

1 ENGROSSED SENATE
2 BILL NO. 320

By: Quinn of the Senate

3 and

4 Frix of the House

5
6 An Act relating to the Public Competitive Bidding Act
7 of 1974; amending 61 O.S. 2011, Section 113, as
8 amended by Section 314, Chapter 304, O.S.L. 2012 (61
9 O.S. Supp. 2016, Section 113), which relates to
10 execution of contracts; modifying certain contract
11 period; deleting obsolete language; and providing an
12 effective date.

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

14 SECTION 1. AMENDATORY 61 O.S. 2011, Section 113, as
15 amended by Section 314, Chapter 304, O.S.L. 2012 (61 O.S. Supp.
16 2016, Section 113), is amended to read as follows:

17 Section 113. A. Except as otherwise provided by law, within
18 the period of time, not to exceed sixty (60) days, specified in the
19 bid notice by the awarding public agency, a contract embodying the
20 terms set forth in the bidding documents shall be executed by the
21 awarding public agency and the successful bidder. No bidder shall
22 obtain any property right in a contract awarded under the provisions
23 of the Public Competitive Bidding Act of 1974 until the contract has
24 been fully executed by both the bidder and the awarding public
agency.

1 B. Except as otherwise provided by law, within the period of
2 time specified in subsection A of this section, the following shall
3 be provided by the contractor to the awarding public agency for
4 contracts exceeding Fifty Thousand Dollars (\$50,000.00):

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

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

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

1 project, except when the awarding public agency is the Department of
2 Transportation or the Oklahoma Turnpike Authority, in such case the
3 period shall be for one (1) year after project completion; and

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

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

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

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

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).

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

SECTION 2. This act shall become effective November 1, 2017.

Passed the Senate the 15th day of March, 2017.

Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____, 2017.

Presiding Officer of the House
of Representatives