

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 CONFERENCE COMMITTEE
4 SUBSTITUTE
5 FOR ENGROSSED
6 HOUSE BILL NO. 1534

By: Montgomery and Griffith of
the House

and

Leewright of the Senate

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10 CONFERENCE COMMITTEE SUBSTITUTE

11 An Act relating to infrastructure development;
12 enacting the Oklahoma Local Public and Private
13 Facilities and Infrastructure Act; defining terms;
14 providing for effect of enactment on laws related to
15 eminent domain; providing for powers of Local
16 Partnership Committee; authorizing actions and
17 contracts; prescribing procedures for submission of
18 proposals; providing for selection of projects;
19 providing for evaluation process; providing for
20 authorized content of contracts; providing for
21 performance and payment bonds; providing for
22 termination of procurement process; providing for
23 treatment of content as intellectual property;
24 providing execution requirements; providing for
receipt and deposit of monies; providing for certain
services to be provided to responsible governmental
entity; prescribing procedures; providing for
codification; and providing an effective date.

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

1 SECTION 1. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 5151 of Title 74, unless there
3 is created a duplication in numbering, reads as follows:

4 This act shall be known and may be cited as the "Oklahoma Local
5 Public and Private Facilities and Infrastructure Act".

6 SECTION 2. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 5152 of Title 74, unless there
8 is created a duplication in numbering, reads as follows:

9 As used in the Oklahoma Local Public and Private Facilities and
10 Infrastructure Act:

11 1. "Contract" means any purchase and sale agreement, lease or
12 other written agreement entered into under this act with respect to
13 the provision of a public project;

14 2. "Improvement" means any instruction, reconstruction,
15 rehabilitation, renovation, installation, improvement, enlargement
16 or extension of property or improvements to property;

17 3. "Private sector entity" means any corporation, whether for
18 profit or not for profit, limited liability company, partnership,
19 limited liability partnership, sole proprietorship, business trust,
20 joint venture or other entity, but shall not mean the state, a
21 political subdivision of the state, or a public or governmental
22 entity, agency or instrumentality of the state;

23 4. "Proposer" means a private sector entity, a local or
24 regional public entity or agency, or any group or combination

1 thereof, submitting qualifications or a proposal for a public-
2 private partnership contract;

3 5. "Public project" means the improvement of real or personal
4 property, or both, and associated services provided for a public
5 purpose of a responsible governmental entity and identified in an
6 invitation for qualifications or proposals under this act; and

7 6. "Responsible governmental entity" means a local governmental
8 entity that is responsible for the provision of the public project
9 which is or is proposed to be the subject of a contract.

10 SECTION 3. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 5153 of Title 74, unless there
12 is created a duplication in numbering, reads as follows:

13 The Oklahoma Local Public and Private Facilities and
14 Infrastructure Act does not alter the eminent domain laws of this
15 state or grant the power of eminent domain to any person who is not
16 expressly granted that power under other state law.

17 SECTION 4. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 5154 of Title 74, unless there
19 is created a duplication in numbering, reads as follows:

20 A responsible governmental entity may take any action and
21 execute any Public-Private Partnership contract, authorized under
22 this act, for the provision of a public purpose in order to more
23 efficiently and effectively provide public services, including by
24 generating additional resources in support of the public project.

1 SECTION 5. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 5155 of Title 74, unless there
3 is created a duplication in numbering, reads as follows:

4 A. The responsible governmental entity may prepare a request
5 for proposal, which may include proposal stipends, and the proposed
6 partnership contract, both of which shall be approved by the
7 responsible governmental entity. After the responsible governmental
8 entity's approval of the request for proposal and the partnership
9 contract, the public project shall be deemed an Approved Partnership
10 Procurement.

11 B. Partnership contracts may contain the terms and conditions
12 to carry out and effect the purposes of this act, including the
13 duration of the contract, rates or fees for the public project to be
14 provided or methods or procedures for the determination of such
15 rates or fees, standards for the public project to be provided,
16 responsibilities and standards for operation and maintenance of any
17 related public project, required financial assurances, financial and
18 other data reporting requirements, bases and procedures for
19 termination of the contract and retaking of possession or title to
20 the public project, and events of default and remedies upon default,
21 including mandamus, a suit in equity, an action at law, or any
22 combination of those remedial actions.

23 C. Partnership contracts may also include a requirement for the
24 delivery of performance and payment bonds required for all

1 construction activities, and letters of credit, surety bonds or
2 other security in connection with the development or operation of
3 the qualifying public project, in the forms and amounts satisfactory
4 to the responsible governmental entity.

5 D. After proposals are received, the responsible governmental
6 entity, using the criteria established in the request for proposal,
7 shall evaluate the proposals submitted and may hold discussions with
8 proposers to further explore their proposals, the scope and nature
9 of the public project, and the various technical approaches they may
10 take regarding the public project.

11 E. The responsible governmental entity may reject any and all
12 submissions of qualifications or proposals and may terminate the
13 procurement process at any point.

14 F. The responsible governmental entity shall have the authority
15 to make commercially reasonable changes to the partnership contract.
16 Any such contract may contain the terms and conditions to carry out
17 and effect the purposes of this act.

18 G. Any submission not selected by the responsible governmental
19 entity shall be considered intellectual property that shall remain
20 the property of the proposer.

21 SECTION 6. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 5156 of Title 74, unless there
23 is created a duplication in numbering, reads as follows:

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1 A. Partnership contracts shall be signed by an assigned
2 representative of the governmental entity for which the public
3 project at issue in the contract relates.

4 B. The responsible governmental entity is authorized to receive
5 and deposit any money received under the contract. Any such
6 contract shall be sufficient to effect its purpose notwithstanding
7 any provision of law to the contrary, including other laws governing
8 the sale, lease or other disposition of property or interests
9 therein, service contracts or financial transactions by or for the
10 responsible governmental entity.

11 SECTION 7. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 5157 of Title 74, unless there
13 is created a duplication in numbering, reads as follows:

14 The responsible governmental entity may retain or contract for
15 the services of commercial appraisers, engineers, investment
16 bankers, financial advisers, accounting experts and other
17 consultants, independent contractors or providers of professional
18 services as are necessary in the judgment of the responsible
19 governmental entity to carry out the powers and duties under this
20 act. This may include the identification of public projects to be
21 subject to invitations for qualifications or proposals under this
22 act, the development of those invitations and related evaluation
23 criteria, the evaluation of those invitations and the negotiation of
24 any contract under this act.

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SECTION 8. This act shall become effective November 1, 2017.

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