

1 ENGROSSED HOUSE
2 BILL NO. 4075

By: Wallace of the House

and

Hall of the Senate

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6 An Act relating to the Oklahoma Municipal Power
7 Authority; amending 61 O.S. 2021, Section 60, which
8 relates to mandatory consultant and construction
9 contract forms; exempting the Oklahoma Municipal
10 Power Authority from certain requirements; amending
11 61 O.S. 2021, Section 129, which relates to
12 exemptions to the Public Competitive Bidding Act of
13 1974; providing an exemption; updating reference;
14 amending 61 O.S. 2021, Section 202, which relates to
15 defined terms of the Public Facilities Act; modifying
16 certain definition to include the Oklahoma Municipal
17 Power Authority; and providing an effective date.

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

SECTION 1. AMENDATORY 61 O.S. 2021, Section 60, is
amended to read as follows:

Section 60. All state agencies, boards, commissions, offices,
institutions, and other governmental bodies of this state, and all
individuals representing such entities, except the Department of
Transportation, the Oklahoma Turnpike Authority, the Oklahoma State
Regents for Higher Education and its constituent institutions, the
Commissioners of the Land Office, the Oklahoma Municipal Power
Authority, and CompSource Oklahoma provided CompSource Oklahoma is
operating pursuant to a pilot program authorized by Sections 3316

1 and 3317 of Title 74 of the Oklahoma Statutes, shall use
2 construction manager, consultant and construction contract forms
3 that the State Facilities Director of the Department of Real Estate
4 Services of the Office of Management and Enterprise Services
5 requires to award and execute contracts for designs to construct,
6 renovate, alter, repair, maintain, or improve real property or
7 fixtures of real property of the state. The State Facilities
8 Director may authorize, in writing, exceptions to the use of
9 construction manager, consultant and construction contract forms for
10 specific projects.

11 SECTION 2. AMENDATORY 61 O.S. 2021, Section 129, is
12 amended to read as follows:

13 Section 129. A. The Public Competitive Bidding Act of 1974
14 shall not apply to contracts awarded or contracts for which bids
15 have been solicited on or before August 1, 1974.

16 B. The Public Competitive Bidding Act of 1974 shall not apply
17 to contracts awarded or contracts for which bids are solicited by
18 CompSource Oklahoma if CompSource Oklahoma is operating pursuant to
19 a pilot program authorized by Sections ~~±~~ 3316 and ~~±~~ 3317 of ~~this act~~
20 Title 74 of the Oklahoma Statutes.

21 C. The Public Competitive Bidding Act of 1974 shall not apply
22 to contracts awarded or contracts for which bids are solicited by
23 the Oklahoma Municipal Power Authority.

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1 SECTION 3. AMENDATORY 61 O.S. 2021, Section 202, is
2 amended to read as follows:

3 Section 202. As used in the Public Facilities Act:

4 1. "Annual capital plan" means the collective state facility
5 capital improvements, facility operations and maintenance, rent and
6 lease payments, facility debt services, water, sewer and energy
7 utilities and real property transactions approved by the Legislature
8 in a capital budget relative to state construction, maintenance, and
9 real estate services;

10 2. "Capital planning and asset management" means the processes
11 delegated to the Department of Real Estate Services for real
12 property data acquisition, data analysis and determination of
13 capital construction projects and procurement related to real
14 property;

15 3. "Construction" means the process of planning, acquiring,
16 designing, building, equipping, altering, repairing, improving,
17 maintaining, leasing, disposing or demolishing any structure or
18 appurtenance thereto including facilities, utilities, or other
19 improvements to any real property but not including highways,
20 bridges, airports, railroads, tunnels, sewers not related to a
21 structure or appurtenance thereto, or dams;

22 4. "Construction administration" means a series of actions
23 required of the State Facilities Director, of other state agency
24 employees, or, under a construction administration contract or

1 contract provision, to ensure the full, timely, and proper
2 performance of all phases of a construction project by all
3 contractors, suppliers, and other persons having responsibility for
4 project work and any guarantees or warranties pertaining thereto;

5 5. "Department" means the Department of Real Estate Services of
6 the Office of Management and Enterprise Services;

7 6. "Construction management" means a project delivery method
8 based on an agreement whereby the owner acquires from a construction
9 entity a series of services that include, but are not necessarily
10 limited to, design review, scheduling, cost control, value
11 engineering, constructability evaluation, preparation and
12 coordination of bid packages, and construction administration;

13 "construction management" includes:

14 a. "agency construction management" whereby the
15 construction entity provides services to the owner
16 without taking on financial risks for the execution of
17 the actual construction or time of performance, and
18 the owner contracts directly with those awarded trade
19 contracts for the work, and

20 b. "at-risk construction management" whereby the
21 construction entity, after providing agency services
22 during the pre-construction period:

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- 1 (1) takes on the financial obligation to timely carry
2 out construction under a specified cost
3 agreement, and
4 (2) enters into written subcontracts for the work in
5 accordance with the construction management
6 procedures for state agencies;

7 7. "Consultant" means an individual or legal entity possessing
8 the qualifications to provide licensed architectural, registered
9 engineering, registered land surveying, certified appraisal, land
10 title, or abstract services or possessing specialized credentials
11 and qualifications as may be needed to evaluate, plan or design for
12 any construction or public work improvement project, or to lease,
13 acquire or dispose of state-owned real property;

14 8. "Division" means the Construction and Properties Division of
15 the Office of Management and Enterprise Services;

16 9. "Energy performance index or indices" (EPI) means a number
17 describing the energy requirements at the building boundary of a
18 structure, per square foot of floor space or per cubic foot of
19 occupied volume, as appropriate under defined internal and external
20 ambient conditions over an entire seasonal cycle. As experience
21 develops on the energy performance achieved with state construction,
22 the indices (EPI) will serve as a measure of structure performance
23 with respect to energy consumption;

1 10. "Facilities Director" or "SFD" means the State Facilities
2 Director of the Department of Real Estate Services of the Office of
3 Management and Enterprise Services;

4 11. "Life cycle costs" means the cost of owning, operating, and
5 maintaining the structure over the life of the structure. This may
6 be expressed as an annual cost for each year of the facility's use;

7 12. "Office" means the Office of Management and Enterprise
8 Services;

9 13. "Procurement" means buying, purchasing, renting, leasing,
10 allocating, trading or otherwise acquiring or disposing of supplies,
11 services, or construction necessary to evaluate, plan, construct,
12 manage, operate and preserve real property capital assets;

13 14. "Public improvement" means any beneficial or valuable
14 change or addition, betterment, enhancement or amelioration of or
15 upon any real property, or interest therein, belonging to a state
16 agency and the State of Oklahoma, intended to enhance its value,
17 beauty or utility or to adapt it to new or further purposes. The
18 term does not include the direct purchase of materials used for
19 general repairs and maintenance to state facilities;

20 15. "Shared savings financing" means the financing of energy
21 conservation measures and maintenance services through a private
22 firm which may own any purchased equipment for the duration of a
23 contract. Such contract shall specify that the private firm will be
24 recompensed either out of a negotiated portion of the savings

1 resulting from the conservation measures and maintenance services
2 provided by the private firm or, in the case of a cogeneration
3 project, through the payment of a rate for energy lower than would
4 otherwise have been paid for the same energy from current sources;
5 and

6 16. "State agency" means an agency, board, commission, counsel,
7 court, office, officer, bureau, institution, unit, division, body,
8 or house of the executive or judicial branches of government of this
9 state, whether elected or appointed, excluding only political
10 subdivisions, the Oklahoma State Regents for Higher Education and
11 its constituent institutions, the Oklahoma Municipal Power
12 Authority, and the Commissioners of the Land Office.

13 SECTION 4. This act shall become effective November 1, 2022.

14 Passed the House of Representatives the 14th day of March, 2022.

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Presiding Officer of the House
of Representatives

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Passed the Senate the ___ day of _____, 2022.

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Presiding Officer of the Senate

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