rulemaking  
11 authority; allowing for performance-based efficiency  
12 contracts; updating references; clarifying language;  
13 amending 61 O.S. 2021, Sections 308, 309, 311, 312,  
14 316, 317, 323, 324, 326, 327, 327.1, and 330.1, which  
15 relate to the management, maintenance, and disposal  
16 of state property; clarifying language; increasing  
17 options for providing certain notices; modifying  
18 certain award standards; modifying deposit  
19 destination of certain revenues; broadening scope of  
20 certain exclusive control and jurisdiction; providing  
21 for expanded severability treatment of provisions;  
22 changing fund references; eliminating certain  
23 exceptions; eliminating certain described properties  
24 from certain defined description; modifying  
expenditure purpose for certain funds; requiring  
certain estimations and certain process related to  
certain real property disposals; authorizing  
electronic auctions; allowing the disposal of  
property at estimated value under certain conditions;  
authorizing invitations for written proposals under  
certain conditions; modifying proposal evaluation  
criteria; modifying exemption for certain recording  
fee; repealing 61 O.S. 2021, Sections 8, 9, 10, 14,  
and 15, which relate to the bonding, contracting, and  
construction of public buildings and works; repealing  
61 O.S. 2021, Section 51, which relates to the  
purchase of American goods and equipment; repealing  
61 O.S. 2021, Sections 103.8 and 129, which relate to  
the Public Competitive Bidding Act of 1974; repealing  
61 O.S. 2021, Section 203, which relates to the  
Department of Real Estate Services; repealing 61 O.S.  
2021, Sections 315, 321, 329, 330, and 331, which  
relate to the management, maintenance, and disposal  
of state property; and providing an effective date.

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

2 SECTION 1. AMENDATORY 61 O.S. 2021, Section 1, is  
3 amended to read as follows:

4 Section 1. A. Prior to an award of a contract exceeding ~~Fifty~~  
5 ~~Thousand Dollars (\$50,000.00)~~ One Hundred Thousand Dollars  
6 (\$100,000.00) for construction or repair of a public or private  
7 building, structure, or improvement on public real property, the  
8 person that receives the award shall:

9 ~~1. Furnish~~ furnish a bond with good and sufficient sureties  
10 payable to the state in a sum not less than the total sum of the  
11 contract; ~~or~~

12 ~~2. Cause an irrevocable letter of credit, containing terms the~~  
13 ~~Office of Management and Enterprise Services prescribes, to be~~  
14 ~~issued for the benefit of the state by a financial institution~~  
15 ~~insured by the Federal Deposit Insurance Corporation in a sum not~~  
16 ~~less than the total sum of the contract.~~

17 B. The bond ~~or irrevocable letter of credit~~ shall ensure the  
18 proper and prompt completion of the work in accordance with the  
19 contract and shall ensure that the contractor shall pay all  
20 indebtedness the contractor incurs for the contractor's  
21 subcontractors and all suppliers of labor, material, rental of  
22 machinery or equipment, and repair of and parts for equipment the  
23 contract requires the contractor to furnish.

24

1       ~~C. For a contract not exceeding Fifty Thousand Dollars~~  
2 ~~(\$50,000.00), in lieu of a bond or irrevocable letter of credit, the~~  
3 ~~contractor shall submit an affidavit of the payment of all~~  
4 ~~indebtedness incurred by the contractor, the contractor's~~  
5 ~~subcontractors, and all suppliers of labor, material, rented~~  
6 ~~machinery or equipment, and repair of and parts for equipment used~~  
7 ~~or consumed in the performance of the contract. The execution of~~  
8 ~~the affidavit with knowledge that any of the contents of the~~  
9 ~~affidavit are false, upon conviction, shall constitute perjury,~~  
10 ~~punishable as provided for by law.~~

11       SECTION 2.       AMENDATORY       61 O.S. 2021, Section 4, is  
12 amended to read as follows:

13       Section 4. All contracts hereafter made by or on behalf of the  
14 state, or by or on behalf of any county, city, township, or other  
15 municipality, with any corporation, person or persons, for the  
16 performance of any public work, by or on behalf of the state or any  
17 county, city, township, or other municipality, shall be deemed and  
18 considered as made upon the basis of eight (8) hours constituting a  
19 day's work; and it shall be unlawful for such corporation, person or  
20 persons, to require, aid, abet, assist, connive at, or permit any  
21 laborer, workman, mechanic, prison guards, janitors in public  
22 institutions, or other person to work more than eight hours per  
23 calendar day in doing such work, except in cases and upon the  
24

1 conditions provided in ~~the preceding section~~ Section 3 of this  
2 title.

3        Provided that the provisions of this act in regard to hours  
4 worked per calendar day shall not apply to the construction,  
5 reconstruction, maintenance, or the production of local materials  
6 for: Highways, roads, streets, and all the structures and drainage  
7 in connection therewith; sewer systems, waterworks systems, dams and  
8 levees, canals, drainage ditches, airport grading, drainage,  
9 surfacing, seeding and planting. Provided that the provisions of  
10 this act will not prevent employees from drawing time and half for  
11 those hours worked over forty (40) during any calendar week.

12        SECTION 3.        AMENDATORY        61 O.S. 2021, Section 6, is  
13 amended to read as follows:

14        Section 6. ~~From and after the passage and approval of this act,~~  
15 ~~in~~ In the construction of all public buildings erected for the  
16 state; ~~for any county for educational, eleemosynary, penal or other~~  
17 ~~institution of the state,~~ or for any county thereof, where the  
18 expense of construction is borne wholly or in part by the state, or  
19 county, by appropriation, by the issuance of bonds, or by taxation,  
20 preference shall be given to materials mined, quarried, manufactured  
21 or procured within the State of Oklahoma, provided that the same can  
22 be procured at no greater expense than like material or materials of  
23 equal quality from without the state.

SECTION 4. AMENDATORY 61 O.S. 2021, Section 11, is

amended to read as follows:

Section 11. A. Unless otherwise provided for by law, all plans and specifications for the erection of public buildings by this state, or any agency or political subdivision thereof, or for any building erected through the use of public funds shall provide facilities for ~~the handicapped~~ people with disabilities. Such facilities shall conform with the codes and standards adopted by the State Fire Marshal and amended by the ~~Division's~~ Office's promulgated rules. Elevators shall be constructed and installed in said public buildings to the extent deemed feasible and financially reasonable by the contracting authority of the state or such political subdivision. Said codes and standards shall be on file in the ~~Construction and Properties Division of the~~ Office of Management and Enterprise Services.

B. ~~After May 24, 1973, any~~ Any building or facility which would have been subject to the provisions of this section but for the fact that it was constructed prior to May 24, 1973, shall be subject to the requirements of this section if additions are made to such building or facility in any twelve-month period which increase the total floor area of such building or facility by twenty-five percent (25%) or more or if alterations or structural repairs are made to such building or facility in any twelve-month period which affect

1 twenty-five percent (25%) or more of the total floor area of such  
2 building or facility.

3 SECTION 5. AMENDATORY 61 O.S. 2021, Section 12, is  
4 amended to read as follows:

5 Section 12. All plans and specifications for the erection of  
6 public buildings subject to Section 11 of this title shall be  
7 submitted prior to bidding and awarding of contract to the ~~governing~~  
8 ~~body of the political entity controlling the funds involved~~ State  
9 Fire Marshal or other authority having jurisdiction. Such plans and  
10 specifications shall be checked for compliance with Section 11 of  
11 this title, and no construction contract for any public building  
12 shall be awarded unless and until said plans and specifications are  
13 approved as being in compliance with Section 11 of this title by the  
14 appropriate governmental agency. If public buildings are to be  
15 financed by state funds, ~~the Construction and Properties Division of~~  
16 the Office of Management and Enterprise Services shall approve said  
17 plans and specifications. In the case of public buildings to be  
18 financed by county funds or funds controlled by some other political  
19 subdivision of the state, the agency whose approval is required  
20 shall be the governing body of such subdivision.

21 SECTION 6. AMENDATORY 61 O.S. 2021, Section 60, is  
22 amended to read as follows:

23 Section 60. All state agencies, boards, commissions, offices,  
24 institutions, and other governmental bodies of this state, and all

1 individuals representing such entities, except the Department of  
2 Transportation, the Oklahoma Turnpike Authority, the Oklahoma State  
3 Regents for Higher Education and its constituent institutions, and  
4 the Commissioners of the Land Office ~~and CompSource Oklahoma~~  
5 ~~provided CompSource Oklahoma is operating pursuant to a pilot~~  
6 ~~program authorized by Sections 3316 and 3317 of Title 74 of the~~  
7 ~~Oklahoma Statutes~~, shall use construction manager, consultant and  
8 construction contract forms that the ~~State Facilities~~ Director of  
9 ~~the Department of Real Estate Services~~ of the Office of Management  
10 and Enterprise Services requires to award and execute contracts for  
11 designs to construct, renovate, alter, repair, maintain, or improve  
12 real property or fixtures of real property of the state. The ~~State~~  
13 ~~Facilities~~ Director may authorize, in writing, exceptions to the use  
14 of construction manager, consultant and construction contract forms  
15 for specific projects.

16 SECTION 7. AMENDATORY 61 O.S. 2021, Section 61, is  
17 amended to read as follows:

18 Section 61. As used in Sections 61 through 65 of this title:

19 1. "Chief administrative officer" means an individual  
20 responsible for directing the administration of a state agency. The  
21 term does not mean one or all of the individuals that make policy  
22 for a state agency;

23 2. "Construction manager" means an individual, firm,  
24 corporation, association, partnership, copartnership, or any other



1 legal entity on the Office of Management and Enterprise Services  
2 Construction and Properties (OMES-CAP) registration list and  
3 possessing the qualifications to provide services of construction  
4 management which include, but are not necessarily limited to, design  
5 review, scheduling, cost control, value engineering,  
6 constructability evaluation, preparation and coordination of bid  
7 packages, and construction administration;

8 3. "Consultant" means an individual or legal entity possessing  
9 the qualifications to provide licensed architectural, registered  
10 engineering, or registered land surveying services or other  
11 individuals or legal entities possessing specialized credentials and  
12 qualifications as may be needed to evaluate, plan or design and/or  
13 provide construction administration and/or construction inspection  
14 services for any construction or a public work improvement project;

15 4. "Director" means the Director of the Office of Management  
16 and Enterprise Services or a designee;

17 5. ~~"Department" means the Department of Real Estate Services of~~  
18 ~~the Office of Management and Enterprise Services;~~

19 ~~6.~~ "Office" means the Office of Management and Enterprise  
20 Services;

21 ~~7.~~ 6. "Project" means studies, evaluations, plans or designs  
22 for facility evaluations or public work improvements, except the  
23 transportation facilities under the jurisdiction of the Department  
24 of Transportation or the Oklahoma Turnpike Authority:

1           a.    to construct, renovate, alter, repair, maintain, or  
2                improve real property or fixtures of real property,  
3                and

4           b.    that does not constitute "construction" as defined by  
5                the Public Building Construction and Planning Act;

6       ~~8.~~ 7. "State agency" means an agency, office, officer, bureau,  
7 board, counsel, court, commission, institution, unit, division, body  
8 or house of the executive or judicial branches of state government,  
9 whether elected or appointed, excluding only political subdivisions  
10 of the state, the Oklahoma State Regents for Higher Education and  
11 its constituent institutions and the Commissioners of the Land  
12 Office; and

13       ~~9. "Facilities Director" or "SFD" means the State Facilities~~  
14 ~~Director of the Department of Real Estate Services of the Office of~~  
15 ~~Management and Enterprise Services; and~~

16       ~~10.~~ 8. "Political subdivision" means any local governmental  
17 body formed pursuant to the laws of this state, including, but not  
18 limited to, school districts, career technology centers, cities,  
19 counties, public trusts, public authorities, commissions or other  
20 local governmental bodies exercising their authority to contract  
21 with construction managers and/or consultants. The term also means  
22 any quasi-governmental and nongovernmental organizations contracting  
23 with construction managers and/or consultants using public funds or  
24 on behalf of a political subdivision.

SECTION 8. AMENDATORY 61 O.S. 2021, Section 62, is

amended to read as follows:

Section 62. A. The ~~Department of Real Estate Services~~ of the Office of Management and Enterprise Services shall maintain a file of all persons and entities interested in and capable of performing construction management and consultant services for state agencies. The file shall include registration forms and information submitted by construction managers and consultants pursuant to rules promulgated by the Office of Management and Enterprise Services. Pursuant to rules promulgated by the Office, the ~~Department~~ Office shall determine whether a construction manager or consultant qualifies for registration and shall notify the construction manager or consultant within twenty (20) days of receipt of a request for registration. Construction managers and consultants shall re-register for each successive calendar year with the ~~Department~~ Office.

B. The requisitioning state agency shall define the scope of a proposed project. The scope shall identify project components, phases and timetables and shall include detailed project descriptions. The state agency may request the ~~Department~~ Office to assist with scope development. The state agency shall send the scope and a requisition for construction management or consultant services, signed by an authorized official, to the ~~Department~~

1 Office. The ~~Department~~ Office shall review the scope and approve it  
2 before the state agency issues a solicitation.

3 C. The state agency shall issue a solicitation to construction  
4 managers or consultants that are registered with the ~~Department~~  
5 Office and capable of providing the services the state agency  
6 desires. The solicitation shall, at a minimum, contain:

7 1. Description and scope of the project;

8 2. Estimated construction cost or available funds, anticipated  
9 starting date, and completion date the state agency desires for the  
10 project;

11 3. Certification of funds available for the construction  
12 manager or consultant fee, including federal, state or other  
13 participation;

14 4. Closing date for construction manager or consultant to give  
15 notice of interest to the state agency; and

16 5. Additional data the state agency requires from the  
17 construction manager or consultant. The closing date for submission  
18 of construction manager or consultant notice of interest for  
19 consideration shall be within thirty (30) days of the date of the  
20 notice the state agency issues.

21 D. After the closing date, the ~~Department~~ Office shall provide  
22 information from the construction managers' or consultants' files to  
23 the state agency upon request. Should there be an inadequate  
24 expression of interest in the project, the state agency and

1 ~~Department~~ Office personnel shall confer to add construction  
2 managers or consultants for consideration.

3 E. The state agency shall review the information the ~~Department~~  
4 Office provides and shall select no less than three and no more than  
5 five construction managers or consultants per contract for  
6 interviews. The review shall include consideration of factors from  
7 the information the ~~Department~~ Office supplies including, but not  
8 limited to:

9 1. Professional qualifications for the type of work  
10 contemplated;

11 2. Capacity for completing the project in the specified time  
12 period; and

13 3. Past performance on projects of a similar nature.

14 F. The ~~Department~~ Office shall advise the state agency of the  
15 methods to be used to conduct an evaluation, interview, selection,  
16 contract negotiation, and fee negotiation processes pursuant to  
17 rules promulgated by the Office of Management and Enterprise  
18 ~~Services~~.

19 G. 1. Upon completion of contract negotiation with the highest  
20 qualified construction manager or consultant, which contract shall  
21 include a fair and reasonable fee, the ~~Department~~ Office shall  
22 approve and award the contract.

23 2. If the ~~Department~~ Office and the first-choice construction  
24 manager or consultant cannot reach an agreement, the negotiations

1 shall terminate and negotiations with the second-choice construction  
2 manager or consultant shall commence. If the ~~Department~~ Office and  
3 the second-choice construction manager or consultant cannot reach an  
4 agreement, the negotiations shall terminate and negotiations with  
5 the third-choice construction manager or consultant shall commence.  
6 If the ~~Department~~ Office and the third-choice construction manager  
7 or consultant cannot reach an agreement, then all negotiations shall  
8 terminate. Should the ~~Department~~ Office be unable to negotiate a  
9 satisfactory contract with any of the three selected construction  
10 managers or consultants, the ~~Department~~ Office shall select  
11 additional construction managers or consultants in order of their  
12 competency and qualifications and shall continue negotiations in  
13 accordance with the provisions of this section until an agreement is  
14 reached.

15 H. Any plans developed pursuant to the process for selection of  
16 a contractor for construction of a facility authorized pursuant to  
17 Section 183 of Title 73 of the Oklahoma Statutes shall become the  
18 property of the State of Oklahoma as a condition of the award of the  
19 final contract for construction of the facility.

20 I. For all state agencies subject to the Public Facilities Act,  
21 Sections 202 through 213 of this title, the ~~Department~~ Office shall  
22 perform the necessary procurement actions on behalf of a  
23 requisitioning agency as enumerated in subsections B through H of  
24 this section:

1        1. Determine or approve the agency's scope of a project and  
2 required services as provided in the Public Facilities Act;

3        2. Issue solicitations for construction manager and consultant  
4 services;

5        3. Conduct evaluations, interviews, selection, contract  
6 negotiation, and fee negotiation processes; and

7        4. Provide contract management services after award of a  
8 construction management or consultant contract.

9        J. In the selection of a consultant, all political subdivisions  
10 of this state shall select a consultant based upon the professional  
11 qualifications and technical experience of the consultant. The  
12 subdivision shall negotiate a contract with the highest qualified  
13 consultant, provided that a fee can be negotiated that is fair and  
14 reasonable to both parties. In the event a reasonable fee cannot be  
15 negotiated with the selected consultant, the subdivision may  
16 negotiate with other consultants in order of their qualifications.

17        K. In the selection of a construction manager, all political  
18 subdivisions of this state shall:

19        1. Extend consideration to construction managers from the file  
20 maintained by the ~~Department of Real Estate Services of the~~ Office  
21 of Management and Enterprise Services. Political subdivisions are  
22 not limited in the number of construction manager candidates from  
23 whom they intend on seeking proposals;

1        2. Evaluate the candidates' professional qualifications,  
2        licensing, registration, certifications, technical abilities and  
3        past experience relevant to the contemplated project. Only firms  
4        recognized as qualified construction managers by ~~the Department of~~  
5        ~~Real Estate Services~~ of the Office of Management and Enterprise  
6        Services pursuant to this section may be considered for selection as  
7        a construction manager. The subdivision shall use procedures as  
8        described in this section and the Public Construction Management Act  
9        for Political Subdivisions or may adopt procedures established by  
10       the Office of Management and Enterprise Services for state agencies;  
11       and

12       3. The political subdivision shall select a construction  
13       manager based upon the professional qualifications and technical  
14       experience of the construction manager. The political subdivision  
15       shall negotiate a contract with the highest qualified construction  
16       manager, provided that a fee can be negotiated that is fair and  
17       reasonable to both parties. In the event a reasonable fee cannot be  
18       negotiated with the selected construction manager, the political  
19       subdivision may negotiate with other construction managers in order  
20       of their qualifications.

21       SECTION 9.        AMENDATORY        61 O.S. 2021, Section 62.2, is  
22       amended to read as follows:

23       Section 62.2    ~~The Construction and Properties Division of the~~  
24       Office of Management and Enterprise Services may enter into



1 contracts with construction managers and consultants registered with  
2 the ~~Division~~ Office for the purpose of providing on-call minor  
3 services to state agencies. The contracts shall provide for  
4 services on an as-needed basis and shall not exceed One Hundred  
5 Thousand Dollars (\$100,000.00) per construction manager or  
6 consultant during one (1) year. The requisitioning state agency  
7 shall ~~reimburse the Division~~ be solely responsible for the fee of  
8 the construction manager or consultant that provides the services.

9 SECTION 10. AMENDATORY 61 O.S. 2021, Section 63, is  
10 amended to read as follows:

11 Section 63. All drawings, plans, specifications, reports, and  
12 models made by a construction manager or consultant for a state  
13 agency shall be the property of this state, and shall be delivered  
14 to the ~~Department of Real Estate Services of the Office of~~  
15 ~~Management and Enterprise Services. The state agency shall file~~  
16 ~~such plans with the Department for inclusion in a library system to~~  
17 ~~be maintained by the Department. Any state agency shall have access~~  
18 ~~for review to any plans or specifications filed with the Department~~  
19 state as directed by the terms of the contract.

20 SECTION 11. AMENDATORY 61 O.S. 2021, Section 65, is  
21 amended to read as follows:

22 Section 65. A. In addition to the conditions prescribed  
23 pursuant to ~~subsections~~ subsection C ~~and D~~ of this section, the  
24 provisions of Section 62 of this title shall not apply whenever ~~the~~

1 ~~Department of Real Estate Services~~ of the Office of Management and  
2 Enterprise Services with concurrence of the chief administrative  
3 officer of the public agency affected declares that an emergency  
4 exists. The construction manager or consultant shall be selected by  
5 the ~~State Facilities Director of the Department of Real Estate~~  
6 ~~Services~~ of the Office of Management and Enterprise Services. The  
7 resulting construction manager or consultant contract shall not  
8 exceed Fifty Thousand Dollars (\$50,000.00). The reasons for the  
9 emergency shall be recorded in the official records of the  
10 ~~Department~~ Office.

11 B. Emergency as used in this section shall be limited to  
12 conditions resulting from any of the following:

13 1. A sudden unexpected happening or unforeseen occurrence if it  
14 is impossible for the provisions of Section 62 of this title to be  
15 observed because of the time factor and if the public health or  
16 safety is endangered; and

17 2. A condition or situation which, if allowed to continue,  
18 would lead to economic loss to the state or to further damage of  
19 state property.

20 C. The provisions of Section 62 of this title shall not apply  
21 to the process for construction of a correctional facility whenever  
22 the State Board of Corrections informs the ~~Department~~ Office that an  
23 emergency condition threatens the security of the state correctional  
24 system, including inmate population growth, and the condition

1 requires expeditious treatment for the review, approval and bid  
2 process as it relates to construction or expansion of correctional  
3 facilities. The ~~Department~~ Office and the Department of Corrections  
4 are authorized to implement an expedited competitive bid process for  
5 the contracting of construction managers or consultants and  
6 construction of new or expanded correctional facilities that  
7 adequately respond to the emergency. The State Board of Corrections  
8 shall provide written notification to the Governor, the Speaker of  
9 the House of Representatives and to the President Pro Tempore of the  
10 Senate of the emergency conditions.

11 ~~D. The provisions of Section 62 of this title shall not apply~~  
12 ~~to CompSource Oklahoma if CompSource Oklahoma is operating pursuant~~  
13 ~~to a pilot program authorized by Sections 3316 and 3317 of Title 74~~  
14 ~~of the Oklahoma Statutes.~~

15 SECTION 12. AMENDATORY 61 O.S. 2021, Section 84, is  
16 amended to read as follows:

17 Section 84. A public agency shall not award a grant, tax  
18 abatement, or tax credit that is conditioned upon a requirement that  
19 the awardee include a term described in Section ~~3 of the Fair and~~  
20 ~~Open Competition in Governmental Construction Act~~ 83 of this title  
21 in a contract document for any construction, improvement,  
22 maintenance, or renovation to real property or fixtures that are the  
23 subject of the grant, tax abatement, or tax credit.

24

1       SECTION 13.       AMENDATORY       61 O.S. 2021, Section 102, is  
2 amended to read as follows:

3       Section 102. As used in the Public Competitive Bidding Act of  
4 1974:

5       1. ~~"Administrator" means the State Construction Administrator~~  
6 ~~of the Construction and Properties Division of the Office of~~  
7 ~~Management and Enterprise Services;~~

8       2. "Awarding public agency" means the public agency which  
9 solicits and receives sealed bids on a particular public  
10 construction contract;

11       ~~3.~~ 2. "Bidding documents" means the bid notice, instruction to  
12 bidders, plans and specifications, bidding form, bidding  
13 instructions, general conditions, special conditions and all other  
14 written instruments prepared by or on behalf of an awarding public  
15 agency for use by prospective bidders on a public construction  
16 contract;

17       ~~4.~~ 3. "Chief administrative officer" means an individual  
18 responsible for directing the administration of a public agency.  
19 The term does not mean one or all of the individuals that make  
20 policy for a public agency;

21       ~~5.~~ 4. "Construction management trade contract or subcontract"  
22 means any public construction contract exceeding Fifty Thousand  
23 Dollars (\$50,000.00) in amount that is awarded as a trade contract  
24

1 in an agency construction management contract or awarded as a  
2 subcontract in an at-risk construction management contract;

3 ~~6.~~ 5. "Public agency" means the State of Oklahoma, and any  
4 county, city, town, school district or other political subdivision  
5 of the state, any public trust, any public entity specifically  
6 created by the statutes of the State of Oklahoma or as a result of  
7 statutory authorization therefor, and any department, agency, board,  
8 bureau, commission, committee or authority of any of the foregoing  
9 public entities;

10 ~~7.~~ 6. "Public construction contract" or "contract" means any  
11 contract, exceeding One Hundred Thousand Dollars (\$100,000.00) in  
12 amount, or any construction management trade contracts or  
13 subcontracts exceeding Fifty Thousand Dollars (\$50,000.00) in  
14 amount, awarded by any public agency for the purpose of making any  
15 public improvements or constructing any public building or making  
16 repairs to or performing maintenance on the same except where the  
17 improvements, construction of any building or repairs to the same  
18 are improvements or buildings leased to a person or other legal  
19 entity exclusively for private and not for public use and no public  
20 tax revenues shall be expended on or for the contract unless the  
21 public tax revenues used for the project are authorized by a  
22 majority of the voters of the applicable public agency voting at an  
23 election held for that purpose and the public tax revenues do not  
24 exceed twenty-five percent (25%) of the total project cost. The

1 amount of public tax dollars committed to the project will not  
2 exceed a fixed amount established by resolution of the governing  
3 body prior to or concurrent with approval of the project;

4 ~~8.~~ 7. "Public improvement" means any beneficial or valuable  
5 change or addition, betterment, enhancement or amelioration of or  
6 upon any real property, or interest therein, belonging to a public  
7 agency, intended to enhance its value, beauty or utility or to adapt  
8 it to new or further purposes. The term does not include the direct  
9 purchase of materials, equipment or supplies by a public agency, or  
10 any personal property, including property as defined in paragraphs 1  
11 and 4 of subsection B of Section 430.1 of Title 62 of the Oklahoma  
12 Statutes;

13 ~~9.~~ 8. "Purchasing cooperative" means an association of public  
14 entities working together to provide leverage in achieving best  
15 value and/or the best terms in contracts awarded through a  
16 competitive bidding process; and

17 ~~10.~~ 9. "Retainage" means the difference between the amount  
18 earned by the contractor on a public construction contract, with the  
19 work being accepted by the public agency, and the amount paid on  
20 said contract by the public agency.

21 SECTION 14. AMENDATORY 61 O.S. 2021, Section 103.4, is  
22 amended to read as follows:

23 Section 103.4 Nothing in the Public Competitive Bidding Act of  
24 1974 shall be construed to prohibit a school district from erecting

1 a building or making improvements on a force account basis.

2 ~~Contracts between a state agency and a school district for the~~  
3 ~~purpose of emergency asbestos abatement shall be exempt from the~~  
4 ~~provisions of the Public Competitive Bidding Act of 1974.~~

5 SECTION 15. AMENDATORY 61 O.S. 2021, Section 103.7, is  
6 amended to read as follows:

7 Section 103.7 For purposes of the provisions of the Public  
8 Competitive Bidding Act of 1974, contracts entered into solely for  
9 projects and activities by the Oklahoma Department of Wildlife  
10 Conservation relating to fish and wildlife conservation shall be let  
11 and awarded using the competitive bidding process as set forth in  
12 the Public Competitive Bidding Act of 1974. However, for contracts  
13 ~~of Fifty Thousand Dollars (\$50,000.00) or less~~ not exceeding One  
14 Hundred Thousand Dollars (\$100,000.00), the Department may  
15 administer the competitive bidding process and let and award the  
16 contract itself rather than the ~~Construction and Properties Division~~  
17 ~~of the~~ Office of Management and Enterprise Services.

18 SECTION 16. AMENDATORY 61 O.S. 2021, Section 104, is  
19 amended to read as follows:

20 Section 104. All proposals to award public construction  
21 contracts shall be made equally and uniformly known by the awarding  
22 public agency to all prospective bidders and the public in the  
23 following manner:  
24

1        1. Notice thereof shall be given ~~by~~ electronically or by  
2 publication in a newspaper of general circulation and published in  
3 the county where the work, or the major part of it, is to be done,  
4 such notice by publication to be published in two consecutive weekly  
5 issues of the newspaper, with the first publication thereof to be at  
6 least ~~twenty-one (21)~~ ten (10) days prior to the date set for  
7 opening bids; and

8        2. Notice thereof shall be sent to one in-state trade or  
9 construction publication for their use and information whenever the  
10 estimated cost of the public construction contract exceeds One  
11 Hundred Thousand Dollars (\$100,000.00) or the cost of the  
12 construction management trade contract or subcontract exceeds Fifty  
13 Thousand Dollars (\$50,000.00); provided, however, this section shall  
14 not be construed to require the publication of the notice in such  
15 trade or construction publication or the requirement to provide the  
16 notice to more than one in-state trade or construction publication  
17 or to any out-of-state trade or construction publications.

18        SECTION 17.        AMENDATORY        61 O.S. 2021, Section 105, is  
19 amended to read as follows:

20        Section 105. All bid notices shall set forth the following  
21 information:

22        1. The character of the proposed public construction contract  
23 in sufficient details that all bidders shall know exactly what their  
24 obligation will be, either in the bid notice itself or by reference



1 to bidding documents ~~on file in the main office of the awarding~~  
2 ~~public agency~~ available to the public; and

3 2. The name of the officer, agent or employee of the awarding  
4 public agency and the office location and address of such person,  
5 from whom a complete set of bidding documents regarding such  
6 proposed contract may be obtained, together with the amount of the  
7 cost deposit required therefor, if any; and

8 3. The date, time and place of opening of the sealed bids  
9 either in person or electronically; and

10 4. The name and office location and address of the office of  
11 the awarding public agency to whom the sealed bids should be  
12 submitted or information sufficient to enable a bid to be submitted  
13 electronically; and

14 5. Any additional information regarding such proposed contract  
15 deemed by the awarding public agency to be of beneficial interest to  
16 prospective bidders or the public.

17 SECTION 18. AMENDATORY 61 O.S. 2021, Section 106, is  
18 amended to read as follows:

19 Section 106. ~~At least one complete set of~~ Complete bidding  
20 documents regarding a proposed public construction contract shall be  
21 ~~on file in the main office of the awarding public agency~~ available  
22 to the public at least ~~twenty (20)~~ ten (10) days prior to the date  
23 set for opening bids. ~~The officer, agent or employee of the~~  
24 ~~awarding public agency designated in the bid notice shall have a~~

1 ~~sufficient number of complete sets of said bidding documents and~~  
2 ~~shall provide a complete set of same to any prospective bidder, upon~~  
3 ~~request; provided, however, that the~~ awarding public agency, or its  
4 agent, may require a reasonable deposit for each ~~such~~ set of bidding  
5 documents; provided, that such deposit shall not exceed the actual  
6 cost of duplicating or printing. The public agency, or its agent,  
7 may retain all or part of said deposit if so stated in the notice  
8 for bids.

9 SECTION 19. AMENDATORY 61 O.S. 2021, Section 107, is  
10 amended to read as follows:

11 Section 107. A. A bidder on a public construction contract  
12 exceeding One Hundred Thousand Dollars (\$100,000.00) or a  
13 construction management trade contract or subcontract exceeding  
14 Fifty Thousand Dollars (\$50,000.00) shall accompany the bid with:

15 1. A certified check, cashier's check or bid bond equal to five  
16 percent (5%) of the bid, which shall be deposited with the awarding  
17 public agency as a guaranty; or

18 2. An irrevocable letter of credit containing terms ~~the~~  
19 ~~Construction and Properties Division of~~ the Office of Management and  
20 Enterprise Services prescribes, issued by a financial institution  
21 insured by the Federal Deposit Insurance Corporation or the Federal  
22 Savings and Loan Insurance Corporation for the benefit of the state,  
23 on behalf of the awarding public agency, in an amount equal to five  
24

1 percent (5%) of the bid. The awarding public agency shall deposit  
2 the irrevocable letter of credit with the ~~Division~~ Office.

3 B. The cost of republication of the notice to bidders, actual  
4 expenses incurred by reason of the bidder's default and the  
5 difference between the low bid of the defaulting bidder and the  
6 amount of the bid of the bidder to whom the contract is subsequently  
7 awarded, but not to exceed the amount of the certified check,  
8 cashier's check, bid bond or irrevocable letter of credit may, at  
9 the discretion of the awarding public agency, be forfeited to the  
10 awarding public agency in the event the apparently successful bidder  
11 fails to execute the contract or fails to provide the required bonds  
12 or irrevocable letters of credit and insurance to the awarding  
13 public agency.

14 C. The public agency shall, upon receipt of notice from the  
15 awarding public agency, return a certified or cashier's check, bid  
16 bond, or irrevocable letter of credit to the successful bidder on  
17 execution and delivery of the contract and required bonds or  
18 irrevocable letters of credit and insurance. Checks of unsuccessful  
19 bidders shall be returned to them in accordance with the terms of  
20 the bid solicitation.

21 D. Nothing contained herein shall be construed so as to prevent  
22 the awarding public agency or the courts from exonerating the bidder  
23 and other parties to the bid security document from liability upon a  
24 timely showing that the bidder committed what the courts have

1 determined under the common law to be an excusable bidding error and  
2 for that reason it would not be equitable to enforce the bid  
3 security.

4 SECTION 20. AMENDATORY 61 O.S. 2021, Section 109, is  
5 amended to read as follows:

6 Section 109. Any bid ~~received by the awarding public agency or~~  
7 ~~an officer or employee thereof, more than ninety-six (96) hours~~  
8 ~~excluding Saturdays, Sundays and holidays before the time set for~~  
9 ~~the opening of bids, or any bid so received after the time set for~~  
10 opening of bids, shall not be opened or considered by the awarding  
11 public agency ~~and shall be returned unopened to the bidder~~  
12 ~~submitting same.~~

13 SECTION 21. AMENDATORY 61 O.S. 2021, Section 110, is  
14 amended to read as follows:

15 Section 110. A. Except as provided by subsection B of this  
16 section, all bids shall be sealed and opened only at the time and  
17 place mentioned in the bidding documents, and read aloud in the  
18 presence of an administrative officer of the awarding public agency.  
19 Such bid opening shall be open to the public and to all bidders.

20 B. ~~The Oklahoma Department of Transportation and the Oklahoma~~  
21 ~~Turnpike Authority~~ A public agency shall be exempt from the  
22 requirements provided in subsection A of this section, if the agency  
23 electronically publishes the bids on the website of the agency.

1       SECTION 22.       AMENDATORY       61 O.S. 2021, Section 112, is  
2 amended to read as follows:

3       Section 112. All bids, both successful and unsuccessful, and  
4 all contracts and required bonds shall be placed on file and  
5 maintained ~~in the main office of~~ by the awarding public agency for a  
6 period of five (5) years from the date of opening of bids or for a  
7 period of three (3) years from the date of completion of the  
8 contract, whichever is longer, and shall be open to public  
9 inspection and shall be matters of public record.

10       SECTION 23.       AMENDATORY       61 O.S. 2021, Section 113, is  
11 amended to read as follows:

12       Section 113. A. Except as otherwise provided by law, within  
13 the period of time, not to exceed sixty (60) days, specified in the  
14 bid notice by the awarding public agency, a contract embodying the  
15 terms set forth in the bidding documents shall be executed by the  
16 awarding public agency or, where construction management at-risk is  
17 the project delivery method, by the construction manager and the  
18 successful bidder. No bidder shall obtain any property right in a  
19 contract awarded under the provisions of the Public Competitive  
20 Bidding Act of 1974 until the contract has been fully executed by  
21 both the bidder and the awarding public agency.

22       B. Except as otherwise provided by law, within the period of  
23 time specified in subsection A of this section, the following shall  
24 be provided by the contractor to the awarding public agency for

1 public construction contracts exceeding One Hundred Thousand Dollars  
2 (\$100,000.00) or construction management trade contracts or  
3 subcontracts exceeding Fifty Thousand Dollars (\$50,000.00):

4 1. A bond ~~or irrevocable letter of credit~~ complying with the  
5 provisions of Section 1 of this title;

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

16 3. A bond in a sum equal to the contract price ~~or an~~  
17 ~~irrevocable letter of credit containing terms as prescribed by the~~  
18 ~~Division issued by a financial institution insured by the Federal~~  
19 ~~Deposit Insurance Corporation or the Federal Savings and Loan~~  
20 ~~Insurance Corporation~~ for the benefit of the state, on behalf of the  
21 awarding public agency, ~~in a sum equal to the contract price,~~ to  
22 protect the awarding public agency against defective workmanship and  
23 materials for a period of one (1) year after acceptance of the  
24 project, except when the awarding public agency is the Department of

1 Transportation or the Oklahoma Turnpike Authority, in such case the  
2 period shall be for one (1) year after project completion; and

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

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

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

18 D. 1. After the award of a contract, but prior to its  
19 execution, an awarding public agency, upon discovery of an  
20 administrative error in the award process that would void an  
21 otherwise valid award, may suspend the time of execution of the  
22 contract. The agency may rescind the award and readvertise for  
23 bids, or may direct correction of the error and award the contract  
24

1 to the lowest responsible bidder, whichever shall be in the best  
2 interests of the state.

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

12 E. No public agency shall require for any public construction  
13 project, nor shall any general contractor submit a project bid based  
14 on acquiring or participating in, any wrap-up, wrap-around, or  
15 controlled insurance program. For the purposes of this subsection,  
16 "wrap-up, wrap-around, or controlled insurance program" means any  
17 insurance program that has the effect of disabling or rendering  
18 inapplicable any workers' compensation, commercial general  
19 liability, builders' risk, completed operations, or excess liability  
20 insurance coverage carried by a subcontractor that is engaged or to  
21 be engaged on a public construction project unless this is a cost  
22 savings to the public or the need exists for a specialized or  
23 complex insurance program and shall not apply to contracts less than  
24 Seventy-five Million Dollars (\$75,000,000.00).



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

4 SECTION 24. AMENDATORY 61 O.S. 2021, Section 113.1, is  
5 amended to read as follows:

6 Section 113.1 A. A public construction contract shall provide  
7 for partial payment based upon work completed. The contract shall  
8 provide that up to five percent (5%) of all partial payments made  
9 shall be withheld as retainage until the project is fifty percent  
10 (50%) complete as determined by the awarding agency. When the  
11 awarding public agency determines that the project is at least fifty  
12 percent (50%) complete, the retainage amount shall be two and one-  
13 half percent (2.5%) with respect to the balance of the work.

14 B. The Department of Transportation or the Oklahoma Turnpike  
15 Authority shall not withhold retainage on public construction  
16 contracts awarded by the Department or the Authority.

17 C. The Department of Transportation shall not withhold  
18 retainage or require any bond on projects awarded to railroads on  
19 the railroad's privately owned or operated rail property.

20 SECTION 25. AMENDATORY 61 O.S. 2021, Section 119.1, is  
21 amended to read as follows:

22 Section 119.1 A. If no timely bid is received after bid  
23 notices have been published on any proposed public construction  
24 contract which does not exceed One Hundred Thousand Dollars

1 (\$100,000.00) or on any proposed construction management trade  
2 contract or subcontract which does not exceed Fifty Thousand Dollars  
3 (\$50,000.00):

4 1. The governing body of a county, city, town or school  
5 district may direct its employees or agents to negotiate the  
6 contract with a prospective contractor; or

7 2. The state agency, as defined in Section 202 of this title,  
8 shall request the ~~State Construction Administrator of the~~  
9 ~~Construction and Properties Division~~ Office of Management and  
10 Enterprise Services to negotiate a contract on its behalf.

11 B. The amount of a public construction contract which may be  
12 awarded by the governing body pursuant to this section shall not  
13 exceed One Hundred Thousand Dollars (\$100,000.00), nor shall the  
14 amount of a construction management trade contract or subcontract  
15 awarded by the governing body pursuant to this section exceed Fifty  
16 Thousand Dollars (\$50,000.00), and the work to be performed shall be  
17 as specified in the initial bidding documents. The contract shall  
18 be executed within six (6) months after the date initially set for  
19 opening of bids. The contract and contract procedure shall conform  
20 to all other applicable provisions of the Public Competitive Bidding  
21 Act of 1974.

22 SECTION 26. AMENDATORY 61 O.S. 2021, Section 121, is  
23 amended to read as follows:  
24

1       Section 121. A. Change orders or addenda to public  
2 construction contracts of One Million Dollars (\$1,000,000.00) or  
3 less shall not exceed a fifteen percent (15%) cumulative increase in  
4 the original contract amount.

5       B. Change orders or addenda to public construction contracts of  
6 over One Million Dollars (\$1,000,000.00) shall not exceed the  
7 greater of One Hundred Fifty Thousand Dollars (\$150,000.00) or a ten  
8 percent (10%) cumulative increase in the original contract amount.

9       C. Change orders or cumulative change orders which exceed the  
10 limits of subsection A or B of this section shall require a  
11 readvertising for bids on the incomplete portions of the contract.

12       D. If the awarding public agency does not have a governing  
13 body, the chief administrative officer of the awarding public agency  
14 shall approve change orders. The ~~State Construction Administrator~~  
15 ~~of the Construction and Properties Division~~ Director of the Office  
16 of Management and Enterprise Services, or the ~~Administrator's~~  
17 Director's designee, shall sign and execute all contracts and change  
18 orders, as they relate to state agencies.

19       E. If the awarding public agency has a governing body, all  
20 change orders shall be formally approved by the governing body of  
21 the awarding public agency and the reasons for approval recorded in  
22 the permanent records of the governing body. The governing body of  
23 a municipality or technology center may delegate approval of change  
24 orders up to Forty Thousand Dollars (\$40,000.00) or ten percent

1 (10%) of any contract, whichever is less, to the chief  
2 administrative officer of the municipality or technology center or  
3 their designee, with any approved change orders reported to the  
4 governing body at the next regularly scheduled meeting.

5 F. The Oklahoma Veterans Commission, as the governing body of  
6 the Oklahoma Department of Veterans Affairs, is authorized to  
7 delegate to the Director of the agency the authority to approve  
8 change orders on a construction contract provided that the  
9 individual change order does not exceed Forty Thousand Dollars  
10 (\$40,000.00) in expenditure, and complies with the limits  
11 established by this section. Change orders approved by the Director  
12 pursuant to a delegation of authority shall be presented to the  
13 Commission during the next regular meeting and the reasons for the  
14 orders recorded in permanent records.

15 G. The governing body of the Oklahoma Tourism and Recreation  
16 Department is authorized, upon approval of a majority of all of the  
17 members of the Oklahoma Tourism and Recreation Commission, to  
18 delegate to the Director of the agency the authority to approve  
19 change orders on a construction contract provided that the  
20 individual change order does not exceed Twenty-five Thousand Dollars  
21 (\$25,000.00) in expenditure and complies with the limits established  
22 by this section. The ~~Administrator of the Division~~ Director of the  
23 Office shall sign and execute all contracts and change orders.

1 H. The Transportation Commission may, by rule, authorize the  
2 Director of the Department of Transportation to approve change  
3 orders in an amount of not to exceed Five Hundred Thousand Dollars  
4 (\$500,000.00). Change orders approved by the Director shall be  
5 presented to the Transportation Commission during the next regular  
6 meeting and the reasons therefor recorded in the permanent records.  
7 The Oklahoma Turnpike Authority may authorize the Director of the  
8 Authority to approve change orders in an amount not to exceed Two  
9 Hundred Fifty Thousand Dollars (\$250,000.00). Change orders  
10 approved by the Director of the Authority shall be presented to the  
11 Authority during the next regular meeting and the reasons for the  
12 orders recorded in permanent records.

13 I. All change orders for the Department of Transportation or  
14 the Authority shall contain a unit price and total for each of the  
15 following items:

- 16 1. All materials with cost per item;
- 17 2. Itemization of all labor with number of hours per operation  
18 and cost per hour;
- 19 3. Itemization of all equipment with the type of equipment,  
20 number of each type, cost per hour for each type, and number of  
21 hours of actual operation for each type;
- 22 4. Itemization of insurance cost, bond cost, Social Security,  
23 taxes, workers' compensation, employee fringe benefits and overhead  
24 cost; and

1        5. Profit for the contractor.

2        J. 1. If a construction contract contains unit pricing, and  
3 the change order pertains to the unit price, the change order will  
4 not be subject to subsection A or B of this section.

5        2. When the unit price change does not exceed Twenty Thousand  
6 Dollars (\$20,000.00), the unit price change order computation may be  
7 based on an acceptable unit price basis in lieu of cost itemization  
8 as required in paragraphs 1, 2, 3, 4 and 5 of subsection I of this  
9 section.

10       3. When the unit price change exceeds Twenty Thousand Dollars  
11 (\$20,000.00), any unit price for a new item established at or below  
12 the average eighteen-month-price history for the new item may be  
13 used in lieu of cost itemization as required in paragraphs 1, 2, 3,  
14 4 and 5 of subsection I of this section.

15       K. Alternates or add items bid with the original bid and  
16 contained in the awarded contract as options of the awarding public  
17 agency shall not be construed as change orders under the provisions  
18 of the Public Competitive Bidding Act of 1974.

19       L. Where construction management at-risk is the project  
20 delivery method, the limits established by subsections A and B of  
21 this section shall be based upon the total cost of the project  
22 rather than the cost of the individual trade contracts.

23       SECTION 27.        AMENDATORY        61 O.S. 2021, Section 130, is  
24 amended to read as follows:

1       Section 130. A. The provisions of the Public Competitive  
2 Bidding Act of 1974 with reference to notice and bids shall not  
3 apply to an emergency if:

4       1. The governing body of a public agency declares by a two-  
5 thirds (2/3) majority vote of all of the members of the governing  
6 body that an emergency exists;

7       2. The Transportation Commission and the Oklahoma Tourism and  
8 Recreation Commission, by majority vote of all the members of each  
9 Commission, declare that an emergency exists; or

10       3. The chief administrative officer of a public agency without  
11 a governing body declares that an emergency exists.

12       B. The governing body of a public agency may, upon approval of  
13 two-thirds (2/3) majority of all of the members of the governing  
14 body, delegate to the chief administrative officer of a public  
15 agency the authority to declare an emergency whereby the provisions  
16 of the Public Competitive Bidding Act of 1974 with reference to  
17 notice and bids shall not apply to contracts less than One Hundred  
18 Fifty Thousand Dollars (\$150,000.00) in amount; provided, such  
19 authority of the Department of Transportation and the Oklahoma  
20 Turnpike Authority shall not extend to any contract exceeding Seven  
21 Hundred Fifty Thousand Dollars (\$750,000.00) in amount and such  
22 authority of the Department of Corrections shall not extend to any  
23 contract exceeding Two Hundred Fifty Thousand Dollars (\$250,000.00)  
24 in amount for situations in which the emergency impacts the

1 conditions of confinement, health and safety of correctional  
2 officers and inmates in the custody of the Department of  
3 Corrections.

4 C. Upon approval of a two-thirds (2/3) majority vote, the  
5 Oklahoma Conservation Commission may delegate to the Executive  
6 Director the authority to declare an emergency and set a monetary  
7 limit for the declaration. The provisions of this subsection may  
8 only be used for the purpose of responding to an emergency involving  
9 the reclamation of abandoned coal mines or the repair of damaged  
10 upstream floodwater retarding structures.

11 D. An emergency declared by the Board of Corrections pursuant  
12 to subsection C of Section 65 of this title shall exempt the  
13 Department of Corrections from the limits which would otherwise be  
14 imposed pursuant to subsection B of this section for the contracting  
15 and construction of new or expanded correctional facilities.

16 E. The chief administrative officer of a public agency with a  
17 governing body shall notify the governing body within ten (10) days  
18 of the declaration of an emergency if the governing body did not  
19 approve the emergency. The notification shall contain a statement  
20 of the reasons for the action, and shall be recorded in the official  
21 minutes of the governing body.

22 F. Emergency as used in this section shall be limited to  
23 conditions resulting from a sudden unexpected happening or  
24 unforeseen occurrence or condition whereby the public health or



1 safety is endangered or further damage to state property is likely  
2 if the situation is not addressed promptly.

3 G. The chief administrative officer of a public agency shall  
4 report an emergency within ten (10) days of the emergency  
5 declaration and include the official minutes of the governing body  
6 of the public agency, if applicable, to the ~~State Construction~~  
7 ~~Administrator of the Construction and Properties Division of the~~  
8 Office of Management and Enterprise Services ~~who~~ which shall compile  
9 an annual report detailing all emergencies declared pursuant to this  
10 section during the previous calendar year. The report shall be  
11 submitted to the Governor, the President Pro Tempore of the Senate,  
12 and the Speaker of the House of Representatives upon request.

13 H. The Risk Management Administrator of the Office of  
14 Management and Enterprise Services may declare an emergency on  
15 behalf of a public agency when an insurable loss has occurred which  
16 would lead to further economic loss or additional property damage if  
17 not addressed promptly. Such declaration shall not relieve the  
18 public agency of fiscal responsibility for its deductible, uninsured  
19 losses, and other related expenses.

20 SECTION 28. AMENDATORY 61 O.S. 2021, Section 202, is  
21 amended to read as follows:

22 Section 202. As used in the Public Facilities Act:

23 1. "Annual capital plan" means the collective state facility  
24 capital improvements, facility operations and maintenance, rent and

1 lease payments, facility debt services, water, sewer and energy  
2 utilities and real property transactions approved by the Legislature  
3 in a capital budget relative to state construction, maintenance, and  
4 real estate services;

5 2. "Capital planning and asset management" means the processes  
6 ~~delegated to the Department of Real Estate Services~~ for real  
7 property data acquisition, data analysis and determination of  
8 capital construction projects and procurement related to real  
9 property;

10 3. "Construction" means the process of planning, acquiring,  
11 designing, building, equipping, altering, repairing, improving,  
12 maintaining, leasing, disposing or demolishing any structure or  
13 appurtenance thereto including facilities, utilities, or other  
14 improvements to any real property but not including highways,  
15 bridges, airports, railroads, tunnels, sewers not related to a  
16 structure or appurtenance thereto, or dams;

17 4. "Construction administration" means a series of actions  
18 required of the ~~State Facilities Director, of~~ Office of Management  
19 and Enterprise Services or other state agency employees, or, under a  
20 construction administration contract or contract provision, to  
21 ensure the full, timely, and proper performance of all phases of a  
22 construction project by all contractors, suppliers, and other  
23 persons having responsibility for project work and any guarantees or  
24 warranties pertaining thereto;

1        5. ~~"Department" means the Department of Real Estate Services of~~  
2 ~~the Office of Management and Enterprise Services;~~

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

10            a. "agency construction management" whereby the  
11                construction entity provides services to the owner  
12                without taking on financial risks for the execution of  
13                the actual construction or time of performance, and  
14                the owner contracts directly with those awarded trade  
15                contracts for the work, and

16            b. "at-risk construction management" whereby the  
17                construction entity, after providing agency services  
18                during the pre-construction period:

19                (1) takes on the financial obligation to timely carry  
20                        out construction under a specified cost  
21                        agreement, and

22                (2) enters into written subcontracts for the work in  
23                        accordance with the construction management  
24                        procedures for state agencies;

1       ~~7.~~ 6. "Consultant" means an individual or legal entity  
2 possessing the qualifications to provide licensed architectural,  
3 registered engineering, registered land surveying, certified  
4 appraisal, land title, or abstract services or possessing  
5 specialized credentials and qualifications as may be needed to  
6 evaluate, plan or design for any construction or public work  
7 improvement project, or to lease, acquire or dispose of state-owned  
8 real property;

9       ~~8. "Division" means the Construction and Properties Division of~~  
10 ~~the Office of Management and Enterprise Services;~~

11       ~~9.~~ 7. "Energy performance index or indices" (EPI) means a  
12 number describing the energy requirements at the building boundary  
13 of a structure, per square foot of floor space or per cubic foot of  
14 occupied volume, as appropriate under defined internal and external  
15 ambient conditions over an entire seasonal cycle. As experience  
16 develops on the energy performance achieved with state construction,  
17 the indices (EPI) will serve as a measure of structure performance  
18 with respect to energy consumption;

19       ~~10. "Facilities Director" or "SFD" means the State Facilities~~  
20 ~~Director of the Department of Real Estate Services of the Office of~~  
21 ~~Management and Enterprise Services;~~

22       ~~11.~~ 8. "Life cycle costs" means the cost of owning, operating,  
23 and maintaining the structure over the life of the structure. This  
24

1 may be expressed as an annual cost for each year of the facility's  
2 use;

3 ~~12.~~ 9. "Office" means the Office of Management and Enterprise  
4 Services;

5 ~~13.~~ 10. "Procurement" means buying, purchasing, renting,  
6 leasing, allocating, trading or otherwise acquiring or disposing of  
7 supplies, services, or construction necessary to evaluate, plan,  
8 construct, manage, operate and preserve real property capital  
9 assets;

10 ~~14.~~ 11. "Public improvement" means any beneficial or valuable  
11 change or addition, betterment, enhancement or amelioration of or  
12 upon any real property, or interest therein, belonging to a state  
13 agency and the State of Oklahoma, intended to enhance its value,  
14 beauty or utility or to adapt it to new or further purposes. The  
15 term does not include the direct purchase of materials used for  
16 general repairs and maintenance to state facilities;

17 ~~15.~~ 12. "Shared savings financing" means the financing of  
18 energy conservation measures and maintenance services through a  
19 private firm which may own any purchased equipment for the duration  
20 of a contract. Such contract shall specify that the private firm  
21 will be recompensed either out of a negotiated portion of the  
22 savings resulting from the conservation measures and maintenance  
23 services provided by the private firm or, in the case of a  
24 cogeneration project, through the payment of a rate for energy lower

1 than would otherwise have been paid for the same energy from current  
2 sources; and

3 ~~16.~~ 13. "State agency" means an agency, board, commission,  
4 counsel, court, office, officer, bureau, institution, unit,  
5 division, body, or house of the executive or judicial branches of  
6 government of this state, whether elected or appointed, excluding  
7 only political subdivisions, the Oklahoma State Regents for Higher  
8 Education and its constituent institutions and the Commissioners of  
9 the Land Office.

10 SECTION 29. AMENDATORY 61 O.S. 2021, Section 204, is  
11 amended to read as follows:

12 Section 204. A. The ~~Department of Real Estate Services~~ Office  
13 of Management and Enterprise Services shall:

14 1. ~~Maintain a comprehensive master plan for utilization and~~  
15 ~~construction of state buildings, capital improvements, and~~  
16 ~~utilization of land owned by this state. Requirements of the master~~  
17 ~~planning process shall include:~~

18 a. ~~reporting by each state agency concerning facility~~  
19 ~~needs,~~

20 b. ~~data acquisition of condition and performance~~  
21 ~~benchmarking of state agency facilities,~~

22 c. ~~analyses and audits of state agency facilities,~~  
23 ~~properties and leaseholds to determine critical and~~  
24 ~~long-range needs,~~

- d. ~~development of state agency long range strategic facility plans,~~
- e. ~~short range project programming to identify budget requests for facility capital improvements and asset management decisions, and~~
- f. ~~an annual capital plan for all state agencies submitted to the Legislature for line item appropriation requests;~~

~~2.~~ Review and approve all construction plans and specifications to ensure compliance with good construction practices and space standards, costs of project, proposed construction timetables, and agency need for the project;

~~3.~~ 2. Inspect prior to acceptance and final payment all completed projects for which the ~~Department~~ Office issued bid solicitations to ensure compliance with the plans and specifications of the project;

~~4.~~ 3. Select and hire consultants and construction managers for projects as determined or approved by the ~~Department~~ Office. The ~~Department~~ Office shall select, award and execute contracts to consultants and construction managers that provide services to state agencies subject to this act;

~~5.~~ 4. Develop and issue solicitations for award of state agency contracts for construction services. The ~~Department~~ Office shall have final approval authority for contracts and contract documents.

1 Neither the ~~Department~~ Office nor any public entity shall, for  
2 performance of work that requires that a contractor be licensed by  
3 this state, issue a solicitation to, or make a contract with, a  
4 contractor not licensed by this state;

5 ~~6.~~ 5. Review inspections performed by consultants and  
6 construction managers during construction, perform primary  
7 inspections when consultants or construction managers are not used,  
8 and final inspections after completion;

9 ~~7.~~ 6. Establish standards and policies as required to  
10 standardize facility assessment and benchmarking, facility  
11 operations and maintenance, asset preservation, design and energy  
12 standards, space utilization, material testing, indexes of  
13 efficiency, economy, and effectiveness;

14 ~~8.~~ 7. Monitor indices of facility condition, effectiveness of  
15 operations and maintenance programs, deferred maintenance  
16 prioritization, effectiveness of planning processes, budgeting for  
17 capital needs, application of facility standards as established by  
18 the ~~Department~~ Office, and performance outcomes of construction  
19 projects to ensure maximum efficiency in the expenditure of state  
20 funds for asset management and preservation of the state's capital  
21 real property;

22 ~~9.~~ 8. Coordinate, monitor and report on statewide energy  
23 conservation programs delegated to the Office;



1       ~~10.~~ 9. Provide property leasing and brokerage services  
2 delegated to the Office;

3       ~~11.~~ 10. Report fraud or waste in any construction project by  
4 written notification with documentation for the report to the  
5 Attorney General. The Attorney General shall take appropriate  
6 action to protect the interest of the state; and

7       ~~12.~~ 11. Prequalify as good and sufficient insurance carriers,  
8 bonding companies and surety companies to meet provisions of  
9 Sections 1 and 134 of this title. The Director shall promulgate  
10 rules to establish criteria to determine whether a carrier or  
11 company is good and sufficient. The prequalification requirement  
12 and process shall not violate the provisions of Section 135 of this  
13 title.

14       B. When a state agency employs a licensed architect or licensed  
15 engineer as a full-time employee, said licensed employee may conduct  
16 required facility planning, prepare project plans and specifications  
17 and monitor construction work as prescribed by the ~~Department~~  
18 Office. State agencies authorized to employ licensed architects and  
19 engineers for the purposes of this section include:

20       1. The Department of Transportation with respect to highways,  
21 bridges and dams;

22       2. The Oklahoma State Regents for Higher Education and its  
23 constituent institutions;

24       3. The Military Department of the State of Oklahoma;

1       4. The Oklahoma Tourism and Recreation Department; and

2       5. The Department of Human Services.

3       ~~C. Not later than December 31, 2012, with the advice of the~~  
4 ~~State Facilities Director, the Director of the Office of Management~~  
5 ~~and Enterprise Services shall provide a report containing~~  
6 ~~recommendations to the Legislature for the streamlining,~~  
7 ~~integration, and consolidation of state construction, maintenance,~~  
8 ~~and real property management processes to maximize capital assets~~  
9 ~~and achieve cost savings to the state. The report shall identify~~  
10 ~~the necessary planning processes for transitioning from a~~  
11 ~~decentralized capital budgeting process to a centralized annual~~  
12 ~~capital plan appropriation process, to be implemented no later than~~  
13 ~~January 1, 2014.~~

14       SECTION 30.       AMENDATORY       61 O.S. 2021, Section 207.2, is  
15 amended to read as follows:

16       Section 207.2 A. Except as provided by subsection B of this  
17 section, no state agency shall employ, either temporary or full-  
18 time, any person engaged in the practice of architecture,  
19 engineering or land surveying for the purpose of planning or  
20 performing any construction upon any real property belonging to the  
21 agency or to the state, or upon any real property of which this  
22 state will assume possession or ownership by contract, option to  
23 purchase agreement, lease, or otherwise. The term "practice of  
24 architecture" shall be defined as those activities of an architect

1 as provided for in Section 46.3 of Title 59 of the Oklahoma  
2 Statutes. The terms "practice of engineering" or the "practice of  
3 land surveying" shall be defined as such terms are defined by  
4 Section 475.2 of Title 59 of the Oklahoma Statutes.

5 B. The provisions of subsection A of this section shall not  
6 apply to:

7 1. The Department of Human Services;

8 2. The Oklahoma Tourism and Recreation Department;

9 3. The State Department of Health insofar as the monitoring of  
10 permitted health care facility construction for licensing purposes;

11 4. The Oklahoma Historical Society insofar as the monitoring of  
12 historical site preservation and authenticity;

13 5. The Office of Management and Enterprise Services;

14 6. The State Department of Education and the public schools  
15 subject to its jurisdiction;

16 7. The Department of Transportation;

17 8. The Oklahoma State System of Higher Education;

18 9. The Military Department of the State of Oklahoma;

19 10. The Oklahoma Municipal Power Authority;

20 11. The Department of Public Safety gun range; and

21 12. ~~CompSource Oklahoma if CompSource Oklahoma is operating~~  
22 ~~pursuant to a pilot program authorized by Sections 3316 and 3317 of~~  
23 ~~Title 74 of the Oklahoma Statutes; and~~

1       ~~13.~~ The University Hospitals Authority and University Hospitals  
2 Trust.

3       SECTION 31.       AMENDATORY       61 O.S. 2021, Section 208, is  
4 amended to read as follows:

5       Section 208. A. The ~~Department of Real Estate Services of the~~  
6 Office of Management and Enterprise Services shall select and award  
7 contracts to construction managers and design consultants pursuant  
8 to the provisions of Section 62 of this title.

9       B. The negotiation of construction manager and consultant  
10 contracts and fees shall be performed by the ~~Department~~ Office.

11       C. The ~~Department~~ Office shall award and administer  
12 construction contracts for state agencies pursuant to the provisions  
13 of the Public Competitive Bidding Act of 1974.

14       D. 1. When all bids for a public construction contract exceed  
15 the programmed estimate and available funding, the ~~Department~~ Office  
16 may enter into negotiations with the lowest responsible bidder for  
17 the purpose of modifying the project scope and reducing the  
18 construction cost, provided that:

19           a. the unexpected higher construction costs resulted from  
20 unforeseen economic conditions or otherwise sudden  
21 price volatility in the construction industry,

22           b. the project was appropriately planned, and cost  
23 estimates were developed using standards of care  
24 acceptable to the ~~Department~~ Office, and

1           c.     further delay caused by redesigning and rebidding the  
2                 project would jeopardize the using agency's mission or  
3                 result in the loss of a planned funding source.

4           2.    To request consideration for negotiations pursuant to this  
5 subsection, the using agency, within ten (10) days of the bid  
6 opening date, shall make a written request to the Director of the  
7 Office of Management and Enterprise Services to enter into  
8 negotiations pursuant to paragraph 1 of this subsection. If  
9 approved by the Director, the ~~Department~~ Office shall consult with  
10 the using agency, consultant and low bidder on methods to reduce the  
11 project scope or other cost-saving measures.

12           3.    If a suitable revised scope and contract amount is agreed  
13 upon by the using agency, ~~low~~ lowest responsible bidder, and the ~~SFD~~  
14 Director, the ~~Department~~ Office may award the public construction  
15 contract to the ~~low~~ lowest responsible bidder.

16           4.    The ~~Department~~ Office shall negotiate a fair and reasonable  
17 fee with the project's consultant, if applicable, to make any  
18 necessary revisions to the contract documents. The cost of this  
19 additional consulting work shall be paid from the agency's available  
20 funds.

21           5.    Approval and final award of the contract for the  
22 construction negotiated pursuant to this subsection shall occur no  
23 later than one hundred twenty (120) days from the opening bid.

1 E. The ~~Department of Real Estate Services~~ Office is authorized  
2 to issue solicitations and award statewide contracts for managed  
3 construction service delivery in order to provide efficient and  
4 cost-effective procurement solutions for public agencies. Statewide  
5 contracts may be either mandatory or nonmandatory as determined by  
6 the ~~SFD~~ Director.

7 F. The ~~Department of Real Estate Services~~ Office is authorized  
8 to provide facility management and operations and maintenance  
9 services for any state agency on a cost-recovery basis for any  
10 facility operated by a state agency when:

11 1. The state agency initiates a request with the ~~SFD~~ Director;  
12 or

13 2. ~~Beginning on or after July 1, 2016, the SFD~~ The Director  
14 determines a state agency is performing in the bottom ten percent  
15 (10%) of all state agencies with respect to performance measures for  
16 facility management established by the ~~Department~~ Office.

17 G. In addition to the exception from this act hereby provided  
18 to the Oklahoma State Regents for Higher Education and its  
19 constituent institutions and the Commissioners of the Land Office,  
20 the ~~State Facilities~~ Director may authorize an exemption to the  
21 provisions of this act to any other state agency provided that the  
22 recipient of the exemption:

23 1. Adopts standards, processes and procedures for planning,  
24 budgeting, design, facility management, asset management and asset

1 preservation that are substantially compliant with those as  
2 prescribed by the ~~Department~~ Office;

3 2. Adheres to procurement requirements of Sections 62 through  
4 65 of this title and the provisions of this act;

5 3. Reports benchmark, budget and ongoing performance data  
6 required by the ~~Department~~ Office; and

7 4. Participates in annual performance reviews and organized  
8 forums for promoting best practices statewide as determined by the  
9 ~~SFD~~ Director.

10 SECTION 32. AMENDATORY 61 O.S. 2021, Section 208.1, is  
11 amended to read as follows:

12 Section 208.1 The ~~Department of Real Estate Services~~ Office may  
13 collect a reasonable fee for the purpose of providing or contracting  
14 for architectural, engineering, land surveying, planning, real  
15 estate and related services to state agencies and political  
16 subdivisions of the state, and from persons requesting plans and  
17 notification of solicitations issued by the ~~Department~~ Office. The  
18 ~~Department~~ Office may collect a reasonable fee for management  
19 services. Annual fees to the ~~Department~~ Office shall be on a cost-  
20 recovery basis and may be calculated as a percentage of annual  
21 construction and real estate services in an amount necessary to  
22 support ~~Department operation as designated in the annual capital~~  
23 ~~plan~~ the Office's operations. All fees collected in accordance with  
24

1 the provisions of this section shall be deposited in the "State  
2 Construction Revolving Fund" created in Section 208.2 of this title.

3 SECTION 33. AMENDATORY 61 O.S. 2021, Section 208.2, is  
4 amended to read as follows:

5 Section 208.2 There is hereby created in the State Treasury a  
6 revolving fund for the ~~Department of Real Estate Services of the~~  
7 Office of Management and Enterprise Services, to be designated the  
8 "State Construction Revolving Fund". The fund shall be a continuing  
9 fund, not subject to fiscal year limitations, and shall consist of  
10 all funds appropriated by the Legislature for projects included in  
11 the annual capital plan; funds from nonappropriated sources  
12 designated for projects within a capital plan; allocations from an  
13 approved annual capital plan designed for assessment and planning  
14 services; allocations from an approved annual capital plan for  
15 emergency response in accordance with Section 130 of this title; and  
16 fees collected by the ~~Department~~ Office in accordance with the  
17 provisions of this section or as otherwise provided by law. All  
18 monies accruing to the credit of the fund are hereby appropriated  
19 and may be budgeted and expended by the ~~Department~~ Office. The fund  
20 shall be used to pay expenses resulting from contracts awarded by  
21 the ~~Department~~ Office and to defray ~~Department~~ Office operating  
22 costs and expenses the Office incurs to support ~~Department~~  
23 construction-related operations. Expenditures from the fund shall  
24 be made upon warrants issued by the State Treasurer against claims



1 filed as prescribed by law with the Director of the Office of  
2 Management and Enterprise Services for approval and payment.

3 SECTION 34. AMENDATORY 61 O.S. 2021, Section 209, is  
4 amended to read as follows:

5 Section 209. The Director of the Office of Management and  
6 Enterprise Services shall promulgate rules:

7 1. For state agencies to perform minor construction projects;

8 2. Specifying building codes pursuant to the Oklahoma Uniform  
9 Building Code Commission Act for construction projects;

10 3. Permitting state agencies who have the expertise, upon  
11 written application to the ~~Department of Real Estate Services of the~~  
12 Office of Management and Enterprise Services, to perform any part of  
13 the responsibilities of the ~~Department~~ Office pursuant to the  
14 provisions of the Public Facilities Act for a specific project;

15 4. Specifying procedures and guidelines for the implementation  
16 of shared savings financing by state agencies;

17 5. Specifying energy conservation performance guidelines, for  
18 conducting a life cycle cost analysis of alternative architectural  
19 and engineering designs and alternative major items of energy-  
20 consuming equipment to be retrofitted in existing state-owned or  
21 leased structures and for developing energy performance indices to  
22 evaluate the efficiency of energy utilization for completing designs  
23 in the construction of state-financed and leased structures;

1        6. The time, manner, authentication, and form of making  
2 requisitions to the ~~Department~~ Office;

3        7. The form and manner of submission for bids or proposals and  
4 the manner of accepting and opening bids or proposals that may  
5 include online bids pursuant to the Oklahoma Online Bidding Act;

6        8. The manner for a state agency to acquire services for  
7 construction projects;

8        9. Conditions under which any of the rules herein authorized  
9 may be waived;

10       10. The form of any document the Director requires;

11       11. Specifying provisions a state agency shall follow to adhere  
12 to acquisition, contract, contract management and other provisions  
13 of this title; and

14       12. Specifying the process a state agency shall follow to  
15 establish the scope of work, schedule and cost estimate for all  
16 publicly bid construction projects involving construction or  
17 renovation of buildings.

18       SECTION 35.        AMENDATORY        61 O.S. 2021, Section 210, is  
19 amended to read as follows:

20       Section 210. A. Shared savings contracts shall be developed in  
21 accordance with a model contract developed by ~~the Department of Real~~  
22 ~~Estate Services~~ of the Office of Management and Enterprise Services.  
23 The model contract shall include:

24       1. The methodology for calculating baseline energy costs;

1        2. A procedure for revising these costs should the state  
2 institute additional energy conservation features or structure use  
3 change;

4        3. A requirement for a performance bond guaranteeing that the  
5 structure will be restored to the original condition in the event of  
6 default;

7        4. A provision for early buyout;

8        5. A clause specifying who will be responsible for maintaining  
9 the equipment; and

10       6. A provision allowing the disposal of equipment at the end of  
11 the contract.

12       No state agency or department shall substantially alter the  
13 provisions described in the model without the permission of the  
14 ~~Department~~ Office.

15       B. Contracts subject to this section shall be awarded pursuant  
16 to the provisions of subsection A of Section 208 of this title.

17       SECTION 36.        AMENDATORY        61 O.S. 2021, Section 211, is  
18 amended to read as follows:

19       Section 211. ~~On and after July 1, 1987, when~~ When any state  
20 agency or department must replace or supplement major items of  
21 energy-consuming equipment in existing state-owned or leased  
22 structures or any self-contained unit of any structure with other  
23 major items of energy-consuming equipment, the selection of such  
24 items shall be made on the basis of a life cycle cost analysis of

1 alternatives in accordance with rules and regulations promulgated by  
2 the Director of the Office of Management and Enterprise Services.

3 SECTION 37. AMENDATORY 61 O.S. 2021, Section 212, is  
4 amended to read as follows:

5 Section 212. A. For purposes of this section:

6 1. "Performance-based efficiency contract" means a contract for  
7 the design, development, financing, installation, construction and  
8 service of any improvement, repair, alteration or betterment of any  
9 public building or facility; or any equipment, fixture or furnishing  
10 to be added to or used in any such building or facility; or any  
11 maintenance or operational strategy that is designed and implemented  
12 that will reduce utility consumption or lower operating costs, and  
13 may include, but is not limited to, one or more of the following:

14 a. utility services,

15 b. heating, ventilating or air conditioning system  
16 modifications or replacements and automated control  
17 systems,

18 c. replacement or modifications of lighting fixtures,

19 d. indoor air quality improvements to increase air  
20 quality that conform to the applicable state or local  
21 building code requirements when done in conjunction  
22 with other cost-saving measures,

23 e. any additional building infrastructure improvement,  
24 cost saving, life safety or any other improvement that

1 provides long-term operating cost reductions and is in  
2 compliance with state and local codes, or  
3 f. any facility operation and support programs that  
4 reduce operating cost; and

5 2. "Qualified provider" means a person or business experienced  
6 or trained in the design, analysis, construction and/or installation  
7 of energy conservation and facility management measures. A  
8 qualified provider must employ a professional engineer registered in  
9 the State of Oklahoma.

10 B. In addition to any other legally permissible alternatives of  
11 entering into contracts, the Office of Management and Enterprise  
12 Services ~~Construction and Properties Division~~ may enter into  
13 performance-based efficiency contracts on behalf of all state  
14 agencies with a qualified provider pursuant to the provisions of  
15 this section.

16 A qualified provider to whom the contract is awarded shall be  
17 required to provide to the ~~Division~~ Office a sufficient bond for its  
18 faithful performance of the contract. In addition, the ~~Division~~  
19 Office may require performance bonds covering the annual amount of  
20 guaranteed savings over the contract term. ~~The Office of Management~~  
21 ~~and Enterprise Services~~ State agencies may enter into an installment  
22 contract, lease purchase agreement or other contractual obligation  
23 for the purpose of financing performance-based efficiency projects  
24

1 for a term not to exceed the greater of twenty (20) years or the  
2 useful life of the project.

3 The qualified provider must guarantee the contract's cost  
4 savings each year during the term of the agreement. In calculating  
5 cost savings, the public entity may consider capital cost avoidance  
6 and include additional revenue that is directly attributed to the  
7 performance-based efficiency contract. The savings must be  
8 sufficient to offset the annual costs of the contract. The contract  
9 shall provide for reimbursement to the state agency undertaking the  
10 project annually for any shortfall of guaranteed savings. Savings  
11 must be measured, verified and documented each year of the term and  
12 may be utilized to meet the annual debt service.

13 The contracts authorized by this section shall include  
14 procedures for modifying the contract should the ~~Division~~ Office  
15 determine it necessary.

16 This section shall constitute the sole authority necessary to  
17 enter into performance-based efficiency contracts, without regard to  
18 compliance with other laws which may specify additional procedural  
19 requirements for execution of contracts.

20 SECTION 38. AMENDATORY 61 O.S. 2021, Section 308, is  
21 amended to read as follows:

22 Section 308. The Office of Management and Enterprise Services  
23 is hereby authorized to lease for drilling and development of oil or  
24 gas, or both, any of the lands belonging to the state, on which are

1 located ~~penal or eleemosynary~~ public institutions, or are connected  
2 with or a part of the lands of such institution. Such leasing to be  
3 made by public competition after not less than fifteen (15) days'  
4 notice by publication, either electronically on an authorized state  
5 website or in two newspapers a newspaper authorized by law to  
6 publish legal notices, ~~one of which newspapers shall be published at~~  
7 ~~the State Capital, and the other~~ in the county where the land is  
8 situated, and in such manner as said Office of Management and  
9 Enterprise Services may by rule prescribe. All such leasing must be  
10 on electronic or sealed bids and awarded to the highest responsible  
11 bidder, and for a term of not to exceed five (5) years from date and  
12 as long thereafter as oil and gas, or either of them, is produced in  
13 paying quantities from the land by the lessee, provided the Office  
14 may reject any and all bids. The oil and gas interest in such land  
15 hereby authorized to be leased, is to the extent and in the manner  
16 that a private owner of lands in fee, may in his own right, execute  
17 such lease or grant.

18 SECTION 39. AMENDATORY 61 O.S. 2021, Section 309, is  
19 amended to read as follows:

20 Section 309. A. The Office of Management and Enterprise  
21 Services is hereby authorized and empowered to offer for sale and  
22 sell and execute and deliver oil and gas or mineral leases upon the  
23 lands described in Section 1 of Title 73 of the Oklahoma Statutes  
24 under the control of said Office of Management and Enterprise

1 Services. The Office of Management and Enterprise Services is  
2 hereby authorized and empowered to enter into contracts with persons  
3 or corporations for the drilling of oil and gas wells on any such  
4 property owned by the state. No such lease or drilling contract  
5 shall be entered into by said Office of Management and Enterprise  
6 Services which provides for the payment of a royalty to the State of  
7 Oklahoma of less than one-eighth (1/8) of all of the oil, gas, or  
8 casinghead gas produced, saved, and sold from said lands, plus cash  
9 bonus, of the royalty in said leases. Such Office shall give notice  
10 of its intention to offer for sale said lease or drilling contract  
11 by advertising said fact for a period of at least twenty-one (21)  
12 days either electronically on an authorized state website or in a  
13 legal newspaper published and of general circulation in the county  
14 where said lands are located. The Office shall award such lease,  
15 leases, or drilling contracts to the highest ~~and best~~ responsible  
16 bidder. All bidding shall be by sealed written or electronic bids  
17 filed with said Office of Management and Enterprise Services.

18 B. ~~The monies received as royalties, bonuses, or rentals by the~~  
19 ~~Office of Management and Enterprise Services for the use and benefit~~  
20 ~~of this state not paid by said Office of Management and Enterprise~~  
21 ~~Services to the Treasurer shall be credited into the General Revenue~~  
22 ~~Fund.~~ All royalties, bonuses, and rentals accruing to the state  
23 from any contracts or leases executed pursuant to the provisions of  
24 subsection A of this section and all other monies received from the



1 sale of any such leases, bonuses, and royalties or other contracts  
2 made by said Office of Management and Enterprise Services shall be  
3 credited to the ~~Public Building Fund~~ Maintenance of State Buildings  
4 Revolving Fund of the State of Oklahoma.

5 SECTION 40. AMENDATORY 61 O.S. 2021, Section 311, is  
6 amended to read as follows:

7 Section 311. The lands described in ~~Section One of this act~~  
8 Sections 308 through 317 of this title shall be under the exclusive  
9 control and jurisdiction of the State of Oklahoma and the zoning and  
10 drilling regulations of any municipality of this state shall not  
11 apply thereto.

12 SECTION 41. AMENDATORY 61 O.S. 2021, Section 312, is  
13 amended to read as follows:

14 Section 312. If any section, paragraph, sentence or phrase of  
15 this ~~act~~ title shall be declared unconstitutional or void for any  
16 reason by any court of final jurisdiction, such decision shall not  
17 in any way invalidate or affect any other section, paragraph,  
18 sentence or phrase of this act but the same shall continue in full  
19 force and effect.

20 SECTION 42. AMENDATORY 61 O.S. 2021, Section 316, is  
21 amended to read as follows:

22 Section 316. All proceeds derived from any royalty under such  
23 leases or any bonus received from the sale of such leases, shall be  
24 paid into the ~~General Revenue Fund~~ Maintenance of State Buildings

1 Revolving Fund of the state but this section shall not be a part of  
2 any contract with any lessee hereunder.

3 SECTION 43. AMENDATORY 61 O.S. 2021, Section 317, is  
4 amended to read as follows:

5 Section 317. The Office of Management and Enterprise Services  
6 is hereby authorized and empowered to sell and execute oil and gas  
7 leases, and other mining leases, on any of the lands of this state  
8 under the control of said Office of Management and Enterprise  
9 Services. Sale of Oklahoma State Capitol lands or parkways or the  
10 Executive Mansion lands shall be made upon a basis of a retained  
11 royalty of not less than one-eighth (1/8) of all the oil, gas, and  
12 other minerals produced therefrom, and such additional cash bonus as  
13 may be procured. Such leases shall contain a provision that in the  
14 event of the discovery of natural gas, gas shall be furnished free  
15 of charge to any state institution located or hereafter located upon  
16 the lands covered by said lease, or leases. Said leases shall be  
17 sold only after advertisement for a period of three (3) weeks either  
18 electronically on an authorized state website or in a legal  
19 newspaper published and of general circulation in the county in  
20 which said lands are located. The sale shall be made to the highest  
21 ~~and best~~ responsible bidder, and all bids for any tract shall be  
22 presented to the Office of Management and Enterprise Services  
23 electronically or in sealed envelopes, and shall all be opened and  
24 considered at the same time. Said Office of Management and

1 Enterprise Services shall have the right to reject any and all of  
2 said bids and again readvertise said lease, or leases, for sale.

3 The Office of Management and Enterprise Services is further  
4 authorized to make and promulgate such additional rules and  
5 regulations as he may deem necessary and for the best interest of  
6 the state in facilitating the sale of said leases. The Director may  
7 contract with other state agencies to implement the provisions of  
8 this section and any expenses charged under such contract may be  
9 paid from the proceeds of the lease.

10 All monies derived from the sale of any and all of said leases,  
11 and from any royalties subsequently accruing, after deduction of the  
12 amount required to pay necessary and actual expenses of developing  
13 the lease, shall be paid into the State Treasury and credited to the  
14 ~~General Revenue Fund of the state~~ Maintenance of State Buildings  
15 Revolving Fund.

16 SECTION 44. AMENDATORY 61 O.S. 2021, Section 323, is  
17 amended to read as follows:

18 Section 323. A. The Director of the Office of Management and  
19 Enterprise Services is hereby authorized to lease for a temporary  
20 period of time the surface of any of the lands belonging to the  
21 state described in Section 322 of this title, which are not needed  
22 or required for the proper maintenance of the institutions or  
23 departments in possession thereof.

24

1       B. ~~Except as otherwise provided by Section 6201 of Title 74 of~~  
2 ~~the Oklahoma Statutes, leases~~ Leases shall be for a period of time  
3 not exceeding five (5) years and upon such other terms and  
4 conditions as the Director may determine to be in the best interests  
5 of the state.

6       C. ~~Except as otherwise provided by Section 6201 of Title 74 of~~  
7 ~~the Oklahoma Statutes, leases~~ Leases shall provide for a termination  
8 of the lease upon reasonable notice in writing whenever the needs of  
9 the state or the institution in possession thereof requires the  
10 land.

11       D. The Director may also execute lease contracts for the lands  
12 to any institution or agency or department, commission, or municipal  
13 subdivision that requires the need of the land in conjunction with  
14 cooperation or participation in any city or state project authorized  
15 by law, if contracts or agreements will not interfere with or  
16 restrict in any manner, the proper use of the lands by the state  
17 institution in possession thereof.

18       E. The Commissioners of the Land Office, the Oklahoma Ordnance  
19 Works Authority, the Midwestern Oklahoma Development Authority, the  
20 Oklahoma Department of Transportation, the Oklahoma Turnpike  
21 Authority and the Northeast Oklahoma Public Facilities Authority and  
22 their lands shall be exempt from the application of this section.  
23  
24

1 F. Lands leased to private prison contractors pursuant to  
2 Section 561 of Title 57 of the Oklahoma Statutes shall be exempt  
3 from the application of this section.

4 SECTION 45. AMENDATORY 61 O.S. 2021, Section 324, is  
5 amended to read as follows:

6 Section 324. The Director of the Office of Management and  
7 Enterprise Services is authorized and directed to take charge of,  
8 manage, and lease "Capitol Building Lands", described as follows:

9 ~~Lots 31 and 32, Ethel Park Addition to Oklahoma City, Oklahoma,~~  
10 ~~known as Tract No. 23, being a part of Section 23 - Twp. 12N - R - 3~~  
11 ~~West.~~

12 ~~Lots 1, 2, 3, 4, 5, and lots 45, 46, 47, and 48 in Block 6,~~  
13 ~~Ethel Park Addition to Oklahoma City, Oklahoma, known as Tract No.~~  
14 ~~24, being a part of Section 23 - Twp. 12 N - R - 3 West.~~

15 ~~Lots 1, 2, 3, 4, 5, 6, and 43, 44, 45, 46, 47, and 48, Block 1,~~  
16 ~~Ethel Park Addition to Oklahoma City, Oklahoma, known as Tract No.~~  
17 ~~25, being a part of Section 23 Twp. 12 N - R - 3 West.~~

18 ~~Lots 30 and 31, Woody Crest Addition to Oklahoma City, Oklahoma,~~  
19 ~~known as Tract No. 39, being a part of Section 22 - Twp. 12N - R - 3~~  
20 ~~West.~~

21 ~~Lots 11 and 12, Stevens Hamill Addition to Oklahoma City,~~  
22 ~~Oklahoma, known as Tract No. 19, being a part of Section 26 Twp. 12N~~  
23 ~~- R - 3 West.~~

~~Lots 11 and 12, Block 3, Northeast Highland Addition to Oklahoma City, Oklahoma, known as Tract No. 40, being a part of Section 23 - Twp. 12N - R - 3 West.~~

Lots 35, 36, 37, and 38 Northeast Highland Addition to Oklahoma City, Oklahoma, known as Tract No. 44, being a part of Section 22 - Twp. 12N - R - 3 West.

Lots 7, 8, 9, and 10, Block 1, Donley Heights, a subdivision of Blocks 19 and 20, Barrows Second Addition to Oklahoma City, Oklahoma. Lots 31 and 32, Block 4, of the subdivision of Lots 9 and 10, and 23 and 24 of Barrows First and Second Additions to Oklahoma City, Oklahoma. Lots 11 and 12, Block 3, Northeast Highland Addition, being a part of Blocks 25 and 26, Barrows Second Addition to Oklahoma City, Oklahoma. All of the above lots in Barrows Addition being known as Tract No. 41.

~~A tract of land 48' x 128' facing NE 38th Street and located between Lindsay Avenue and First Street west known as Tract No. 29. Lots 9 and 10, Block 2, Stevens Hamill Addition to Oklahoma City, Oklahoma, known as Tract No. 18, being a part of Section 26 - Twp. 12 N - R - 3 West.~~

~~Lots 13 through 24, inclusive, Block 2, Frances Heights Addition to Oklahoma City, Oklahoma, known as Tract No. 43, being a part of Section 22 - Twp. 12 N - R - 3 West.~~

~~Lots 5, 6, 11, 12, 19 and 20, Block 2, Hares Lake View Addition, situated approximately two and one-half (2 1/2) miles Northeast of~~

1 ~~Oklahoma City, Oklahoma, known as Tract No. 30, being a part of~~  
2 ~~Section 11 — Twp. 12 N — R — 3 West.~~

3 Also the following acreage tracts of land:

4 ~~Two (2) acres, situated three and one half (3 1/2) miles East on~~  
5 ~~23rd Street hence two (2) miles North, thence one half (1/2) mile~~  
6 ~~East, thence one fourth (1/4) mile North from the State Capitol~~  
7 ~~Building, known as Tract No. 3, being a part of SE 1/4 of SW 1/4 of~~  
8 ~~Section 8 — Twp. 12 N — R — 2 West.~~

9 Five (5) acres, situated one and one-half (1 1/2) miles East and  
10 one and one-half (1 1/2) miles North of the State Capitol Building,  
11 facing on Eastern Avenue and laying directly South of Springlake  
12 Park, and known as Tract No. 28. Also described as S 1/2 of SE 1/4  
13 of NE 1/4 of SE 1/4 of Section 14, Township 12 North, Range 3 West.

14 Also other lots and tracts not listed or described above  
15 constituting the small balance of "State Capitol Building Land" not  
16 heretofore disposed of pursuant to the provision of Chapter 298,  
17 Session Laws 1919.

18 SECTION 46. AMENDATORY 61 O.S. 2021, Section 326, is  
19 amended to read as follows:

20 Section 326. After payment of all costs incurred in the  
21 inventory and appraisal and advertisement and costs of sale, the  
22 remaining proceeds therefrom, and any monies derived from leasing  
23 the property described in Section 324 of this title, shall be  
24 deposited in ~~a special "Capitol Building Maintenance and Repair~~

1 ~~Fund" the Maintenance of State Buildings Revolving Fund. The fund~~  
2 ~~shall be used for the maintenance and repair of all State Capitol~~  
3 ~~Buildings, grounds, shrubbery, boulevards, and streets surrounding~~  
4 ~~the same. The funds shall be paid upon claims made therefor by the~~  
5 ~~Office of Management and Enterprise Services and approved by the~~  
6 ~~Director of the Office of Management and Enterprise Services. The~~  
7 leasing for oil and gas purposes of any such lands and the proceeds  
8 therefrom shall be conducted and handled by the Office of Management  
9 and Enterprise Services pursuant to Section 317 of this title.

10 SECTION 47. AMENDATORY 61 O.S. 2021, Section 327, is  
11 amended to read as follows:

12 Section 327. A. Unless procedures for state agency real  
13 property transactions are otherwise specifically provided for by  
14 law, no state agency shall sell, lease, exchange, or otherwise  
15 dispose of such real property subject to its jurisdiction, or lease,  
16 purchase or otherwise acquire real property subject to its  
17 jurisdiction, except as authorized by subsection L of this section  
18 and as otherwise provided for in this section. As used in this  
19 section, "state agency" means any department, board, commission,  
20 institution, agency or entity of state government.

21 B. 1. Every state agency shall request the Office of  
22 Management and Enterprise Services to dispose of real property upon:

23 a. legislative authorization,  
24



- 1           b.     authorization by the Long-Range Capital Planning  
2                 Commission, or  
3           c.     a determination, in writing, by the Office of  
4                 Management and Enterprise Services or the state agency  
5                 that a parcel of real property subject to its  
6                 jurisdiction is no longer needed.

7           2.     Upon the request of the state agency to dispose of real  
8     property, the Office of Management and Enterprise Services shall  
9     estimate the value of the property, and:

- 10           a.     for properties with an estimated value of greater than  
11                 Twenty-five Thousand Dollars (\$25,000.00), obtain at  
12                 least one complete appraisal made by a person  
13                 certified by the Real Estate Appraiser Board of the  
14                 Oklahoma Insurance Department, who shall ascertain:  
15                 (1)   the present fair value of the property,  
16                 (2)   the present value of the improvements on such  
17                 property, and  
18                 (3)   the actual condition of the improvements on the  
19                 property,  
20           b.     after completion of the provisions of subsection L of  
21                 this section, cause notice of such sale to be  
22                 published for at least one (1) day in a newspaper of  
23                 general statewide circulation authorized to publish  
24                 legal notices, and weekly for three (3) consecutive

1 weeks in a newspaper of general circulation published  
2 in the county or counties in which the property is  
3 located. The notice shall contain the legal  
4 description of each parcel of real property to be  
5 offered for sale, the appraised value thereof, the  
6 time and location of the sale or opening of the bids,  
7 and terms of the sale including the fact that no  
8 parcel of property shall be sold for less than ninety  
9 percent (90%) of the appraised value of the real  
10 property; provided, in lieu of such procedure, the  
11 information may be published electronically on the  
12 Office of Management and Enterprise Services' website  
13 if the notice of sale and instructions on accessing  
14 the public information are published in a newspaper of  
15 general circulation in the county or counties in which  
16 the property is located weekly for three (3)  
17 consecutive weeks,

- 18 c. offer the property through electronic auction, public  
19 auction or sealed bids within three (3) weeks after  
20 the last publication of the notice. The property  
21 shall be sold to the highest bidder. The Office of  
22 Management and Enterprise Services shall not accept a  
23 bid of less than ninety percent (90%) of the average  
24

1           appraised fair value of the property and the  
2           improvements on such property, ~~and~~

3       d.    if the property is being disposed of in compliance  
4           with Section 908 of Title 62 of the Oklahoma Statutes,  
5           the Office may auction the property at public or  
6           electronic auction provided proper public notice is  
7           given in compliance with this section and the property  
8           has been approved for liquidation by the Long-Range  
9           Capital Planning Commission. The Office of Management  
10          and Enterprise Services is authorized to reject all  
11          bids,

12       e.    if the property has an estimated value of less than  
13          Twenty-five Thousand Dollars (\$25,000.00), the Office  
14          of Management and Enterprise Services may establish  
15          the value through market comparison and may dispose of  
16          the property based on estimated value without  
17          obtaining a certified appraisal; provided however, the  
18          sale shall comply with all other requirements of  
19          statute, and

20       f.    if the property is landlocked, the Office of  
21          Management and Enterprise Services may offer the  
22          property through indirect sale to the adjacent  
23          property owner, for not less than ninety percent (90%)  
24          of fair market value, as determined in compliance with

1                   this section. All sales costs, including any required  
2                   surveys and appraisals, shall be at the expense of the  
3                   buyer.

4           3. The cost of the appraisal required by the provisions of this  
5 section, together with other necessary expenses incurred pursuant to  
6 this section, shall be paid by the state agency for which the real  
7 property is to be sold from funds available to the state agency for  
8 such expenditure. All monies received from the sale or disposal of  
9 the property, except those monies necessary to pay the expenses  
10 incurred pursuant to this section, shall be deposited in the  
11 Maintenance of State Buildings Revolving Fund unless otherwise  
12 provided by law.

13           4. The Office of Management and Enterprise Services may dismiss  
14 from consideration any appraisal found to be incomplete or flawed.

15           C. Unless otherwise provided by law, the Office of Management  
16 and Enterprise Services shall review and approve state agency real  
17 property transactions. A state agency shall not lease or acquire  
18 real property, or lease, dispose of or transfer state-owned real  
19 property until the Office provides notice of transaction approval to  
20 the state agency. Prior to approval, a state agency shall provide  
21 documents to the Office and provide reference to statutory or other  
22 legal authority of the state agency to lease or acquire real  
23 property, or lease, dispose of or transfer state-owned real  
24 property. If the state agency intends to lease or acquire real

1 property, the state agency shall state the intended use of the real  
2 property, and shall provide the Office with required telework  
3 documentation. Within thirty (30) days of receipt, the Office shall  
4 provide notice of transaction approval or disapproval to the state  
5 agency.

6 D. The provisions of this section shall not apply to the lease  
7 of office space or real property subject to supervision of the  
8 Commissioners of the Land Office or district boards of education.

9 E. 1. The Office of Management and Enterprise Services shall  
10 maintain a comprehensive inventory of state-owned real property and  
11 its use excluding property of the public schools and property  
12 subject to the jurisdiction of the Commissioners of the Land Office.

13 2. Each state agency shall, within thirty (30) days of the  
14 closing date for lands newly acquired, provide to the Office a list  
15 of records, deeds, abstracts and other title instruments showing the  
16 description of and relating to any and all such lands or interests  
17 therein.

18 3. The provisions of paragraph 2 of this subsection shall apply  
19 to all lands of public trusts having a state agency as the primary  
20 beneficiary, but shall not apply to lands of municipalities,  
21 counties, school districts, or agencies thereof, or Department of  
22 Transportation rights-of-way.

1        4. A state agency that sells or otherwise disposes of land  
2 shall notify the Office within thirty (30) days of the disposition  
3 closing date.

4        F. This section shall not be construed to authorize any state  
5 agency, not otherwise authorized by law, to sell, lease, or  
6 otherwise dispose of any real property owned by the state.

7        G. The Office of Management and Enterprise Services and the  
8 Secretary of the Commissioners of the Land Office, or designee, as  
9 provided in subsection L of this section may provide services to  
10 sell, transfer, trade or purchase real property for other state  
11 agencies.

12        H. The Director of the Office of Management and Enterprise  
13 Services shall, pursuant to the Administrative Procedures Act,  
14 promulgate rules to effect procedures necessary to the fulfillment  
15 of its responsibilities under this section.

16        I. The Oklahoma Ordnance Works Authority and its lands, and the  
17 Northeast Oklahoma Public Facilities Authority, the Oklahoma  
18 Historical Society, the Oklahoma Department of Transportation, the  
19 Oklahoma Turnpike Authority and the Department of Wildlife managed  
20 lands shall be exempt from the application of this section. The  
21 Grand River Dam Authority and its lands shall be exempt from the  
22 application of this section for any real property disposed of prior  
23 to November 1, 2006.

1 J. Unless otherwise provided for by law, the procedures  
2 established pursuant to this section for the sale or exchange of  
3 real estate or personal property as authorized pursuant to Sections  
4 2222 and 2223 of Title 74 of the Oklahoma Statutes shall be followed  
5 unless the sale is to an entity of state government.

6 K. The Director of the Office of Management and Enterprise  
7 Services shall contract with experts, professionals or consultants  
8 as necessary to perform the duties of the Office. Selections shall  
9 be made using the qualifications-based procedures established in  
10 Section 62 of this title and the rules promulgated by the Director  
11 for the selection of construction managers and design consultants.

12 L. 1. No state agency shall sell, lease, exchange, or  
13 otherwise dispose of such real property subject to its jurisdiction,  
14 or lease, purchase or otherwise acquire real property subject to its  
15 jurisdiction, until such agency or the Office of Management and  
16 Enterprise Services acting on the agency's behalf has presented to  
17 the Secretary of the Commissioners of the Land Office, or designee,  
18 all information collected pursuant to subparagraph a of paragraph 2  
19 of subsection B of this section, and provided the Secretary of the  
20 Commissioners of the Land Office or designee a twenty-calendar-day  
21 period to provide a proposal for the acquisition or disposal of  
22 applicable real property.

23 2. The Secretary of the Commissioners of the Land Office or  
24 designee may decline to provide such a proposal; provided such

1 notice of decline is communicated to the Office of Management and  
2 Enterprise Services in written or electronic form. Upon the  
3 reception of such notice of decline by the Office of Management and  
4 Enterprise Services, the twenty-calendar-day period otherwise  
5 required by this subsection shall be deemed to have expired.

6 SECTION 48. AMENDATORY 61 O.S. 2021, Section 327.1, is  
7 amended to read as follows:

8 Section 327.1 A. When historic significance, location,  
9 advancement of the long term capital asset plan or other factors  
10 make disposition of state-owned properties under Section 327 of  
11 ~~Title 61 of the Oklahoma Statutes~~ this title not in the best  
12 interest of the state, the Office of Management and Enterprise  
13 Services may invite the presentation of written proposals for the  
14 purchase ~~or~~, lease, and sale, exchange, construction, maintenance,  
15 repair, improvement, development, or redevelopment, of state-owned  
16 property provided the property meets one or more of the following  
17 criteria:

18 1. The property is listed on the National Register of Historic  
19 Places;

20 2. The property is designated by the Oklahoma Historical  
21 Society as a property of historical interest or significance;

22 3. The property is located within the Oklahoma State Capitol  
23 Complex; or  
24



1        4. The property is located within a campus owned by the State  
2 of Oklahoma~~+~~.

3        B. Proposals shall be evaluated by a committee selected by the  
4 Director of the Office of Management and Enterprise Services which  
5 shall include at least one member of the Long-Range Capital Planning  
6 Commission or a designee. The evaluation of the proposals shall be  
7 based on the principal criteria of:

8        1. The proposal's economic benefits, cultural benefits, job  
9 creation potential, advancement of long term capital asset plan or  
10 other benefits to the State of Oklahoma and the general public;

11        2. The qualifications and experience of the construction or  
12 maintenance provider, developer, or redeveloper;

13        3. The financial ability of the construction or maintenance  
14 provider, developer, or redeveloper to complete the redevelopment in  
15 a timely fashion; and

16        4. When applicable, the fidelity of the proposed renovation or  
17 redevelopment with the historic significance of the property.

18        C. The Office of Management and Enterprise Services may enter  
19 into negotiations with one or more respondents and may enter into  
20 contracts with the respondent or respondents selected by the  
21 committee.

22        The Office of Management and Enterprise Services may reject any  
23 and all ~~bids~~ proposals.  
24

1       SECTION 49.       AMENDATORY       61 O.S. 2021, Section 330.1, is  
2 amended to read as follows:

3       Section 330.1 All instruments vesting any right, title or  
4 interest in lands or minerals and mineral rights, ~~in~~ providing for  
5 the passage of title or release of interest to or from the Office of  
6 Management and Enterprise Services or any other state agency,  
7 whether as grantor or grantee, and all instruments to adjust any  
8 defect or irregularity or to remove any cloud on the title to lands  
9 or minerals or mineral rights owned by the state, and all notices  
10 and orders issued by the Office of Management and Enterprise  
11 Services and proofs of publication thereof, shall be filed and  
12 recorded by the proper officers of all counties of the State of  
13 Oklahoma at the request of the Office of Management and Enterprise  
14 Services without any filing or recording fee being charged.

15       SECTION 50.       REPEALER       61 O.S. 2021, Sections 8, 9, 10,  
16 14, and 15, are hereby repealed.

17       SECTION 51.       REPEALER       61 O.S. 2021, Section 51, is hereby  
18 repealed.

19       SECTION 52.       REPEALER       61 O.S. 2021, Sections 103.8 and  
20 129, are hereby repealed.

21       SECTION 53.       REPEALER       61 O.S. 2021, Section 203, is  
22 hereby repealed.

23       SECTION 54.       REPEALER       61 O.S. 2021, Sections 315, 321,  
24 329, 330, and 331, are hereby repealed.

SECTION 55. This act shall become effective November 1, 2022.

Passed the House of Representatives the 9th day of March, 2022.

Presiding Officer of the House  
of Representatives

Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2022.

---

Presiding Officer of the Senate