

SENATE FLOOR VERSION

February 29, 2024

COMMITTEE SUBSTITUTE
FOR

SENATE BILL NO. 1212

By: Hicks and Rogers of the
Senate

and

Strom of the House

[contracts for public buildings and public works -
attestation - public notice and comment - violation -
codification - effective date]

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

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 53 of Title 61, unless there is
created a duplication in numbering, reads as follows:

A. As used in this section:

1. "Manufactured or produced in the United States" means a
product that has all manufacturing processes occurring in the United
States. All components of the product must be of United States
origin. A component is considered to be a product of United States
origin if all of its manufacturing processes occur in the United
States, regardless of the origin of its subcomponents; and

1 2. "Public building or public work" means any structure,
2 building, highway, waterway, street, bridge, transit system,
3 airport, or other betterment, work, or improvement, whether of a
4 permanent or temporary nature and whether for governmental or
5 proprietary use. The term includes but is not limited to any
6 railway, street railway, subway, elevated and passenger and rail
7 rolling stock, self-propelled cars, gallery cars, locomotives,
8 passenger buses, wires, poles and equipment for electrification of a
9 transit system, rails, tracks, roadbeds, guideways, elevated
10 structures, buildings, schools, hospitals, stations, terminals,
11 docks, shelters, and repairs to any such public building or public
12 work.

13 B. Any agency or entity of this state, or any person making
14 purchases on behalf of such agency or entity, shall require any
15 contract for the construction, reconstruction, alteration, repair,
16 improvement, or maintenance of a public building or public work with
17 an estimated contract price exceeding One Hundred Thousand Dollars
18 (\$100,000.00), to state that all materials to be used in the
19 completion of such contract shall be manufactured or produced in the
20 United States. All solicitation documents for such contracts shall
21 clearly state such requirement. Any bid or proposal that does not
22 affirmatively attest that the bidder read and understood such
23 requirement shall not be considered by the agency or entity, or
24 person making purchases on behalf of such agency or entity.

1 C. An agency or entity of this state may submit a written
2 appeal to the State Purchasing Director to exempt a contract from
3 the requirements of subsection B of this section. The appeal shall
4 include information demonstrating that:

5 1. Such requirements are inconsistent with the public interest;

6 2. A particular material to be used in the completion of the
7 contract is not produced or manufactured in the United States in
8 sufficient and reasonably available quantities and with satisfactory
9 quality; or

10 3. Using materials produced or manufactured in the United
11 States shall increase the cost of construction, reconstruction,
12 alteration, repair, improvement, or maintenance of a public building
13 or public work by more than twenty-five percent (25%).

14 The State Purchasing Director shall give public notice of the
15 appeal upon its receipt in a manner that the State Purchasing
16 Director determines shall give adequate notice to the public and to
17 individuals, firms, or corporations that intend to submit or have
18 submitted bids or proposals for such contracts for public buildings
19 or public works. The State Purchasing Director shall allow seven
20 (7) calendar days for public comment on the appeal. If after the
21 public comment period the State Purchasing Director authorizes the
22 exemption of a contract from the requirements of subsection B of
23 this section, he or she shall provide public notice of the
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1 authorization in the same method used to provide public notice of
2 the appeal.

3 D. A state agency or entity shall notify the State Purchasing
4 Director if it suspects an individual, firm, or corporation is
5 intentionally violating the requirements of subsection B of this
6 section. If the State Purchasing Director determines after a review
7 of the contract and the actions of the individual, firm, or
8 corporation that an intentional violation has taken place, the
9 individual, firm, or corporation shall be ineligible to, and shall
10 not, bid on a state contract for a period of five (5) years. Such
11 individual, firm, or corporation shall have the right to appeal the
12 decision of the State Purchasing Director to a court of competent
13 jurisdiction.

14 E. The provisions of this section shall not apply if a
15 reciprocal trade agreement or treaty has been negotiated by this
16 state or by the United States on behalf of or including this state
17 with a foreign nation or government for nondiscriminatory
18 governmental procurement practices or policies with such foreign
19 nation or government.

20 SECTION 2. This act shall become effective November 1, 2024.

21 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT
22 February 29, 2024 - DO PASS AS AMENDED BY CS
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