

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 HOUSE BILL 1133

By: Phillips

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5  
6 AS INTRODUCED

7 An Act relating to public buildings and public works;  
8 amending 61 O.S. 2011, Section 103, as last amended  
9 by Section 2, Chapter 405, O.S.L. 2019 (61 O.S. Supp.  
10 2020, Section 103), which relates to the Public  
Competitive Bidding Act of 1974; providing bid  
preference for certain entities; and providing an  
effective date.

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

14 SECTION 1. AMENDATORY 61 O.S. 2011, Section 103, as last  
15 amended by Section 2, Chapter 405, O.S.L. 2019 (61 O.S. Supp. 2020,  
16 Section 103), is amended to read as follows:

17 Section 103. A. Unless otherwise provided by law, all public  
18 construction contracts exceeding Fifty Thousand Dollars (\$50,000.00)  
19 shall be let and awarded to the lowest responsible bidder, by open  
20 competitive bidding after solicitation for sealed bids, in  
21 accordance with the provisions of the Public Competitive Bidding Act  
22 of 1974. No work shall be commenced until a written contract is  
23 executed and all required bonds and insurance have been provided by  
24 the contractor to the awarding public agency.

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

1       C. Notwithstanding subsection A of this section, in awarding  
2 public construction contracts exceeding Fifty Thousand Dollars  
3 (\$50,000.00), the awarding public agency shall provide a local bid  
4 preference of five percent (5%) of the bid price to a bidding entity  
5 residing and doing business within the State of Oklahoma or a  
6 veteran as defined by Section 2 of Title 72 of the Oklahoma  
7 Statutes. The bid specifications shall clearly state that the bid is  
8 subject to a local bidder preference law.

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

17       ~~D.~~ E. Except as provided in subsection ~~E~~ F of this section,  
18 other construction contracts for less than Five Thousand Dollars  
19 (\$5,000.00) may be negotiated with a qualified contractor. Work may  
20 be commenced in accordance with the purchasing policies of the  
21 public agency.

22       ~~E.~~ F. The provisions of this subsection shall apply to public  
23 construction for minor maintenance or minor repair work to public  
24 school district property. Other construction contracts for less

1 than Twenty-five Thousand Dollars (\$25,000.00) may be negotiated  
2 with a qualified contractor. Construction contracts equal to or  
3 greater than Twenty-five Thousand Dollars (\$25,000.00) but less than  
4 Fifty Thousand Dollars (\$50,000.00) shall be let and awarded to the  
5 lowest responsible bidder by receipt of written bids. No work shall  
6 be commenced on any construction contract until a written contract  
7 is executed and proof of insurance has been provided by the  
8 contractor to the awarding public agency.

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

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

1 construction contract exceeding Five Thousand Dollars (\$5,000.00) up  
2 to Fifty Thousand Dollars (\$50,000.00) to any contractor affiliated  
3 with a purchasing cooperative unless the purchasing cooperative and  
4 the contractor have complied with all of the provisions of the  
5 Public Competitive Bidding Act of 1974, including submission of a  
6 written bid upon notice of competitive bidding.

7       2. A purchasing cooperative and its affiliated contractors  
8 shall not be allowed to bid on any public construction contract  
9 exceeding Fifty Thousand Dollars (\$50,000.00) unless the purchasing  
10 cooperative and its affiliated contractors have complied with all of  
11 the provisions of the Public Competitive Bidding Act of 1974,  
12 including but not limited to open competitive bidding after  
13 solicitation for sealed bids. A purchasing cooperative and its  
14 affiliated contractors shall not be allowed to bid on any public  
15 construction contract exceeding Two Thousand Five Hundred Dollars  
16 (\$2,500.00) unless the purchasing cooperative and its affiliated  
17 contractors have complied with all of the provisions of the Public  
18 Competitive Bidding Act of 1974, including submission of a written  
19 bid upon notice of open competitive bidding.

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

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22       58-1-6501       LRB       12/28/20

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