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ENGROSSED HOUSE
BILL NO. 1789

and

Howard of the Senate

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

Section 103. A. Unless otherwise provided by law, all public construction contracts exceeding Fifty Thousand Dollars (\$50,000.00) shall be let and awarded to the lowest responsible bidder, by open competitive bidding after solicitation for sealed bids, in accordance with the provisions of the Public Competitive Bidding Act of 1974. No work shall be commenced until a written contract is

1 executed and all required bonds and insurance have been provided by
2 the contractor to the awarding public agency.

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

1 expenditure when its provisions may be in conflict with federal law
2 or regulation.

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

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

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

1 is executed and proof of insurance has been provided by the
2 contractor to the awarding public agency.

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

12 G. 1. A public agency shall not let or award a public
13 construction contract exceeding Fifty Thousand Dollars (\$50,000.00)
14 to any contractor affiliated with a purchasing cooperative unless
15 the purchasing cooperative and the contractor have complied with all
16 of the provisions of the Public Competitive Bidding Act of 1974,
17 including but not limited to open competitive bidding after
18 solicitation for sealed bids. A public agency shall not let or
19 award a public construction contract exceeding Five Thousand Dollars
20 (\$5,000.00) up to Fifty Thousand Dollars (\$50,000.00) to any
21 contractor affiliated with a purchasing cooperative unless the
22 purchasing cooperative and the contractor have complied with all of
23 the provisions of the Public Competitive Bidding Act of 1974,
24

1 including submission of a written bid upon notice of competitive
2 bidding.

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

16 3. Local governmental units, or local governmental units
17 cooperating under the terms of any interlocal cooperative agreement
18 authorized by state law, may create a purchasing cooperative or
19 contract with a purchasing cooperative to provide leverage in
20 achieving best value or the best terms in contracts. To encourage
21 intergovernmental collaboration, any purchasing cooperative or
22 interlocal cooperative entity may utilize any single legal newspaper
23 of this state to serve as sufficient compliance for bid notice
24 requirements of competitive bidding or solicitation of bids. If the

purchasing cooperative or interlocal cooperative entity is engaging
in a project exclusive to a county or group of counties of this
state, and not open to all governmental units or public trusts that
wish to participate statewide, the bid notice shall be published in
a legal newspaper located within the county or group of counties.
Any local governmental unit or public trust that enters into
membership or contracts with a purchasing cooperative or interlocal
cooperative entity may enter into purchases or contracts under the
terms negotiated by the purchasing cooperative or interlocal
cooperative entity. If the purchasing cooperative or interlocal
cooperative entity complies with the requirements of this section of
law, all local governmental units shall be deemed in compliance with
the requirements set forth for bid notices and publication.

SECTION 2. This act shall become effective November 1, 2021.

COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT
March 31, 2021 - DO PASS