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February 8, 2024

AS AMENDED

SENATE BILL NO. 1270

By: Garvin

[Public Facilities Act - contracts - plan -
effective date]

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

SECTION 1. AMENDATORY 61 O.S. 2021, Section 208, as amended by Section 31, Chapter 238, O.S.L. 2022 (61 O.S. Supp. 2023, Section 208), is amended to read as follows:

Section 208. A. The Office of Management and Enterprise Services shall select and award contracts to construction managers and design consultants pursuant to the provisions of Section 62 of this title.

B. The negotiation of construction manager and consultant contracts and fees shall be performed by the Office.

C. The Office shall award and administer construction contracts for state agencies pursuant to the provisions of the Public Competitive Bidding Act of 1974.

D. 1. When all bids for a public construction contract exceed the programmed estimate and available funding, the Office may enter into negotiations with the lowest responsible bidder for the purpose

1 of modifying the project scope and reducing the construction cost,
2 provided that:

- 3 a. the unexpected higher construction costs resulted from
4 unforeseen economic conditions or otherwise sudden
5 price volatility in the construction industry,
- 6 b. the project was appropriately planned, and cost
7 estimates were developed using standards of care
8 acceptable to the Office, and
- 9 c. further delay caused by redesigning and rebidding the
10 project would jeopardize the using agency's mission or
11 result in the loss of a planned funding source.

12 2. To request consideration for negotiations pursuant to this
13 subsection, the using agency, within ten (10) days of the bid
14 opening date, shall make a written request to the Director of the
15 Office of Management and Enterprise Services to enter into
16 negotiations pursuant to paragraph 1 of this subsection. If
17 approved by the Director, the Office shall consult with the using
18 agency, consultant and low bidder on methods to reduce the project
19 scope or other cost-saving measures.

20 3. If a suitable revised scope and contract amount is agreed
21 upon by the using agency, lowest responsible bidder, and the
22 Director, the Office may award the public construction contract to
23 the lowest responsible bidder.

1 4. The Office shall negotiate a fair and reasonable fee with
2 the project's consultant, if applicable, to make any necessary
3 revisions to the contract documents. The cost of this additional
4 consulting work shall be paid from the agency's available funds.

5 5. Approval and final award of the contract for the
6 construction negotiated pursuant to this subsection shall occur no
7 later than one hundred twenty (120) days from the opening bid.

8 E. The Office is authorized to issue solicitations and award
9 statewide contracts for managed construction service delivery in
10 order to provide efficient and cost-effective procurement solutions
11 for public agencies. Statewide contracts may be either mandatory or
12 nonmandatory as determined by the Director.

13 F. The Office is authorized to provide facility management and
14 operations and maintenance services for any state agency on a cost-
15 recovery basis for any facility operated by a state agency when:

- 16 1. The state agency initiates a request with the Director; or
17 2. The Director determines a state agency is performing in the
18 bottom ten percent (10%) of all state agencies with respect to
19 performance measures for facility management established by the
20 Office.

21 G. 1. The Office shall prepare each year an annual plan for
22 addressing state facility management, operations, and maintenance
23 needs for the next ensuing eight (8) years **for all properties**
24 **managed by the Office.** Each year, by December 1, the plan shall be

1 submitted to the President Pro Tempore of the Senate, the Speaker of
2 the House of Representatives, and the Governor. The Office shall
3 annually update the eight-year plan.

4 2. Such plan shall:

- 5 a. supplement and integrate, not replace, any existing
6 facility management, operations, and maintenance
7 planning processes,
- 8 b. assess long-term needs for state facilities to support
9 state government needs as determined by the Office,
- 10 c. review and assess the inventory of facilities operated
11 by state agencies and make recommendations on
12 reallocation, reuse, or liquidation of properties,
- 13 d. address agency strategic facility plans for new,
14 improved, renovated, or expanded facilities or
15 facilities that should be reallocated or liquidated,
- 16 e. include estimates of life cycle costs for new and
17 substantially expanded or renovated facilities,
- 18 f. evaluate the effectiveness of planning processes at
19 the agency level to account for all facility costs
20 related to management, operations, and maintenance,
- 21 g. include a comprehensive listing of all public
22 facilities expenditures of the state which the Office
23 recommends be undertaken or continued for the next two
24 (2) fiscal years, together with information as to the

1 effect of such public facilities projects on future
2 operating expenses of the state, and with
3 recommendations as to the priority of such projects
4 and the means of funding them,

5 h. forecast the requirements for public facilities
6 projects of the state for the eight-year period and
7 for such additional periods, if any, as may be
8 necessary or desirable for adequate presentation of
9 particular public facilities projects, and include a
10 schedule for the planning and implementation of such
11 projects, and

12 i. include such other information as the Office deems
13 relevant to its duties.

14 H. In addition to the exception from ~~this act~~ Section 60 et
15 seq. of this title hereby provided to the Oklahoma State Regents for
16 Higher Education and its constituent institutions and the
17 Commissioners of the Land Office, the Director may authorize an
18 exemption to the provisions of ~~this act~~ Section 60 et seq. of this
19 title to any other state agency provided that the recipient of the
20 exemption:

21 1. Adopts standards, processes and procedures for planning,
22 budgeting, design, facility management, asset management and asset
23 preservation that are substantially compliant with those as
24 prescribed by the Office;

1 2. Adheres to procurement requirements of Sections 62 through
2 65 of this title ~~and the provisions of this act;~~

3 3. Reports benchmark, budget and ongoing performance data
4 required by the Office; and

5 4. Participates in annual performance reviews and organized
6 forums for promoting best practices statewide as determined by the
7 Director.

8 SECTION 2. This act shall become effective December 1, 2025.

9 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT
10 February 8, 2024 - DO PASS AS AMENDED
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