

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB4080 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Kevin Wallace _____

Reading Clerk

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 PROPOSED COMMITTEE
4 SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 4080

By: Wallace

7
8 PROPOSED COMMITTEE SUBSTITUTE

9 An Act relating to public buildings and public works;
10 amending 61 O.S. 2021, Sections 1, 4, 6, 11, and 12,
11 which relate to the bonding, contracting, and
12 construction of public buildings and works; modifying
13 construction bonds; regulating public contracts and
14 hours worked during a day; modifying preference
15 requirements for products produced in Oklahoma;
16 modifying requirements for accommodations for people
17 with disabilities; requiring submission of certain
18 plans to certain authorities; amending 61 O.S. 2021,
19 Sections 60, 61, 62, 62.2, 63, and 65, which relate
20 to construction management and consultant services;
21 regulating certain mandatory contract forms;
22 modifying definitions; eliminating references to the
23 Department of Real Estate Services and its Director;
24 regulating registration and selection of construction
managers and consultants; amending requirements for
contracts for on-call minor services; providing for
what shall be considered state property; establishing
procedures for when an emergency exists; amending 61
O.S. 2021, Section 84, which relates to the Fair and
Open Competition in Governmental Construction Act;
modifying prohibited contract terms; amending 61 O.S.
2021, Sections 102, 103.4, 103.7, 104, 105, 106, 107,
109, 110, 112, 113, 113.1, 119.1, 121, and 130, which
relate to the Public Competitive Bidding Act of 1974;
modifying definitions; modifying requirements for
school buildings and force accounts; modifying
contract requirements relating to fish and wildlife
conservation; modifying required bids and bid
notices; modifying bid documents on file; regulating

1 late bids; providing exemptions for open bid
2 requirements; providing public inspection
3 requirement; modifying the requirements for the
4 execution of a contract; regulating payment and
5 partial payment; providing for contract negotiations
6 when no bid is received; defining emergency
7 situations; amending 61 O.S. 2021, Sections 202, 204,
8 207.2, 208, 208.1, 208.2, 209, 210, 211, and 212,
9 which relate to the Public Facilities Act; modifying
10 definitions; providing for the reviewing and approval
11 of projects; modifying process for contract approval;
12 allowing for fees; modifying the State Construction
13 Revolving Fund; establishing the nature of the fund;
14 declaring funds appropriated; granting rule making
15 authority; allowing for performance-based efficiency
16 contracts; updating references; clarifying language;
17 amending 61 O.S. 2021, Sections 308, 309, 311, 312,
18 316, 317, 323, 324, 326, 327, 327.1, and 330.1, which
19 relate to the management, maintenance, and disposal
20 of state property; clarifying language; increasing
21 options for providing certain notices; modifying
22 certain award standards; modifying deposit
23 destination of certain revenues; broadening scope of
24 certain exclusive control and jurisdiction; providing
for expanded severability treatment of provisions;
changing fund references; eliminating certain
exceptions; eliminating certain described properties
from certain defined description; modifying
expenditure purpose for certain funds; requiring
certain estimations and certain process related to
certain real property disposals; authorizing
electronic auctions; allowing the disposal of
property at estimated value under certain conditions;
authorizing invitations for written proposals under
certain conditions; modifying proposal evaluation
criteria; modifying exemption for certain recording
fee; repealing 61 O.S. 2021, Sections 8, 9, 10, 14,
and 15, which relate to the bonding, contracting, and
construction of public buildings and works; repealing
61 O.S. 2021, Section 51, which relates to the
purchase of American goods and equipment; repealing
61 O.S. 2021, Sections 103.8 and 129, which relate to
the Public Competitive Bidding Act of 1974; repealing
61 O.S. 2021, Section 203, which relates to the
Department of Real Estate Services; repealing 61 O.S.
2021, Sections 315, 321, 329, 330, and 331, which

1 relate to the management, maintenance, and disposal
2 of state property; and providing an effective date.

3
4
5 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

8 Section 1. A. Prior to an award of a contract exceeding ~~Fifty~~
9 ~~Thousand Dollars (\$50,000.00)~~ One Hundred Thousand Dollars
10 (\$100,000.00) for construction or repair of a public or private
11 building, structure, or improvement on public real property, the
12 person that receives the award shall:

13 ~~1. Furnish~~ furnish a bond with good and sufficient sureties
14 payable to the state in a sum not less than the total sum of the
15 contract; ~~or~~

16 ~~2. Cause an irrevocable letter of credit, containing terms the~~
17 ~~Office of Management and Enterprise Services prescribes, to be~~
18 ~~issued for the benefit of the state by a financial institution~~
19 ~~insured by the Federal Deposit Insurance Corporation in a sum not~~
20 ~~less than the total sum of the contract.~~

21 B. The bond ~~or irrevocable letter of credit~~ shall ensure the
22 proper and prompt completion of the work in accordance with the
23 contract and shall ensure that the contractor shall pay all
24 indebtedness the contractor incurs for the contractor's

1 subcontractors and all suppliers of labor, material, rental of
2 machinery or equipment, and repair of and parts for equipment the
3 contract requires the contractor to furnish.

4 ~~C. For a contract not exceeding Fifty Thousand Dollars~~
5 ~~(\$50,000.00), in lieu of a bond or irrevocable letter of credit, the~~
6 ~~contractor shall submit an affidavit of the payment of all~~
7 ~~indebtedness incurred by the contractor, the contractor's~~
8 ~~subcontractors, and all suppliers of labor, material, rented~~
9 ~~machinery or equipment, and repair of and parts for equipment used~~
10 ~~or consumed in the performance of the contract. The execution of~~
11 ~~the affidavit with knowledge that any of the contents of the~~
12 ~~affidavit are false, upon conviction, shall constitute perjury,~~
13 ~~punishable as provided for by law.~~

14 SECTION 2. AMENDATORY 61 O.S. 2021, Section 4, is
15 amended to read as follows:

16 Section 4. All contracts hereafter made by or on behalf of the
17 state, or by or on behalf of any county, city, township, or other
18 municipality, with any corporation, person or persons, for the
19 performance of any public work, by or on behalf of the state or any
20 county, city, township, or other municipality, shall be deemed and
21 considered as made upon the basis of eight (8) hours constituting a
22 day's work; and it shall be unlawful for such corporation, person or
23 persons, to require, aid, abet, assist, connive at, or permit any
24 laborer, workman, mechanic, prison guards, janitors in public

1 institutions, or other person to work more than eight hours per
2 calendar day in doing such work, except in cases and upon the
3 conditions provided in ~~the preceding section~~ Section 3 of this
4 title.

5 Provided that the provisions of this act in regard to hours
6 worked per calendar day shall not apply to the construction,
7 reconstruction, maintenance, or the production of local materials
8 for: Highways, roads, streets, and all the structures and drainage
9 in connection therewith; sewer systems, waterworks systems, dams and
10 levees, canals, drainage ditches, airport grading, drainage,
11 surfacing, seeding and planting. Provided that the provisions of
12 this act will not prevent employees from drawing time and half for
13 those hours worked over forty (40) during any calendar week.

14 SECTION 3. AMENDATORY 61 O.S. 2021, Section 6, is
15 amended to read as follows:

16 Section 6. ~~From and after the passage and approval of this act,~~
17 ~~in~~ In the construction of all public buildings erected for the
18 state; ~~for any county for educational, eleemosynary, penal or other~~
19 ~~institution of the state,~~ or for any county thereof, where the
20 expense of construction is borne wholly or in part by the state, or
21 county, by appropriation, by the issuance of bonds, or by taxation,
22 preference shall be given to materials mined, quarried, manufactured
23 or procured within the State of Oklahoma, provided that the same can
24

1 be procured at no greater expense than like material or materials of
2 equal quality from without the state.

3 SECTION 4. AMENDATORY 61 O.S. 2021, Section 11, is
4 amended to read as follows:

5 Section 11. A. Unless otherwise provided for by law, all plans
6 and specifications for the erection of public buildings by this
7 state, or any agency or political subdivision thereof, or for any
8 building erected through the use of public funds shall provide
9 facilities for ~~the handicapped~~ people with disabilities. Such
10 facilities shall conform with the codes and standards adopted by the
11 State Fire Marshal and amended by the ~~Division's~~ Office's
12 promulgated rules. Elevators shall be constructed and installed in
13 said public buildings to the extent deemed feasible and financially
14 reasonable by the contracting authority of the state or such
15 political subdivision. Said codes and standards shall be on file in
16 the ~~Construction and Properties Division of the~~ Office of Management
17 and Enterprise Services.

18 B. ~~After May 24, 1973, any~~ Any building or facility which would
19 have been subject to the provisions of this section but for the fact
20 that it was constructed prior to May 24, 1973, shall be subject to
21 the requirements of this section if additions are made to such
22 building or facility in any twelve-month period which increase the
23 total floor area of such building or facility by twenty-five percent
24 (25%) or more or if alterations or structural repairs are made to

1 such building or facility in any twelve-month period which affect
2 twenty-five percent (25%) or more of the total floor area of such
3 building or facility.

4 SECTION 5. AMENDATORY 61 O.S. 2021, Section 12, is
5 amended to read as follows:

6 Section 12. All plans and specifications for the erection of
7 public buildings subject to Section 11 of this title shall be
8 submitted prior to bidding and awarding of contract to the ~~governing~~
9 ~~body of the political entity controlling the funds involved~~ State
10 Fire Marshal or other authority having jurisdiction. Such plans and
11 specifications shall be checked for compliance with Section 11 of
12 this title, and no construction contract for any public building
13 shall be awarded unless and until said plans and specifications are
14 approved as being in compliance with Section 11 of this title by the
15 appropriate governmental agency. If public buildings are to be
16 financed by state funds, ~~the Construction and Properties Division of~~
17 the Office of Management and Enterprise Services shall approve said
18 plans and specifications. In the case of public buildings to be
19 financed by county funds or funds controlled by some other political
20 subdivision of the state, the agency whose approval is required
21 shall be the governing body of such subdivision.

22 SECTION 6. AMENDATORY 61 O.S. 2021, Section 60, is
23 amended to read as follows:

24

1 Section 60. All state agencies, boards, commissions, offices,
2 institutions, and other governmental bodies of this state, and all
3 individuals representing such entities, except the Department of
4 Transportation, the Oklahoma Turnpike Authority, the Oklahoma State
5 Regents for Higher Education and its constituent institutions, and
6 the Commissioners of the Land Office ~~and CompSource Oklahoma~~
7 ~~provided CompSource Oklahoma is operating pursuant to a pilot~~
8 ~~program authorized by Sections 3316 and 3317 of Title 74 of the~~
9 ~~Oklahoma Statutes~~, shall use construction manager, consultant and
10 construction contract forms that the ~~State Facilities~~ Director of
11 ~~the Department of Real Estate Services~~ of the Office of Management
12 and Enterprise Services requires to award and execute contracts for
13 designs to construct, renovate, alter, repair, maintain, or improve
14 real property or fixtures of real property of the state. The ~~State~~
15 ~~Facilities~~ Director may authorize, in writing, exceptions to the use
16 of construction manager, consultant and construction contract forms
17 for specific projects.

18 SECTION 7. AMENDATORY 61 O.S. 2021, Section 61, is
19 amended to read as follows:

20 Section 61. As used in Sections 61 through 65 of this title:

21 1. "Chief administrative officer" means an individual
22 responsible for directing the administration of a state agency. The
23 term does not mean one or all of the individuals that make policy
24 for a state agency;

1 2. "Construction manager" means an individual, firm,
2 corporation, association, partnership, copartnership, or any other
3 legal entity on the Office of Management and Enterprise Services
4 Construction and Properties (OMES-CAP) registration list and
5 possessing the qualifications to provide services of construction
6 management which include, but are not necessarily limited to, design
7 review, scheduling, cost control, value engineering,
8 constructability evaluation, preparation and coordination of bid
9 packages, and construction administration;

10 3. "Consultant" means an individual or legal entity possessing
11 the qualifications to provide licensed architectural, registered
12 engineering, or registered land surveying services or other
13 individuals or legal entities possessing specialized credentials and
14 qualifications as may be needed to evaluate, plan or design and/or
15 provide construction administration and/or construction inspection
16 services for any construction or a public work improvement project;

17 4. "Director" means the Director of the Office of Management
18 and Enterprise Services or a designee;

19 ~~5. "Department" means the Department of Real Estate Services of~~
20 ~~the Office of Management and Enterprise Services;~~

21 ~~6.~~ 5. "Office" means the Office of Management and Enterprise
22 Services;

23 ~~7.~~ 6. "Project" means studies, evaluations, plans or designs
24 for facility evaluations or public work improvements, except the

1 transportation facilities under the jurisdiction of the Department
2 of Transportation or the Oklahoma Turnpike Authority:

3 a. to construct, renovate, alter, repair, maintain, or
4 improve real property or fixtures of real property,
5 and

6 b. that does not constitute "construction" as defined by
7 the Public Building Construction and Planning Act;

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

15 ~~9.~~ ~~"Facilities Director" or "SFD" means the State Facilities~~
16 ~~Director of the Department of Real Estate Services of the Office of~~
17 ~~Management and Enterprise Services; and~~

18 ~~10.~~ 8. "Political subdivision" means any local governmental
19 body formed pursuant to the laws of this state, including, but not
20 limited to, school districts, career technology centers, cities,
21 counties, public trusts, public authorities, commissions or other
22 local governmental bodies exercising their authority to contract
23 with construction managers and/or consultants. The term also means
24 any quasi-governmental and nongovernmental organizations contracting

1 with construction managers and/or consultants using public funds or
2 on behalf of a political subdivision.

3 SECTION 8. AMENDATORY 61 O.S. 2021, Section 62, is
4 amended to read as follows:

5 Section 62. A. ~~The Department of Real Estate Services of the~~
6 Office of Management and Enterprise Services shall maintain a file
7 of all persons and entities interested in and capable of performing
8 construction management and consultant services for state agencies.
9 The file shall include registration forms and information submitted
10 by construction managers and consultants pursuant to rules
11 promulgated by the Office of Management and Enterprise Services.
12 Pursuant to rules promulgated by the Office, the ~~Department~~ Office
13 shall determine whether a construction manager or consultant
14 qualifies for registration and shall notify the construction manager
15 or consultant within twenty (20) days of receipt of a request for
16 registration. Construction managers and consultants shall re-
17 register for each successive calendar year with the ~~Department~~
18 Office.

19 B. The requisitioning state agency shall define the scope of a
20 proposed project. The scope shall identify project components,
21 phases and timetables and shall include detailed project
22 descriptions. The state agency may request the ~~Department~~ Office to
23 assist with scope development. The state agency shall send the
24 scope and a requisition for construction management or consultant

1 services, signed by an authorized official, to the ~~Department~~
2 Office. The ~~Department~~ Office shall review the scope and approve it
3 before the state agency issues a solicitation.

4 C. The state agency shall issue a solicitation to construction
5 managers or consultants that are registered with the ~~Department~~
6 Office and capable of providing the services the state agency
7 desires. The solicitation shall, at a minimum, contain:

8 1. Description and scope of the project;

9 2. Estimated construction cost or available funds, anticipated
10 starting date, and completion date the state agency desires for the
11 project;

12 3. Certification of funds available for the construction
13 manager or consultant fee, including federal, state or other
14 participation;

15 4. Closing date for construction manager or consultant to give
16 notice of interest to the state agency; and

17 5. Additional data the state agency requires from the
18 construction manager or consultant. The closing date for submission
19 of construction manager or consultant notice of interest for
20 consideration shall be within thirty (30) days of the date of the
21 notice the state agency issues.

22 D. After the closing date, the ~~Department~~ Office shall provide
23 information from the construction managers' or consultants' files to
24 the state agency upon request. Should there be an inadequate

1 expression of interest in the project, the state agency and
2 ~~Department~~ Office personnel shall confer to add construction
3 managers or consultants for consideration.

4 E. The state agency shall review the information the ~~Department~~
5 Office provides and shall select no less than three and no more than
6 five construction managers or consultants per contract for
7 interviews. The review shall include consideration of factors from
8 the information the ~~Department~~ Office supplies including, but not
9 limited to:

10 1. Professional qualifications for the type of work
11 contemplated;

12 2. Capacity for completing the project in the specified time
13 period; and

14 3. Past performance on projects of a similar nature.

15 F. The ~~Department~~ Office shall advise the state agency of the
16 methods to be used to conduct an evaluation, interview, selection,
17 contract negotiation, and fee negotiation processes pursuant to
18 rules promulgated by the Office of ~~Management and Enterprise~~
19 ~~Services~~.

20 G. 1. Upon completion of contract negotiation with the highest
21 qualified construction manager or consultant, which contract shall
22 include a fair and reasonable fee, the ~~Department~~ Office shall
23 approve and award the contract.

24

1 2. If the ~~Department~~ Office and the first-choice construction
2 manager or consultant cannot reach an agreement, the negotiations
3 shall terminate and negotiations with the second-choice construction
4 manager or consultant shall commence. If the ~~Department~~ Office and
5 the second-choice construction manager or consultant cannot reach an
6 agreement, the negotiations shall terminate and negotiations with
7 the third-choice construction manager or consultant shall commence.
8 If the ~~Department~~ Office and the third-choice construction manager
9 or consultant cannot reach an agreement, then all negotiations shall
10 terminate. Should the ~~Department~~ Office be unable to negotiate a
11 satisfactory contract with any of the three selected construction
12 managers or consultants, the ~~Department~~ Office shall select
13 additional construction managers or consultants in order of their
14 competency and qualifications and shall continue negotiations in
15 accordance with the provisions of this section until an agreement is
16 reached.

17 H. Any plans developed pursuant to the process for selection of
18 a contractor for construction of a facility authorized pursuant to
19 Section 183 of Title 73 of the Oklahoma Statutes shall become the
20 property of the State of Oklahoma as a condition of the award of the
21 final contract for construction of the facility.

22 I. For all state agencies subject to the Public Facilities Act,
23 Sections 202 through 213 of this title, the ~~Department~~ Office shall
24 perform the necessary procurement actions on behalf of a

1 requisitioning agency as enumerated in subsections B through H of
2 this section:

3 1. Determine or approve the agency's scope of a project and
4 required services as provided in the Public Facilities Act;

5 2. Issue solicitations for construction manager and consultant
6 services;

7 3. Conduct evaluations, interviews, selection, contract
8 negotiation, and fee negotiation processes; and

9 4. Provide contract management services after award of a
10 construction management or consultant contract.

11 J. In the selection of a consultant, all political subdivisions
12 of this state shall select a consultant based upon the professional
13 qualifications and technical experience of the consultant. The
14 subdivision shall negotiate a contract with the highest qualified
15 consultant, provided that a fee can be negotiated that is fair and
16 reasonable to both parties. In the event a reasonable fee cannot be
17 negotiated with the selected consultant, the subdivision may
18 negotiate with other consultants in order of their qualifications.

19 K. In the selection of a construction manager, all political
20 subdivisions of this state shall:

21 1. Extend consideration to construction managers from the file
22 maintained by the ~~Department of Real Estate Services of the~~ Office
23 of Management and Enterprise Services. Political subdivisions are
24

1 not limited in the number of construction manager candidates from
2 whom they intend on seeking proposals;

3 2. Evaluate the candidates' professional qualifications,
4 licensing, registration, certifications, technical abilities and
5 past experience relevant to the contemplated project. Only firms
6 recognized as qualified construction managers by ~~the Department of~~
7 ~~Real Estate Services~~ of the Office of Management and Enterprise
8 Services pursuant to this section may be considered for selection as
9 a construction manager. The subdivision shall use procedures as
10 described in this section and the Public Construction Management Act
11 for Political Subdivisions or may adopt procedures established by
12 the Office of Management and Enterprise Services for state agencies;
13 and

14 3. The political subdivision shall select a construction
15 manager based upon the professional qualifications and technical
16 experience of the construction manager. The political subdivision
17 shall negotiate a contract with the highest qualified construction
18 manager, provided that a fee can be negotiated that is fair and
19 reasonable to both parties. In the event a reasonable fee cannot be
20 negotiated with the selected construction manager, the political
21 subdivision may negotiate with other construction managers in order
22 of their qualifications.

23 SECTION 9. AMENDATORY 61 O.S. 2021, Section 62.2, is
24 amended to read as follows:

1 Section 62.2 ~~The Construction and Properties Division of the~~
2 Office of Management and Enterprise Services may enter into
3 contracts with construction managers and consultants registered with
4 the ~~Division~~ Office for the purpose of providing on-call minor
5 services to state agencies. The contracts shall provide for
6 services on an as-needed basis and shall not exceed One Hundred
7 Thousand Dollars (\$100,000.00) per construction manager or
8 consultant during one (1) year. The requisitioning state agency
9 shall ~~reimburse the Division~~ be solely responsible for the fee of
10 the construction manager or consultant that provides the services.

11 SECTION 10. AMENDATORY 61 O.S. 2021, Section 63, is
12 amended to read as follows:

13 Section 63. All drawings, plans, specifications, reports, and
14 models made by a construction manager or consultant for a state
15 agency shall be the property of this state, and shall be delivered
16 to the state as directed by the terms of the contract ~~Department of~~
17 ~~Real Estate Services of the Office of Management and Enterprise~~
18 ~~Services. The state agency shall file such plans with the~~
19 ~~Department for inclusion in a library system to be maintained by the~~
20 ~~Department. Any state agency shall have access for review to any~~
21 ~~plans or specifications filed with the Department.~~

22 SECTION 11. AMENDATORY 61 O.S. 2021, Section 65, is
23 amended to read as follows:

24

1 Section 65. A. In addition to the conditions prescribed
2 pursuant to ~~subsections~~ subsection C and ~~D~~ of this section, the
3 provisions of Section 62 of this title shall not apply whenever ~~the~~
4 ~~Department of Real Estate Services~~ of the Office of Management and
5 Enterprise Services with concurrence of the chief administrative
6 officer of the public agency affected declares that an emergency
7 exists. The construction manager or consultant shall be selected by
8 the ~~State Facilities Director of the Department of Real Estate~~
9 ~~Services~~ of the Office of Management and Enterprise Services. The
10 resulting construction manager or consultant contract shall not
11 exceed Fifty Thousand Dollars (\$50,000.00). The reasons for the
12 emergency shall be recorded in the official records of the
13 ~~Department~~ Office.

14 B. Emergency as used in this section shall be limited to
15 conditions resulting from any of the following:

16 1. A sudden unexpected happening or unforeseen occurrence if it
17 is impossible for the provisions of Section 62 of this title to be
18 observed because of the time factor and if the public health or
19 safety is endangered; and

20 2. A condition or situation which, if allowed to continue,
21 would lead to economic loss to the state or to further damage of
22 state property.

23 C. The provisions of Section 62 of this title shall not apply
24 to the process for construction of a correctional facility whenever

1 the State Board of Corrections informs the ~~Department~~ Office that an
2 emergency condition threatens the security of the state correctional
3 system, including inmate population growth, and the condition
4 requires expeditious treatment for the review, approval and bid
5 process as it relates to construction or expansion of correctional
6 facilities. The ~~Department~~ Office and the Department of Corrections
7 are authorized to implement an expedited competitive bid process for
8 the contracting of construction managers or consultants and
9 construction of new or expanded correctional facilities that
10 adequately respond to the emergency. The State Board of Corrections
11 shall provide written notification to the Governor, the Speaker of
12 the House of Representatives and to the President Pro Tempore of the
13 Senate of the emergency conditions.

14 ~~D. The provisions of Section 62 of this title shall not apply~~
15 ~~to CompSource Oklahoma if CompSource Oklahoma is operating pursuant~~
16 ~~to a pilot program authorized by Sections 3316 and 3317 of Title 74~~
17 ~~of the Oklahoma Statutes.~~

18 SECTION 12. AMENDATORY 61 O.S. 2021, Section 84, is
19 amended to read as follows:

20 Section 84. A public agency shall not award a grant, tax
21 abatement, or tax credit that is conditioned upon a requirement that
22 the awardee include a term described in Section ~~3 of the Fair and~~
23 ~~Open Competition in Governmental Construction Act~~ 83 of this title
24 in a contract document for any construction, improvement,

1 maintenance, or renovation to real property or fixtures that are the
2 subject of the grant, tax abatement, or tax credit.

3 SECTION 13. AMENDATORY 61 O.S. 2021, Section 102, is
4 amended to read as follows:

5 Section 102. As used in the Public Competitive Bidding Act of
6 1974:

7 ~~1. "Administrator" means the State Construction Administrator~~
8 ~~of the Construction and Properties Division of the Office of~~
9 ~~Management and Enterprise Services;~~

10 ~~2.~~ 1. "Awarding public agency" means the public agency which
11 solicits and receives sealed bids on a particular public
12 construction contract;

13 ~~3.~~ 2. "Bidding documents" means the bid notice, instruction to
14 bidders, plans and specifications, bidding form, bidding
15 instructions, general conditions, special conditions and all other
16 written instruments prepared by or on behalf of an awarding public
17 agency for use by prospective bidders on a public construction
18 contract;

19 ~~4.~~ 3. "Chief administrative officer" means an individual
20 responsible for directing the administration of a public agency.
21 The term does not mean one or all of the individuals that make
22 policy for a public agency;

23 ~~5.~~ 4. "Construction management trade contract or subcontract"
24 means any public construction contract exceeding Fifty Thousand

1 Dollars (\$50,000.00) in amount that is awarded as a trade contract
2 in an agency construction management contract or awarded as a
3 subcontract in an at-risk construction management contract;

4 ~~6.~~ 5. "Public agency" means the State of Oklahoma, and any
5 county, city, town, school district or other political subdivision
6 of the state, any public trust, any public entity specifically
7 created by the statutes of the State of Oklahoma or as a result of
8 statutory authorization therefor, and any department, agency, board,
9 bureau, commission, committee or authority of any of the foregoing
10 public entities;

11 ~~7.~~ 6. "Public construction contract" or "contract" means any
12 contract, exceeding One Hundred Thousand Dollars (\$100,000.00) in
13 amount, or any construction management trade contracts or
14 subcontracts exceeding Fifty Thousand Dollars (\$50,000.00) in
15 amount, awarded by any public agency for the purpose of making any
16 public improvements or constructing any public building or making
17 repairs to or performing maintenance on the same except where the
18 improvements, construction of any building or repairs to the same
19 are improvements or buildings leased to a person or other legal
20 entity exclusively for private and not for public use and no public
21 tax revenues shall be expended on or for the contract unless the
22 public tax revenues used for the project are authorized by a
23 majority of the voters of the applicable public agency voting at an
24 election held for that purpose and the public tax revenues do not

1 exceed twenty-five percent (25%) of the total project cost. The
2 amount of public tax dollars committed to the project will not
3 exceed a fixed amount established by resolution of the governing
4 body prior to or concurrent with approval of the project;

5 ~~8.~~ 7. "Public improvement" means any beneficial or valuable
6 change or addition, betterment, enhancement or amelioration of or
7 upon any real property, or interest therein, belonging to a public
8 agency, intended to enhance its value, beauty or utility or to adapt
9 it to new or further purposes. The term does not include the direct
10 purchase of materials, equipment or supplies by a public agency, or
11 any personal property, including property as defined in paragraphs 1
12 and 4 of subsection B of Section 430.1 of Title 62 of the Oklahoma
13 Statutes;

14 ~~9.~~ 8. "Purchasing cooperative" means an association of public
15 entities working together to provide leverage in achieving best
16 value and/or the best terms in contracts awarded through a
17 competitive bidding process; and

18 ~~10.~~ 9. "Retainage" means the difference between the amount
19 earned by the contractor on a public construction contract, with the
20 work being accepted by the public agency, and the amount paid on
21 said contract by the public agency.

22 SECTION 14. AMENDATORY 61 O.S. 2021, Section 103.4, is
23 amended to read as follows:

24

1 Section 103.4 Nothing in the Public Competitive Bidding Act of
2 1974 shall be construed to prohibit a school district from erecting
3 a building or making improvements on a force account basis.

4 ~~Contracts between a state agency and a school district for the~~
5 ~~purpose of emergency asbestos abatement shall be exempt from the~~
6 ~~provisions of the Public Competitive Bidding Act of 1974.~~

7 SECTION 15. AMENDATORY 61 O.S. 2021, Section 103.7, is
8 amended to read as follows:

9 Section 103.7 For purposes of the provisions of the Public
10 Competitive Bidding Act of 1974, contracts entered into solely for
11 projects and activities by the Oklahoma Department of Wildlife
12 Conservation relating to fish and wildlife conservation shall be let
13 and awarded using the competitive bidding process as set forth in
14 the Public Competitive Bidding Act of 1974. However, for contracts
15 ~~of Fifty Thousand Dollars (\$50,000.00) or less not exceeding One~~
16 Hundred Thousand Dollars (\$100,000.00), the Department may
17 administer the competitive bidding process and let and award the
18 contract itself rather than the ~~Construction and Properties Division~~
19 ~~of the Office of Management and Enterprise Services.~~

20 SECTION 16. AMENDATORY 61 O.S. 2021, Section 104, is
21 amended to read as follows:

22 Section 104. All proposals to award public construction
23 contracts shall be made equally and uniformly known by the awarding
24

1 public agency to all prospective bidders and the public in the
2 following manner:

3 1. Notice thereof shall be given ~~by~~ electronically or by
4 publication in a newspaper of general circulation and published in
5 the county where the work, or the major part of it, is to be done,
6 such notice by publication to be published in two consecutive weekly
7 issues of the newspaper, with the first publication thereof to be at
8 least ~~twenty one (21)~~ ten (10) days prior to the date set for
9 opening bids; and

10 2. Notice thereof shall be sent to one in-state trade or
11 construction publication for their use and information whenever the
12 estimated cost of the public construction contract exceeds One
13 Hundred Thousand Dollars (\$100,000.00) or the cost of the
14 construction management trade contract or subcontract exceeds Fifty
15 Thousand Dollars (\$50,000.00); provided, however, this section shall
16 not be construed to require the publication of the notice in such
17 trade or construction publication or the requirement to provide the
18 notice to more than one in-state trade or construction publication
19 or to any out-of-state trade or construction publications.

20 SECTION 17. AMENDATORY 61 O.S. 2021, Section 105, is
21 amended to read as follows:

22 Section 105. All bid notices shall set forth the following
23 information:
24

1 1. The character of the proposed public construction contract
2 in sufficient details that all bidders shall know exactly what their
3 obligation will be, either in the bid notice itself or by reference
4 to bidding documents ~~on file in the main office of the awarding~~
5 ~~public agency~~ available to the public; and

6 2. The name of the officer, agent or employee of the awarding
7 public agency and the office location and address of such person,
8 from whom a complete set of bidding documents regarding such
9 proposed contract may be obtained, together with the amount of the
10 cost deposit required therefor, if any; and

11 3. The date, time and place of opening of the sealed bids
12 either in person or electronically; and

13 4. The name and office location and address of the office of
14 the awarding public agency to whom the sealed bids should be
15 submitted or information sufficient to enable a bid to be submitted
16 electronically; and

17 5. Any additional information regarding such proposed contract
18 deemed by the awarding public agency to be of beneficial interest to
19 prospective bidders or the public.

20 SECTION 18. AMENDATORY 61 O.S. 2021, Section 106, is
21 amended to read as follows:

22 Section 106. ~~At least one complete set of~~ Complete bidding
23 documents regarding a proposed public construction contract shall be
24 ~~on file in the main office of the awarding public agency~~ available

1 to the public at least ~~twenty (20)~~ ten (10) days prior to the date
2 set for opening bids. ~~The officer, agent or employee of the~~
3 ~~awarding public agency designated in the bid notice shall have a~~
4 ~~sufficient number of complete sets of said bidding documents and~~
5 ~~shall provide a complete set of same to any prospective bidder, upon~~
6 ~~request; provided, however, that the awarding public agency, or its~~
7 agent, may require a reasonable deposit for each ~~such~~ set of bidding
8 documents; provided, that such deposit shall not exceed the actual
9 cost of duplicating or printing. The public agency, or its agent,
10 may retain all or part of said deposit if so stated in the notice
11 for bids.

12 SECTION 19. AMENDATORY 61 O.S. 2021, Section 107, is
13 amended to read as follows:

14 Section 107. A. A bidder on a public construction contract
15 exceeding One Hundred Thousand Dollars (\$100,000.00) or a
16 construction management trade contract or subcontract exceeding
17 Fifty Thousand Dollars (\$50,000.00) shall accompany the bid with:

18 1. A certified check, cashier's check or bid bond equal to five
19 percent (5%) of the bid, which shall be deposited with the awarding
20 public agency as a guaranty; or

21 2. An irrevocable letter of credit containing terms ~~the~~
22 ~~Construction and Properties Division of~~ the Office of Management and
23 Enterprise Services prescribes, issued by a financial institution
24 insured by the Federal Deposit Insurance Corporation or the Federal

1 Savings and Loan Insurance Corporation for the benefit of the state,
2 on behalf of the awarding public agency, in an amount equal to five
3 percent (5%) of the bid. The awarding public agency shall deposit
4 the irrevocable letter of credit with the ~~Division~~ Office.

5 B. The cost of republication of the notice to bidders, actual
6 expenses incurred by reason of the bidder's default and the
7 difference between the low bid of the defaulting bidder and the
8 amount of the bid of the bidder to whom the contract is subsequently
9 awarded, but not to exceed the amount of the certified check,
10 cashier's check, bid bond or irrevocable letter of credit may, at
11 the discretion of the awarding public agency, be forfeited to the
12 awarding public agency in the event the apparently successful bidder
13 fails to execute the contract or fails to provide the required bonds
14 or irrevocable letters of credit and insurance to the awarding
15 public agency.

16 C. The public agency shall, upon receipt of notice from the
17 awarding public agency, return a certified or cashier's check, bid
18 bond, or irrevocable letter of credit to the successful bidder on
19 execution and delivery of the contract and required bonds or
20 irrevocable letters of credit and insurance. Checks of unsuccessful
21 bidders shall be returned to them in accordance with the terms of
22 the bid solicitation.

23 D. Nothing contained herein shall be construed so as to prevent
24 the awarding public agency or the courts from exonerating the bidder

1 and other parties to the bid security document from liability upon a
2 timely showing that the bidder committed what the courts have
3 determined under the common law to be an excusable bidding error and
4 for that reason it would not be equitable to enforce the bid
5 security.

6 SECTION 20. AMENDATORY 61 O.S. 2021, Section 109, is
7 amended to read as follows:

8 Section 109. Any bid ~~received by the awarding public agency or~~
9 ~~an officer or employee thereof, more than ninety-six (96) hours~~
10 ~~excluding Saturdays, Sundays and holidays before the time set for~~
11 ~~the opening of bids, or any bid so received after the time set for~~
12 opening of bids, shall not be opened or considered by the awarding
13 public agency and ~~shall be returned unopened to the bidder~~
14 ~~submitting same.~~

15 SECTION 21. AMENDATORY 61 O.S. 2021, Section 110, is
16 amended to read as follows:

17 Section 110. A. Except as provided by subsection B of this
18 section, all bids shall be sealed and opened only at the time and
19 place mentioned in the bidding documents, and read aloud in the
20 presence of an administrative officer of the awarding public agency.
21 Such bid opening shall be open to the public and to all bidders.

22 B. ~~The Oklahoma Department of Transportation and the Oklahoma~~
23 ~~Turnpike Authority~~ A public agency shall be exempt from the
24

1 requirements provided in subsection A of this section, if the agency
2 electronically publishes the bids on the website of the agency.

3 SECTION 22. AMENDATORY 61 O.S. 2021, Section 112, is
4 amended to read as follows:

5 Section 112. All bids, both successful and unsuccessful, and
6 all contracts and required bonds shall be placed on file and
7 maintained ~~in the main office of~~ by the awarding public agency for a
8 period of five (5) years from the date of opening of bids or for a
9 period of three (3) years from the date of completion of the
10 contract, whichever is longer, and shall be open to public
11 inspection and shall be matters of public record.

12 SECTION 23. AMENDATORY 61 O.S. 2021, Section 113, is
13 amended to read as follows:

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

24

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 public construction contracts exceeding One Hundred Thousand Dollars
5 (\$100,000.00) or construction management trade contracts or
6 subcontracts exceeding Fifty Thousand Dollars (\$50,000.00):

7 1. A bond ~~or irrevocable letter of credit~~ complying with the
8 provisions of Section 1 of this title;

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

19 3. A bond in a sum equal to the contract price ~~or an~~
20 ~~irrevocable letter of credit containing terms as prescribed by the~~
21 ~~Division issued by a financial institution insured by the Federal~~
22 ~~Deposit Insurance Corporation or the Federal Savings and Loan~~
23 ~~Insurance Corporation~~ for the benefit of the state, on behalf of the
24 awarding public agency, ~~in a sum equal to the contract price,~~ to

1 protect the awarding public agency against defective workmanship and
2 materials for a period of one (1) year after acceptance of the
3 project, except when the awarding public agency is the Department of
4 Transportation or the Oklahoma Turnpike Authority, in such case the
5 period shall be for one (1) year after project completion; and

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

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

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

21 D. 1. After the award of a contract, but prior to its
22 execution, an awarding public agency, upon discovery of an
23 administrative error in the award process that would void an
24 otherwise valid award, may suspend the time of execution of the

1 contract. The agency may rescind the award and readvertise for
2 bids, or may direct correction of the error and award the contract
3 to the lowest responsible bidder, whichever shall be in the best
4 interests of the state.

5 2. If the awarding public agency has a governing body, the
6 agency shall, at the next regularly scheduled public business
7 meeting of the governing body of the agency, upon the record,
8 present to the governing body that an error has been made in the
9 award process and shall state the nature of the error. The
10 governing body, upon presentation of the facts of the error, may
11 rescind the award and readvertise for bids, or may direct correction
12 of the error and award the contract to the lowest responsible
13 bidder, whichever shall be in the best interests of the state.

14 E. No public agency shall require for any public construction
15 project, nor shall any general contractor submit a project bid based
16 on acquiring or participating in, any wrap-up, wrap-around, or
17 controlled insurance program. For the purposes of this subsection,
18 "wrap-up, wrap-around, or controlled insurance program" means any
19 insurance program that has the effect of disabling or rendering
20 inapplicable any workers' compensation, commercial general
21 liability, builders' risk, completed operations, or excess liability
22 insurance coverage carried by a subcontractor that is engaged or to
23 be engaged on a public construction project unless this is a cost
24 savings to the public or the need exists for a specialized or

1 complex insurance program and shall not apply to contracts less than
2 Seventy-five Million Dollars (\$75,000,000.00).

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

6 SECTION 24. AMENDATORY 61 O.S. 2021, Section 113.1, is
7 amended to read as follows:

8 Section 113.1 A. A public construction contract shall provide
9 for partial payment based upon work completed. The contract shall
10 provide that up to five percent (5%) of all partial payments made
11 shall be withheld as retainage until the project is fifty percent
12 (50%) complete as determined by the awarding agency. When the
13 awarding public agency determines that the project is at least fifty
14 percent (50%) complete, the retainage amount shall be two and one-
15 half percent (2.5%) with respect to the balance of the work.

16 B. The Department of Transportation or the Oklahoma Turnpike
17 Authority shall not withhold retainage on public construction
18 contracts awarded by the Department or the Authority.

19 C. The Department of Transportation shall not withhold
20 retainage or require any bond on projects awarded to railroads on
21 the railroad's privately owned or operated rail property.

22 SECTION 25. AMENDATORY 61 O.S. 2021, Section 119.1, is
23 amended to read as follows:

24

1 Section 119.1 A. If no timely bid is received after bid
2 notices have been published on any proposed public construction
3 contract which does not exceed One Hundred Thousand Dollars
4 (\$100,000.00) or on any proposed construction management trade
5 contract or subcontract which does not exceed Fifty Thousand Dollars
6 (\$50,000.00):

7 1. The governing body of a county, city, town or school
8 district may direct its employees or agents to negotiate the
9 contract with a prospective contractor; or

10 2. The state agency, as defined in Section 202 of this title,
11 shall request the ~~State Construction Administrator of the~~
12 ~~Construction and Properties Division~~ Office of Management and
13 Enterprise Services to negotiate a contract on its behalf.

14 B. The amount of a public construction contract which may be
15 awarded by the governing body pursuant to this section shall not
16 exceed One Hundred Thousand Dollars (\$100,000.00), nor shall the
17 amount of a construction management trade contract or subcontract
18 awarded by the governing body pursuant to this section exceed Fifty
19 Thousand Dollars (\$50,000.00), and the work to be performed shall be
20 as specified in the initial bidding documents. The contract shall
21 be executed within six (6) months after the date initially set for
22 opening of bids. The contract and contract procedure shall conform
23 to all other applicable provisions of the Public Competitive Bidding
24 Act of 1974.

1 SECTION 26. AMENDATORY 61 O.S. 2021, Section 121, is
2 amended to read as follows:

3 Section 121. A. Change orders or addenda to public
4 construction contracts of One Million Dollars (\$1,000,000.00) or
5 less shall not exceed a fifteen percent (15%) cumulative increase in
6 the original contract amount.

7 B. Change orders or addenda to public construction contracts of
8 over One Million Dollars (\$1,000,000.00) shall not exceed the
9 greater of One Hundred Fifty Thousand Dollars (\$150,000.00) or a ten
10 percent (10%) cumulative increase in the original contract amount.

11 C. Change orders or cumulative change orders which exceed the
12 limits of subsection A or B of this section shall require a
13 readvertising for bids on the incomplete portions of the contract.

14 D. If the awarding public agency does not have a governing
15 body, the chief administrative officer of the awarding public agency
16 shall approve change orders. ~~The State Construction Administrator~~
17 ~~of the Construction and Properties Division~~ Director of the Office
18 of Management and Enterprise Services, or the ~~Administrator's~~
19 Director's designee, shall sign and execute all contracts and change
20 orders, as they relate to state agencies.

21 E. If the awarding public agency has a governing body, all
22 change orders shall be formally approved by the governing body of
23 the awarding public agency and the reasons for approval recorded in
24 the permanent records of the governing body. The governing body of

1 a municipality or technology center may delegate approval of change
2 orders up to Forty Thousand Dollars (\$40,000.00) or ten percent
3 (10%) of any contract, whichever is less, to the chief
4 administrative officer of the municipality or technology center or
5 their designee, with any approved change orders reported to the
6 governing body at the next regularly scheduled meeting.

7 F. The Oklahoma Veterans Commission, as the governing body of
8 the Oklahoma Department of Veterans Affairs, is authorized to
9 delegate to the Director of the agency the authority to approve
10 change orders on a construction contract provided that the
11 individual change order does not exceed Forty Thousand Dollars
12 (\$40,000.00) in expenditure, and complies with the limits
13 established by this section. Change orders approved by the Director
14 pursuant to a delegation of authority shall be presented to the
15 Commission during the next regular meeting and the reasons for the
16 orders recorded in permanent records.

17 G. The governing body of the Oklahoma Tourism and Recreation
18 Department is authorized, upon approval of a majority of all of the
19 members of the Oklahoma Tourism and Recreation Commission, to
20 delegate to the Director of the agency the authority to approve
21 change orders on a construction contract provided that the
22 individual change order does not exceed Twenty-five Thousand Dollars
23 (\$25,000.00) in expenditure and complies with the limits established
24

1 by this section. The ~~Administrator of the Division~~ Director of the
2 Office shall sign and execute all contracts and change orders.

3 H. The Transportation Commission may, by rule, authorize the
4 Director of the Department of Transportation to approve change
5 orders in an amount of not to exceed Five Hundred Thousand Dollars
6 (\$500,000.00). Change orders approved by the Director shall be
7 presented to the Transportation Commission during the next regular
8 meeting and the reasons therefor recorded in the permanent records.

9 The Oklahoma Turnpike Authority may authorize the Director of the
10 Authority to approve change orders in an amount not to exceed Two
11 Hundred Fifty Thousand Dollars (\$250,000.00). Change orders
12 approved by the Director of the Authority shall be presented to the
13 Authority during the next regular meeting and the reasons for the
14 orders recorded in permanent records.

15 I. All change orders for the Department of Transportation or
16 the Authority shall contain a unit price and total for each of the
17 following items:

- 18 1. All materials with cost per item;
- 19 2. Itemization of all labor with number of hours per operation
20 and cost per hour;
- 21 3. Itemization of all equipment with the type of equipment,
22 number of each type, cost per hour for each type, and number of
23 hours of actual operation for each type;

24

1 4. Itemization of insurance cost, bond cost, Social Security,
2 taxes, workers' compensation, employee fringe benefits and overhead
3 cost; and

4 5. Profit for the contractor.

5 J. 1. If a construction contract contains unit pricing, and
6 the change order pertains to the unit price, the change order will
7 not be subject to subsection A or B of this section.

8 2. When the unit price change does not exceed Twenty Thousand
9 Dollars (\$20,000.00), the unit price change order computation may be
10 based on an acceptable unit price basis in lieu of cost itemization
11 as required in paragraphs 1, 2, 3, 4 and 5 of subsection I of this
12 section.

13 3. When the unit price change exceeds Twenty Thousand Dollars
14 (\$20,000.00), any unit price for a new item established at or below
15 the average eighteen-month-price history for the new item may be
16 used in lieu of cost itemization as required in paragraphs 1, 2, 3,
17 4 and 5 of subsection I of this section.

18 K. Alternates or add items bid with the original bid and
19 contained in the awarded contract as options of the awarding public
20 agency shall not be construed as change orders under the provisions
21 of the Public Competitive Bidding Act of 1974.

22 L. Where construction management at-risk is the project
23 delivery method, the limits established by subsections A and B of
24

1 this section shall be based upon the total cost of the project
2 rather than the cost of the individual trade contracts.

3 SECTION 27. AMENDATORY 61 O.S. 2021, Section 130, is
4 amended to read as follows:

5 Section 130. A. The provisions of the Public Competitive
6 Bidding Act of 1974 with reference to notice and bids shall not
7 apply to an emergency if:

8 1. The governing body of a public agency declares by a two-
9 thirds (2/3) majority vote of all of the members of the governing
10 body that an emergency exists;

11 2. The Transportation Commission and the Oklahoma Tourism and
12 Recreation Commission, by majority vote of all the members of each
13 Commission, declare that an emergency exists; or

14 3. The chief administrative officer of a public agency without
15 a governing body declares that an emergency exists.

16 B. The governing body of a public agency may, upon approval of
17 two-thirds (2/3) majority of all of the members of the governing
18 body, delegate to the chief administrative officer of a public
19 agency the authority to declare an emergency whereby the provisions
20 of the Public Competitive Bidding Act of 1974 with reference to
21 notice and bids shall not apply to contracts less than One Hundred
22 Fifty Thousand Dollars (\$150,000.00) in amount; provided, such
23 authority of the Department of Transportation and the Oklahoma
24 Turnpike Authority shall not extend to any contract exceeding Seven

1 Hundred Fifty Thousand Dollars (\$750,000.00) in amount and such
2 authority of the Department of Corrections shall not extend to any
3 contract exceeding Two Hundred Fifty Thousand Dollars (\$250,000.00)
4 in amount for situations in which the emergency impacts the
5 conditions of confinement, health and safety of correctional
6 officers and inmates in the custody of the Department of
7 Corrections.

8 C. Upon approval of a two-thirds (2/3) majority vote, the
9 Oklahoma Conservation Commission may delegate to the Executive
10 Director the authority to declare an emergency and set a monetary
11 limit for the declaration. The provisions of this subsection may
12 only be used for the purpose of responding to an emergency involving
13 the reclamation of abandoned coal mines or the repair of damaged
14 upstream floodwater retarding structures.

15 D. An emergency declared by the Board of Corrections pursuant
16 to subsection C of Section 65 of this title shall exempt the
17 Department of Corrections from the limits which would otherwise be
18 imposed pursuant to subsection B of this section for the contracting
19 and construction of new or expanded correctional facilities.

20 E. The chief administrative officer of a public agency with a
21 governing body shall notify the governing body within ten (10) days
22 of the declaration of an emergency if the governing body did not
23 approve the emergency. The notification shall contain a statement
24

1 of the reasons for the action, and shall be recorded in the official
2 minutes of the governing body.

3 F. Emergency as used in this section shall be limited to
4 conditions resulting from a sudden unexpected happening or
5 unforeseen occurrence or condition whereby the public health or
6 safety is endangered or further damage to state property is likely
7 if the situation is not addressed promptly.

8 G. The chief administrative officer of a public agency shall
9 report an emergency within ten (10) days of the emergency
10 declaration and include the official minutes of the governing body
11 of the public agency, if applicable, to the ~~State Construction~~
12 ~~Administrator of the Construction and Properties Division of the~~
13 Office of Management and Enterprise Services ~~who~~ which shall compile
14 an annual report detailing all emergencies declared pursuant to this
15 section during the previous calendar year. The report shall be
16 submitted to the Governor, the President Pro Tempore of the Senate,
17 and the Speaker of the House of Representatives upon request.

18 H. The Risk Management Administrator of the Office of
19 Management and Enterprise Services may declare an emergency on
20 behalf of a public agency when an insurable loss has occurred which
21 would lead to further economic loss or additional property damage if
22 not addressed promptly. Such declaration shall not relieve the
23 public agency of fiscal responsibility for its deductible, uninsured
24 losses, and other related expenses.

1 SECTION 28. 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~~ Office of Management
24 and Enterprise Services or other state agency employees, or, under a

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

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

8 ~~6.~~ 5. "Construction management" means a project delivery method
9 based on an agreement whereby the owner acquires from a construction
10 entity a series of services that include, but are not necessarily
11 limited to, design review, scheduling, cost control, value
12 engineering, constructability evaluation, preparation and
13 coordination of bid packages, and construction administration;
14 "construction management" includes:

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

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

24

- 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.~~ 6. "Consultant" means an individual or legal entity
8 possessing the qualifications to provide licensed architectural,
9 registered engineering, registered land surveying, certified
10 appraisal, land title, or abstract services or possessing
11 specialized credentials and qualifications as may be needed to
12 evaluate, plan or design for any construction or public work
13 improvement project, or to lease, acquire or dispose of state-owned
14 real property;

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

17 ~~9.~~ 7. "Energy performance index or indices" (EPI) means a
18 number describing the energy requirements at the building boundary
19 of a structure, per square foot of floor space or per cubic foot of
20 occupied volume, as appropriate under defined internal and external
21 ambient conditions over an entire seasonal cycle. As experience
22 develops on the energy performance achieved with state construction,
23 the indices (EPI) will serve as a measure of structure performance
24 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.~~ 8. "Life cycle costs" means the cost of owning, operating,
5 and maintaining the structure over the life of the structure. This
6 may be expressed as an annual cost for each year of the facility's
7 use;

8 ~~12.~~ 9. "Office" means the Office of Management and Enterprise
9 Services;

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

15 ~~14.~~ 11. "Public improvement" means any beneficial or valuable
16 change or addition, betterment, enhancement or amelioration of or
17 upon any real property, or interest therein, belonging to a state
18 agency and the State of Oklahoma, intended to enhance its value,
19 beauty or utility or to adapt it to new or further purposes. The
20 term does not include the direct purchase of materials used for
21 general repairs and maintenance to state facilities;

22 ~~15.~~ 12. "Shared savings financing" means the financing of
23 energy conservation measures and maintenance services through a
24 private firm which may own any purchased equipment for the duration

1 of a contract. Such contract shall specify that the private firm
2 will be recompensed either out of a negotiated portion of the
3 savings resulting from the conservation measures and maintenance
4 services provided by the private firm or, in the case of a
5 cogeneration project, through the payment of a rate for energy lower
6 than would otherwise have been paid for the same energy from current
7 sources; and

8 ~~16.~~ 13. "State agency" means an agency, board, commission,
9 counsel, court, office, officer, bureau, institution, unit,
10 division, body, or house of the executive or judicial branches of
11 government of this state, whether elected or appointed, excluding
12 only political subdivisions, the Oklahoma State Regents for Higher
13 Education and its constituent institutions and the Commissioners of
14 the Land Office.

15 SECTION 29. AMENDATORY 61 O.S. 2021, Section 204, is
16 amended to read as follows:

17 Section 204. A. ~~The Department of Real Estate Services Office~~
18 of Management and Enterprise Services shall:

19 ~~1. Maintain a comprehensive master plan for utilization and~~
20 ~~construction of state buildings, capital improvements, and~~
21 ~~utilization of land owned by this state. Requirements of the master~~
22 ~~planning process shall include:~~

23 a. ~~reporting by each state agency concerning facility~~
24 ~~needs,~~

- ~~b. data acquisition of condition and performance benchmarking of state agency facilities,~~
- ~~c. analyses and audits of state agency facilities, properties and leaseholds to determine critical and long range needs,~~
- ~~d. development of state agency long range strategic facility plans,~~
- ~~e. short range project programming to identify budget requests for facility capital improvements and asset management decisions, and~~
- ~~f. an annual capital plan for all state agencies submitted to the Legislature for line item appropriation requests;~~

~~2.~~ 1. Review and approve all construction plans and specifications to ensure compliance with good construction practices and space standards, costs of project, proposed construction timetables, and agency need for the project;

~~3.~~ 2. Inspect prior to acceptance and final payment all completed projects for which the ~~Department~~ Office issued bid solicitations to ensure compliance with the plans and specifications of the project;

~~4.~~ 3. Select and hire consultants and construction managers for projects as determined or approved by the ~~Department~~ Office. The ~~Department~~ Office shall select, award and execute contracts to

1 consultants and construction managers that provide services to state
2 agencies subject to this act;

3 ~~5.~~ 4. Develop and issue solicitations for award of state agency
4 contracts for construction services. The ~~Department~~ Office shall
5 have final approval authority for contracts and contract documents.
6 Neither the ~~Department~~ Office nor any public entity shall, for
7 performance of work that requires that a contractor be licensed by
8 this state, issue a solicitation to, or make a contract with, a
9 contractor not licensed by this state;

10 ~~6.~~ 5. Review inspections performed by consultants and
11 construction managers during construction, perform primary
12 inspections when consultants or construction managers are not used,
13 and final inspections after completion;

14 ~~7.~~ 6. Establish standards and policies as required to
15 standardize facility assessment and benchmarking, facility
16 operations and maintenance, asset preservation, design and energy
17 standards, space utilization, material testing, indexes of
18 efficiency, economy, and effectiveness;

19 ~~8.~~ 7. Monitor indices of facility condition, effectiveness of
20 operations and maintenance programs, deferred maintenance
21 prioritization, effectiveness of planning processes, budgeting for
22 capital needs, application of facility standards as established by
23 the ~~Department~~ Office, and performance outcomes of construction
24 projects to ensure maximum efficiency in the expenditure of state

1 funds for asset management and preservation of the state's capital
2 real property;

3 ~~9.~~ 8. Coordinate, monitor and report on statewide energy
4 conservation programs delegated to the Office;

5 ~~10.~~ 9. Provide property leasing and brokerage services
6 delegated to the Office;

7 ~~11.~~ 10. Report fraud or waste in any construction project by
8 written notification with documentation for the report to the
9 Attorney General. The Attorney General shall take appropriate
10 action to protect the interest of the state; and

11 ~~12.~~ 11. Prequalify as good and sufficient insurance carriers,
12 bonding companies and surety companies to meet provisions of
13 Sections 1 and 134 of this title. The Director shall promulgate
14 rules to establish criteria to determine whether a carrier or
15 company is good and sufficient. The prequalification requirement
16 and process shall not violate the provisions of Section 135 of this
17 title.

18 B. When a state agency employs a licensed architect or licensed
19 engineer as a full-time employee, said licensed employee may conduct
20 required facility planning, prepare project plans and specifications
21 and monitor construction work as prescribed by the ~~Department~~
22 Office. State agencies authorized to employ licensed architects and
23 engineers for the purposes of this section include:

24

1 1. The Department of Transportation with respect to highways,
2 bridges and dams;

3 2. The Oklahoma State Regents for Higher Education and its
4 constituent institutions;

5 3. The Military Department of the State of Oklahoma;

6 4. The Oklahoma Tourism and Recreation Department; and

7 5. The Department of Human Services.

8 ~~C. Not later than December 31, 2012, with the advice of the~~
9 ~~State Facilities Director, the Director of the Office of Management~~
10 ~~and Enterprise Services shall provide a report containing~~
11 ~~recommendations to the Legislature for the streamlining,~~
12 ~~integration, and consolidation of state construction, maintenance,~~
13 ~~and real property management processes to maximize capital assets~~
14 ~~and achieve cost savings to the state. The report shall identify~~
15 ~~the necessary planning processes for transitioning from a~~
16 ~~decentralized capital budgeting process to a centralized annual~~
17 ~~capital plan appropriation process, to be implemented no later than~~
18 ~~January 1, 2014.~~

19 SECTION 30. AMENDATORY 61 O.S. 2021, Section 207.2, is
20 amended to read as follows:

21 Section 207.2 A. Except as provided by subsection B of this
22 section, no state agency shall employ, either temporary or full-
23 time, any person engaged in the practice of architecture,
24 engineering or land surveying for the purpose of planning or

1 performing any construction upon any real property belonging to the
2 agency or to the state, or upon any real property of which this
3 state will assume possession or ownership by contract, option to
4 purchase agreement, lease, or otherwise. The term "practice of
5 architecture" shall be defined as those activities of an architect
6 as provided for in Section 46.3 of Title 59 of the Oklahoma
7 Statutes. The terms "practice of engineering" or the "practice of
8 land surveying" shall be defined as such terms are defined by
9 Section 475.2 of Title 59 of the Oklahoma Statutes.

10 B. The provisions of subsection A of this section shall not
11 apply to:

- 12 1. The Department of Human Services;
- 13 2. The Oklahoma Tourism and Recreation Department;
- 14 3. The State Department of Health insofar as the monitoring of
15 permitted health care facility construction for licensing purposes;
- 16 4. The Oklahoma Historical Society insofar as the monitoring of
17 historical site preservation and authenticity;
- 18 5. The Office of Management and Enterprise Services;
- 19 6. The State Department of Education and the public schools
20 subject to its jurisdiction;
- 21 7. The Department of Transportation;
- 22 8. The Oklahoma State System of Higher Education;
- 23 9. The Military Department of the State of Oklahoma;
- 24 10. The Oklahoma Municipal Power Authority;

1 11. The Department of Public Safety gun range; and

2 ~~12. CompSource Oklahoma if CompSource Oklahoma is operating~~
3 ~~pursuant to a pilot program authorized by Sections 3316 and 3317 of~~
4 ~~Title 74 of the Oklahoma Statutes; and~~

5 ~~13.~~ 12. The University Hospitals Authority and University
6 Hospitals Trust.

7 SECTION 31. AMENDATORY 61 O.S. 2021, Section 208, is
8 amended to read as follows:

9 Section 208. A. ~~The Department of Real Estate Services of the~~
10 Office of Management and Enterprise Services shall select and award
11 contracts to construction managers and design consultants pursuant
12 to the provisions of Section 62 of this title.

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

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

18 D. 1. When all bids for a public construction contract exceed
19 the programmed estimate and available funding, the ~~Department~~ Office
20 may enter into negotiations with the lowest responsible bidder for
21 the purpose of modifying the project scope and reducing the
22 construction cost, provided that:

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

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

18 3. If a suitable revised scope and contract amount is agreed
19 upon by the using agency, ~~low~~ lowest responsible bidder, and the ~~SFD~~
20 Director, the ~~Department~~ Office may award the public construction
21 contract to the ~~low~~ lowest responsible bidder.

22 4. The ~~Department~~ Office shall negotiate a fair and reasonable
23 fee with the project's consultant, if applicable, to make any
24 necessary revisions to the contract documents. The cost of this

1 additional consulting work shall be paid from the agency's available
2 funds.

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

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

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

16 1. The state agency initiates a request with the ~~SFD~~ Director;
17 or

18 2. ~~Beginning on or after July 1, 2016, the SFD~~ The Director
19 determines a state agency is performing in the bottom ten percent
20 (10%) of all state agencies with respect to performance measures for
21 facility management established by the ~~Department~~ Office.

22 G. In addition to the exception from this act hereby provided
23 to the Oklahoma State Regents for Higher Education and its
24 constituent institutions and the Commissioners of the Land Office,

1 the ~~State Facilities~~ Director may authorize an exemption to the
2 provisions of this act to any other state agency provided that the
3 recipient of the exemption:

4 1. Adopts standards, processes and procedures for planning,
5 budgeting, design, facility management, asset management and asset
6 preservation that are substantially compliant with those as
7 prescribed by the ~~Department~~ Office;

8 2. Adheres to procurement requirements of Sections 62 through
9 65 of this title and the provisions of this act;

10 3. Reports benchmark, budget and ongoing performance data
11 required by the ~~Department~~ Office; and

12 4. Participates in annual performance reviews and organized
13 forums for promoting best practices statewide as determined by the
14 ~~SFD~~ Director.

15 SECTION 32. AMENDATORY 61 O.S. 2021, Section 208.1, is
16 amended to read as follows:

17 Section 208.1 The ~~Department of Real Estate Services~~ Office may
18 collect a reasonable fee for the purpose of providing or contracting
19 for architectural, engineering, land surveying, planning, real
20 estate and related services to state agencies and political
21 subdivisions of the state, and from persons requesting plans and
22 notification of solicitations issued by the ~~Department~~ Office. The
23 ~~Department~~ Office may collect a reasonable fee for management
24 services. Annual fees to the ~~Department~~ Office shall be on a cost-

1 recovery basis and may be calculated as a percentage of annual
2 construction and real estate services in an amount necessary to
3 support ~~Department operation as designated in the annual capital~~
4 ~~plan~~ the Office's operations. All fees collected in accordance with
5 the provisions of this section shall be deposited in the "State
6 Construction Revolving Fund" created in Section 208.2 of this title.

7 SECTION 33. AMENDATORY 61 O.S. 2021, Section 208.2, is
8 amended to read as follows:

9 Section 208.2 There is hereby created in the State Treasury a
10 revolving fund for the ~~Department of Real Estate Services of the~~
11 Office of Management and Enterprise Services, to be designated the
12 "State Construction Revolving Fund". The fund shall be a continuing
13 fund, not subject to fiscal year limitations, and shall consist of
14 all funds appropriated by the Legislature for projects included in
15 the annual capital plan; funds from nonappropriated sources
16 designated for projects within a capital plan; allocations from an
17 approved annual capital plan designed for assessment and planning
18 services; allocations from an approved annual capital plan for
19 emergency response in accordance with Section 130 of this title; and
20 fees collected by the ~~Department~~ Office in accordance with the
21 provisions of this section or as otherwise provided by law. All
22 monies accruing to the credit of the fund are hereby appropriated
23 and may be budgeted and expended by the ~~Department~~ Office. The fund
24 shall be used to pay expenses resulting from contracts awarded by

1 the ~~Department~~ Office and to defray ~~Department~~ Office operating
2 costs and expenses the Office incurs to support ~~Department~~
3 construction-related operations. Expenditures from the fund shall
4 be made upon warrants issued by the State Treasurer against claims
5 filed as prescribed by law with the Director of the Office of
6 Management and Enterprise Services for approval and payment.

7 SECTION 34. AMENDATORY 61 O.S. 2021, Section 209, is
8 amended to read as follows:

9 Section 209. The Director of the Office of Management and
10 Enterprise Services shall promulgate rules:

- 11 1. For state agencies to perform minor construction projects;
- 12 2. Specifying building codes pursuant to the Oklahoma Uniform
13 Building Code Commission Act for construction projects;
- 14 3. Permitting state agencies who have the expertise, upon
15 written application to the ~~Department of Real Estate Services of the~~
16 Office of Management and Enterprise Services, to perform any part of
17 the responsibilities of the ~~Department~~ Office pursuant to the
18 provisions of the Public Facilities Act for a specific project;
- 19 4. Specifying procedures and guidelines for the implementation
20 of shared savings financing by state agencies;
- 21 5. Specifying energy conservation performance guidelines, for
22 conducting a life cycle cost analysis of alternative architectural
23 and engineering designs and alternative major items of energy-
24 consuming equipment to be retrofitted in existing state-owned or

1 leased structures and for developing energy performance indices to
2 evaluate the efficiency of energy utilization for completing designs
3 in the construction of state-financed and leased structures;

4 6. The time, manner, authentication, and form of making
5 requisitions to the ~~Department~~ Office;

6 7. The form and manner of submission for bids or proposals and
7 the manner of accepting and opening bids or proposals that may
8 include online bids pursuant to the Oklahoma Online Bidding Act;

9 8. The manner for a state agency to acquire services for
10 construction projects;

11 9. Conditions under which any of the rules herein authorized
12 may be waived;

13 10. The form of any document the Director requires;

14 11. Specifying provisions a state agency shall follow to adhere
15 to acquisition, contract, contract management and other provisions
16 of this title; and

17 12. Specifying the process a state agency shall follow to
18 establish the scope of work, schedule and cost estimate for all
19 publicly bid construction projects involving construction or
20 renovation of buildings.

21 SECTION 35. AMENDATORY 61 O.S. 2021, Section 210, is
22 amended to read as follows:

23 Section 210. A. Shared savings contracts shall be developed in
24 accordance with a model contract developed by ~~the Department of Real~~

1 ~~Estate Services~~ of the Office of Management and Enterprise Services.

2 The model contract shall include:

3 1. The methodology for calculating baseline energy costs;

4 2. A procedure for revising these costs should the state
5 institute additional energy conservation features or structure use
6 change;

7 3. A requirement for a performance bond guaranteeing that the
8 structure will be restored to the original condition in the event of
9 default;

10 4. A provision for early buyout;

11 5. A clause specifying who will be responsible for maintaining
12 the equipment; and

13 6. A provision allowing the disposal of equipment at the end of
14 the contract.

15 No state agency or department shall substantially alter the
16 provisions described in the model without the permission of the
17 Department Office.

18 B. Contracts subject to this section shall be awarded pursuant
19 to the provisions of subsection A of Section 208 of this title.

20 SECTION 36. AMENDATORY 61 O.S. 2021, Section 211, is
21 amended to read as follows:

22 Section 211. ~~On and after July 1, 1987, when~~ When any state
23 agency or department must replace or supplement major items of
24 energy-consuming equipment in existing state-owned or leased

1 structures or any self-contained unit of any structure with other
2 major items of energy-consuming equipment, the selection of such
3 items shall be made on the basis of a life cycle cost analysis of
4 alternatives in accordance with rules and regulations promulgated by
5 the Director of the Office of Management and Enterprise Services.

6 SECTION 37. AMENDATORY 61 O.S. 2021, Section 212, is
7 amended to read as follows:

8 Section 212. A. For purposes of this section:

9 1. "Performance-based efficiency contract" means a contract for
10 the design, development, financing, installation, construction and
11 service of any improvement, repair, alteration or betterment of any
12 public building or facility; or any equipment, fixture or furnishing
13 to be added to or used in any such building or facility; or any
14 maintenance or operational strategy that is designed and implemented
15 that will reduce utility consumption or lower operating costs, and
16 may include, but is not limited to, one or more of the following:

- 17 a. utility services,
- 18 b. heating, ventilating or air conditioning system
19 modifications or replacements and automated control
20 systems,
- 21 c. replacement or modifications of lighting fixtures,
- 22 d. indoor air quality improvements to increase air
23 quality that conform to the applicable state or local
24

1 building code requirements when done in conjunction
2 with other cost-saving measures,

3 e. any additional building infrastructure improvement,
4 cost saving, life safety or any other improvement that
5 provides long-term operating cost reductions and is in
6 compliance with state and local codes, or

7 f. any facility operation and support programs that
8 reduce operating cost; and

9 2. "Qualified provider" means a person or business experienced
10 or trained in the design, analysis, construction and/or installation
11 of energy conservation and facility management measures. A
12 qualified provider must employ a professional engineer registered in
13 the State of Oklahoma.

14 B. In addition to any other legally permissible alternatives of
15 entering into contracts, the Office of Management and Enterprise
16 Services ~~Construction and Properties Division~~ may enter into
17 performance-based efficiency contracts on behalf of all state
18 agencies with a qualified provider pursuant to the provisions of
19 this section.

20 A qualified provider to whom the contract is awarded shall be
21 required to provide to the ~~Division~~ Office a sufficient bond for its
22 faithful performance of the contract. In addition, the ~~Division~~
23 Office may require performance bonds covering the annual amount of
24 guaranteed savings over the contract term. ~~The Office of Management~~

1 ~~and Enterprise Services~~ State agencies may enter into an installment
2 contract, lease purchase agreement or other contractual obligation
3 for the purpose of financing performance-based efficiency projects
4 for a term not to exceed the greater of twenty (20) years or the
5 useful life of the project.

6 The qualified provider must guarantee the contract's cost
7 savings each year during the term of the agreement. In calculating
8 cost savings, the public entity may consider capital cost avoidance
9 and include additional revenue that is directly attributed to the
10 performance-based efficiency contract. The savings must be
11 sufficient to offset the annual costs of the contract. The contract
12 shall provide for reimbursement to the state agency undertaking the
13 project annually for any shortfall of guaranteed savings. Savings
14 must be measured, verified and documented each year of the term and
15 may be utilized to meet the annual debt service.

16 The contracts authorized by this section shall include
17 procedures for modifying the contract should the ~~Division~~ Office
18 determine it necessary.

19 This section shall constitute the sole authority necessary to
20 enter into performance-based efficiency contracts, without regard to
21 compliance with other laws which may specify additional procedural
22 requirements for execution of contracts.

23 SECTION 38. AMENDATORY 61 O.S. 2021, Section 308, is
24 amended to read as follows:

1 Section 308. The Office of Management and Enterprise Services
2 is hereby authorized to lease for drilling and development of oil or
3 gas, or both, any of the lands belonging to the state, on which are
4 located ~~penal or eleemosynary~~ public institutions, or are connected
5 with or a part of the lands of such institution. Such leasing to be
6 made by public competition after not less than fifteen (15) days'
7 notice by publication, either electronically on an authorized state
8 website or in ~~two newspapers~~ a newspaper authorized by law to
9 publish legal notices, ~~one of which newspapers shall be published at~~
10 ~~the State Capital, and the other~~ in the county where the land is
11 situated, and in such manner as said Office of Management and
12 Enterprise Services may by rule prescribe. All such leasing must be
13 on electronic or sealed bids and awarded to the highest responsible
14 bidder, and for a term of not to exceed five (5) years from date and
15 as long thereafter as oil and gas, or either of them, is produced in
16 paying quantities from the land by the lessee, provided the Office
17 may reject any and all bids. The oil and gas interest in such land
18 hereby authorized to be leased, is to the extent and in the manner
19 that a private owner of lands in fee, may in his own right, execute
20 such lease or grant.

21 SECTION 39. AMENDATORY 61 O.S. 2021, Section 309, is
22 amended to read as follows:

23 Section 309. A. The Office of Management and Enterprise
24 Services is hereby authorized and empowered to offer for sale and

1 sell and execute and deliver oil and gas or mineral leases upon the
2 lands described in Section 1 of Title 73 under the control of said
3 Office of Management and Enterprise Services. The Office of
4 Management and Enterprise Services is hereby authorized and
5 empowered to enter into contracts with persons or corporations for
6 the drilling of oil and gas wells on any such property owned by the
7 state. No such lease or drilling contract shall be entered into by
8 said Office of Management and Enterprise Services which provides for
9 the payment of a royalty to the State of Oklahoma of less than one-
10 eighth (1/8) of all of the oil, gas, or casinghead gas produced,
11 saved, and sold from said lands, plus cash bonus, of the royalty in
12 said leases. Such Office shall give notice of its intention to
13 offer for sale said lease or drilling contract by advertising said
14 fact for a period of at least twenty-one (21) days either
15 electronically on an authorized state website or in a legal
16 newspaper published and of general circulation in the county where
17 said lands are located. The Office shall award such lease, leases,
18 or drilling contracts to the highest ~~and best~~ responsible bidder.
19 All bidding shall be by sealed written or electronic bids filed with
20 said Office of Management and Enterprise Services.

21 ~~B. The monies received as royalties, bonuses, or rentals by the~~
22 ~~Office of Management and Enterprise Services for the use and benefit~~
23 ~~of this state not paid by said Office of Management and Enterprise~~
24 ~~Services to the Treasurer shall be credited into the General Revenue~~

1 ~~Fund.~~ All royalties, bonuses, and rentals accruing to the state
2 from any contracts or leases executed pursuant to the provisions of
3 subsection A of this section and all other monies received from the
4 sale of any such leases, bonuses, and royalties or other contracts
5 made by said Office of Management and Enterprise Services shall be
6 credited to the ~~Public Building Fund~~ Maintenance of State Buildings
7 Revolving Fund of the State of Oklahoma.

8 SECTION 40. AMENDATORY 61 O.S. 2021, Section 311, is
9 amended to read as follows:

10 Section 311. The lands described in ~~Section One of this act~~
11 Sections 308 through 317 of this title shall be under the exclusive
12 control and jurisdiction of the State of Oklahoma and the zoning and
13 drilling regulations of any municipality of this state shall not
14 apply thereto.

15 SECTION 41. AMENDATORY 61 O.S. 2021, Section 312, is
16 amended to read as follows:

17 Section 312. If any section, paragraph, sentence or phrase of
18 this ~~act~~ title shall be declared unconstitutional or void for any
19 reason by any court of final jurisdiction, such decision shall not
20 in any way invalidate or affect any other section, paragraph,
21 sentence or phrase of this act but the same shall continue in full
22 force and effect.

23 SECTION 42. AMENDATORY 61 O.S. 2021, Section 316, is
24 amended to read as follows:

1 Section 316. All proceeds derived from any royalty under such
2 leases or any bonus received from the sale of such leases, shall be
3 paid into the ~~General Revenue Fund~~ Maintenance of State Buildings
4 Revolving Fund of the state but this section shall not be a part of
5 any contract with any lessee hereunder.

6 SECTION 43. AMENDATORY 61 O.S. 2021, Section 317, is
7 amended to read as follows:

8 Section 317. The Office of Management and Enterprise Services
9 is hereby authorized and empowered to sell and execute oil and gas
10 leases, and other mining leases, on any of the lands of this state
11 under the control of said Office of Management and Enterprise
12 Services. Sale of Oklahoma State Capitol lands or parkways or the
13 Executive Mansion lands shall be made upon a basis of a retained
14 royalty of not less than one-eighth (1/8) of all the oil, gas, and
15 other minerals produced therefrom, and such additional cash bonus as
16 may be procured. Such leases shall contain a provision that in the
17 event of the discovery of natural gas, gas shall be furnished free
18 of charge to any state institution located or hereafter located upon
19 the lands covered by said lease, or leases. Said leases shall be
20 sold only after advertisement for a period of three (3) weeks either
21 electronically on an authorized state website or in a legal
22 newspaper published and of general circulation in the county in
23 which said lands are located. The sale shall be made to the highest
24 ~~and best~~ responsible bidder, and all bids for any tract shall be

1 presented to the Office of Management and Enterprise Services
2 electronically or in sealed envelopes, and shall all be opened and
3 considered at the same time. Said Office of Management and
4 Enterprise Services shall have the right to reject any and all of
5 said bids and again readvertise said lease, or leases, for sale.

6 The Office of Management and Enterprise Services is further
7 authorized to make and promulgate such additional rules and
8 regulations as he may deem necessary and for the best interest of
9 the state in facilitating the sale of said leases. The Director may
10 contract with other state agencies to implement the provisions of
11 this section and any expenses charged under such contract may be
12 paid from the proceeds of the lease.

13 All monies derived from the sale of any and all of said leases,
14 and from any royalties subsequently accruing, after deduction of the
15 amount required to pay necessary and actual expenses of developing
16 the lease, shall be paid into the State Treasury and credited to the
17 ~~General Revenue Fund of the state~~ Maintenance of State Buildings
18 Revolving Fund.

19 SECTION 44. AMENDATORY 61 O.S. 2021, Section 323, is
20 amended to read as follows:

21 Section 323. A. The Director of the Office of Management and
22 Enterprise Services is hereby authorized to lease for a temporary
23 period of time the surface of any of the lands belonging to the
24 state described in Section 322 of this title, which are not needed

1 or required for the proper maintenance of the institutions or
2 departments in possession thereof.

3 B. ~~Except as otherwise provided by Section 6201 of Title 74 of~~
4 ~~the Oklahoma Statutes, leases~~ Leases shall be for a period of time
5 not exceeding five (5) years and upon such other terms and
6 conditions as the Director may determine to be in the best interests
7 of the state.

8 C. ~~Except as otherwise provided by Section 6201 of Title 74 of~~
9 ~~the Oklahoma Statutes, leases~~ Leases shall provide for a termination
10 of the lease upon reasonable notice in writing whenever the needs of
11 the state or the institution in possession thereof requires the
12 land.

13 D. The Director may also execute lease contracts for the lands
14 to any institution or agency or department, commission, or municipal
15 subdivision that requires the need of the land in conjunction with
16 cooperation or participation in any city or state project authorized
17 by law, if contracts or agreements will not interfere with or
18 restrict in any manner, the proper use of the lands by the state
19 institution in possession thereof.

20 E. The Commissioners of the Land Office, the Oklahoma Ordnance
21 Works Authority, the Midwestern Oklahoma Development Authority, the
22 Oklahoma Department of Transportation, the Oklahoma Turnpike
23 Authority and the Northeast Oklahoma Public Facilities Authority and
24 their lands shall be exempt from the application of this section.

1 F. Lands leased to private prison contractors pursuant to
2 Section 561 of Title 57 of the Oklahoma Statutes shall be exempt
3 from the application of this section.

4 SECTION 45. AMENDATORY 61 O.S. 2021, Section 324, is
5 amended to read as follows:

6 Section 324. The Director of the Office of Management and
7 Enterprise Services is authorized and directed to take charge of,
8 manage, and lease "Capitol Building Lands", described as follows:

9 ~~Lots 31 and 32, Ethel Park Addition to Oklahoma City, Oklahoma,~~
10 ~~known as Tract No. 23, being a part of Section 23 - Twp. 12N - R - 3~~
11 ~~West.~~

12 ~~Lots 1, 2, 3, 4, 5, and lots 45, 46, 47, and 48 in Block 6,~~
13 ~~Ethel Park Addition to Oklahoma City, Oklahoma, known as Tract No.~~
14 ~~24, being a part of Section 23 - Twp. 12 N - R - 3 West.~~

15 ~~Lots 1, 2, 3, 4, 5, 6, and 43, 44, 45, 46, 47, and 48, Block 1,~~
16 ~~Ethel Park Addition to Oklahoma City, Oklahoma, known as Tract No.~~
17 ~~25, being a part of Section 23 Twp. 12 N - R - 3 West.~~

18 ~~Lots 30 and 31, Woody Crest Addition to Oklahoma City, Oklahoma,~~
19 ~~known as Tract No. 39, being a part of Section 22 - Twp. 12N - R - 3~~
20 ~~West.~~

21 ~~Lots 11 and 12, Stevens Hamill Addition to Oklahoma City,~~
22 ~~Oklahoma, known as Tract No. 19, being a part of Section 26 Twp. 12N~~
23 ~~- R - 3 West.~~

24

1 ~~Lots 11 and 12, Block 3, Northeast Highland Addition to Oklahoma~~
2 ~~City, Oklahoma, known as Tract No. 40, being a part of Section 23~~
3 ~~Twp. 12N - R - 3 West.~~

4 Lots 35, 36, 37, and 38 Northeast Highland Addition to Oklahoma
5 City, Oklahoma, known as Tract No. 44, being a part of Section 22 -
6 Twp. 12N - R - 3 West.

7 Lots 7, 8, 9, and 10, Block 1, Donley Heights, a subdivision of
8 Blocks 19 and 20, Barrows Second Addition to Oklahoma City,
9 Oklahoma. Lots 31 and 32, Block 4, of the subdivision of Lots 9 and
10 10, and 23 and 24 of Barrows First and Second Additions to Oklahoma
11 City, Oklahoma. Lots 11 and 12, Block 3, Northeast Highland
12 Addition, being a part of Blocks 25 and 26, Barrows Second Addition
13 to Oklahoma City, Oklahoma. All of the above lots in Barrows
14 Addition being known as Tract No. 41.

15 ~~A tract of land 48' x 128' facing NE 38th Street and located~~
16 ~~between Lindsay Avenue and First Street west known as Tract No. 29.~~
17 ~~Lots 9 and 10, Block 2, Stevens Hamill Addition to Oklahoma City,~~
18 ~~Oklahoma, known as Tract No. 18, being a part of Section 26 - Twp.~~
19 ~~12 N - R - 3 West.~~

20 ~~Lots 13 through 24, inclusive, Block 2, Frances Heights Addition~~
21 ~~to Oklahoma City, Oklahoma, known as Tract No. 43, being a part of~~
22 ~~Section 22 - Twp. 12 N - R - 3 West.~~

23 ~~Lots 5, 6, 11, 12, 19 and 20, Block 2, Hares Lake View Addition,~~
24 ~~situated approximately two and one-half (2 1/2) miles Northeast of~~

1 ~~Oklahoma City, Oklahoma, known as Tract No. 30, being a part of~~
2 ~~Section 11 - Twp. 12 N - R - 3 West.~~

3 Also the following acreage tracts of land:

4 ~~Two (2) acres, situated three and one-half (3 1/2) miles East on~~
5 ~~23rd Street hence two (2) miles North, thence one-half (1/2) mile~~
6 ~~East, thence one-fourth (1/4) mile North from the State Capitol~~
7 ~~Building, known as Tract No. 3, being a part of SE 1/4 of SW 1/4 of~~
8 ~~Section 8 - Twp. 12 N - R - 2 West.~~

9 Five (5) acres, situated one and one-half (1 1/2) miles East and
10 one and one-half (1 1/2) miles North of the State Capitol Building,
11 facing on Eastern Avenue and laying directly South of Springlake
12 Park, and known as Tract No. 28. Also described as S 1/2 of SE 1/4
13 of NE 1/4 of SE 1/4 of Section 14, Township 12 North, Range 3 West.

14 Also other lots and tracts not listed or described above
15 constituting the small balance of "State Capitol Building Land" not
16 heretofore disposed of pursuant to the provision of Chapter 298,
17 Session Laws 1919.

18 SECTION 46. AMENDATORY 61 O.S. 2021, Section 326, is
19 amended to read as follows:

20 Section 326. After payment of all costs incurred in the
21 inventory and appraisal and advertisement and costs of sale, the
22 remaining proceeds therefrom, and any monies derived from leasing
23 the property described in Section 324 of this title, shall be
24 deposited in a special "~~Capitol Building Maintenance and Repair~~

1 ~~Fund" the Maintenance of State Buildings Revolving Fund. The fund~~
2 ~~shall be used for the maintenance and repair of all State Capitol~~
3 ~~Buildings, grounds, shrubbery, boulevards, and streets surrounding~~
4 ~~the same. The funds shall be paid upon claims made therefor by the~~
5 ~~Office of Management and Enterprise Services and approved by the~~
6 ~~Director of the Office of Management and Enterprise Services. The~~
7 leasing for oil and gas purposes of any such lands and the proceeds
8 therefrom shall be conducted and handled by the Office of Management
9 and Enterprise Services pursuant to Section 317 of this title.

10 SECTION 47. AMENDATORY 61 O.S. 2021, Section 327, is
11 amended to read as follows:

12 Section 327. A. Unless procedures for state agency real
13 property transactions are otherwise specifically provided for by
14 law, no state agency shall sell, lease, exchange, or otherwise
15 dispose of such real property subject to its jurisdiction, or lease,
16 purchase or otherwise acquire real property subject to its
17 jurisdiction, except as authorized by subsection L of this section
18 and as otherwise provided for in this section. As used in this
19 section, "state agency" means any department, board, commission,
20 institution, agency or entity of state government.

21 B. 1. Every state agency shall request the Office of
22 Management and Enterprise Services to dispose of real property upon:
23 a. legislative authorization,

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- 1 b. authorization by the Long-Range Capital Planning
2 Commission, or
3 c. a determination, in writing, by the Office of
4 Management and Enterprise Services or the state agency
5 that a parcel of real property subject to its
6 jurisdiction is no longer needed.

7 2. Upon the request of the state agency to dispose of real
8 property, the Office of Management and Enterprise Services shall
9 estimate the value of the property, and:

- 10 a. for properties with an estimated value of greater than
11 Twenty-five Thousand Dollars (\$25,000.00), obtain at
12 least one complete appraisal made by a person
13 certified by the Real Estate Appraiser Board of the
14 Oklahoma Insurance Department, who shall ascertain:
15 (1) the present fair value of the property,
16 (2) the present value of the improvements on such
17 property, and
18 (3) the actual condition of the improvements on the
19 property,
20 b. after completion of the provisions of subsection L of
21 this section, cause notice of such sale to be
22 published for at least one (1) day in a newspaper of
23 general statewide circulation authorized to publish
24 legal notices, and weekly for three (3) consecutive

1 weeks in a newspaper of general circulation published
2 in the county or counties in which the property is
3 located. The notice shall contain the legal
4 description of each parcel of real property to be
5 offered for sale, the appraised value thereof, the
6 time and location of the sale or opening of the bids,
7 and terms of the sale including the fact that no
8 parcel of property shall be sold for less than ninety
9 percent (90%) of the appraised value of the real
10 property; provided, in lieu of such procedure, the
11 information may be published electronically on the
12 Office of Management and Enterprise Services' website
13 if the notice of sale and instructions on accessing
14 the public information are published in a newspaper of
15 general circulation in the county or counties in which
16 the property is located weekly for three (3)
17 consecutive weeks,

- 18 c. offer the property through electronic auction, public
19 auction or sealed bids within three (3) weeks after
20 the last publication of the notice. The property
21 shall be sold to the highest bidder. The Office of
22 Management and Enterprise Services shall not accept a
23 bid of less than ninety percent (90%) of the average
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1 appraised fair value of the property and the
2 improvements on such property, ~~and~~

3 d. if the property is being disposed of in compliance
4 with Section 908 of Title 62 of the Oklahoma Statutes,
5 the Office may auction the property at public or
6 electronic auction provided proper public notice is
7 given in compliance with this section and the property
8 has been approved for liquidation by the Long-range
9 Capital Planning Commission. The Office of Management
10 and Enterprise Services is authorized to reject all
11 bids,

12 e. if the property has an estimated value of less than
13 Twenty-five Thousand Dollars (\$25,000.00), the Office
14 of Management and Enterprise Services may establish
15 the value through market comparison and may dispose of
16 the property based on estimated value without
17 obtaining a certified appraisal, provided however, the
18 sale shall comply with all other requirements of
19 statute, and

20 f. if the property is landlocked, the Office of
21 Management and Enterprise Services may offer the
22 property through indirect sale to the adjacent
23 property owner, for not less than ninety percent (90%)
24 of fair market value, as determined in compliance with

1 this section. All sales costs, including any required
2 surveys and appraisals, shall be at the expense of the
3 buyer.

4 3. The cost of the appraisal required by the provisions of this
5 section, together with other necessary expenses incurred pursuant to
6 this section, shall be paid by the state agency for which the real
7 property is to be sold from funds available to the state agency for
8 such expenditure. All monies received from the sale or disposal of
9 the property, except those monies necessary to pay the expenses
10 incurred pursuant to this section, shall be deposited in the
11 Maintenance of State Buildings Revolving Fund unless otherwise
12 provided by law.

13 4. The Office of Management and Enterprise Services may dismiss
14 from consideration any appraisal found to be incomplete or flawed.

15 C. Unless otherwise provided by law, the Office of Management
16 and Enterprise Services shall review and approve state agency real
17 property transactions. A state agency shall not lease or acquire
18 real property, or lease, dispose of or transfer state-owned real
19 property until the Office provides notice of transaction approval to
20 the state agency. Prior to approval, a state agency shall provide
21 documents to the Office and provide reference to statutory or other
22 legal authority of the state agency to lease or acquire real
23 property, or lease, dispose of or transfer state-owned real
24 property. If the state agency intends to lease or acquire real

1 property, the state agency shall state the intended use of the real
2 property, and shall provide the Office with required telework
3 documentation. Within thirty (30) days of receipt, the Office shall
4 provide notice of transaction approval or disapproval to the state
5 agency.

6 D. The provisions of this section shall not apply to the lease
7 of office space or real property subject to supervision of the
8 Commissioners of the Land Office or district boards of education.

9 E. 1. The Office of Management and Enterprise Services shall
10 maintain a comprehensive inventory of state-owned real property and
11 its use excluding property of the public schools and property
12 subject to the jurisdiction of the Commissioners of the Land Office.

13 2. Each state agency shall, within thirty (30) days of the
14 closing date for lands newly acquired, provide to the Office a list
15 of records, deeds, abstracts and other title instruments showing the
16 description of and relating to any and all such lands or interests
17 therein.

18 3. The provisions of paragraph 2 of this subsection shall apply
19 to all lands of public trusts having a state agency as the primary
20 beneficiary, but shall not apply to lands of municipalities,
21 counties, school districts, or agencies thereof, or Department of
22 Transportation rights-of-way.

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1 4. A state agency that sells or otherwise disposes of land
2 shall notify the Office within thirty (30) days of the disposition
3 closing date.

4 F. This section shall not be construed to authorize any state
5 agency, not otherwise authorized by law, to sell, lease, or
6 otherwise dispose of any real property owned by the state.

7 G. The Office of Management and Enterprise Services and the
8 Secretary of the Commissioners of the Land Office, or designee, as
9 provided in subsection L of this section may provide services to
10 sell, transfer, trade or purchase real property for other state
11 agencies.

12 H. The Director of the Office of Management and Enterprise
13 Services shall, pursuant to the Administrative Procedures Act,
14 promulgate rules to effect procedures necessary to the fulfillment
15 of its responsibilities under this section.

16 I. The Oklahoma Ordnance Works Authority and its lands, and the
17 Northeast Oklahoma Public Facilities Authority, the Oklahoma
18 Historical Society, the Oklahoma Department of Transportation, the
19 Oklahoma Turnpike Authority and the Department of Wildlife managed
20 lands shall be exempt from the application of this section. The
21 Grand River Dam Authority and its lands shall be exempt from the
22 application of this section for any real property disposed of prior
23 to November 1, 2006.

1 J. Unless otherwise provided for by law, the procedures
2 established pursuant to this section for the sale or exchange of
3 real estate or personal property as authorized pursuant to Sections
4 2222 and 2223 of Title 74 of the Oklahoma Statutes shall be followed
5 unless the sale is to an entity of state government.

6 K. The Director of the Office of Management and Enterprise
7 Services shall contract with experts, professionals or consultants
8 as necessary to perform the duties of the Office. Selections shall
9 be made using the qualifications-based procedures established in
10 Section 62 of this title and the rules promulgated by the Director
11 for the selection of construction managers and design consultants.

12 L. 1. No state agency shall sell, lease, exchange, or
13 otherwise dispose of such real property subject to its jurisdiction,
14 or lease, purchase or otherwise acquire real property subject to its
15 jurisdiction, until such agency or the Office of Management and
16 Enterprise Services acting on the agency's behalf has presented to
17 the Secretary of the Commissioners of the Land Office, or designee,
18 all information collected pursuant to subparagraph a of paragraph 2
19 of subsection B of this section, and provided the Secretary of the
20 Commissioners of the Land Office or designee a twenty-calendar-day
21 period to provide a proposal for the acquisition or disposal of
22 applicable real property.

23 2. The Secretary of the Commissioners of the Land Office or
24 designee may decline to provide such a proposal, provided such

1 notice of decline is communicated to the Office of Management and
2 Enterprise Services in written or electronic form. Upon the
3 reception of such notice of decline by the Office of Management and
4 Enterprise Services, the twenty-calendar-day period otherwise
5 required by this subsection shall be deemed to have expired.

6 SECTION 48. AMENDATORY 61 O.S. 2021, Section 327.1, is
7 amended to read as follows:

8 Section 327.1 A. When historic significance, location,
9 advancement of the long term capital asset plan or other factors
10 make disposition of state-owned properties under Section 327 of
11 Title 61 of the Oklahoma Statutes not in the best interest of the
12 state, the Office of Management and Enterprise Services may invite
13 the presentation of written proposals for the purchase ~~or~~, lease,
14 ~~and~~ sale, exchange, construction, maintenance, repair, improvement,
15 development, or redevelopment, of state-owned property provided the
16 property meets one or more of the following criteria:

17 1. The property is listed on the National Register of Historic
18 Places;

19 2. The property is designated by the Oklahoma Historical
20 Society as a property of historical interest or significance;

21 3. The property is located within the Oklahoma State Capitol
22 Complex; or

23 4. The property is located within a campus owned by the State
24 of Oklahoma;

1 B. Proposals shall be evaluated by a committee selected by the
2 Director of the Office of Management and Enterprise Services which
3 shall include at least one member of the Long Range Capital Planning
4 Commission or a designee. The evaluation of the proposals shall be
5 based on the principal criteria of:

6 1. The proposal's economic benefits, cultural benefits, job
7 creation potential, advancement of long term capital asset plan or
8 other benefits to the State of Oklahoma and the general public;

9 2. The qualifications and experience of the construction or
10 maintenance provider, developer, or redeveloper;

11 3. The financial ability of the construction or maintenance
12 provider, developer, or redeveloper to complete the redevelopment in
13 a timely fashion; and

14 4. When applicable, the fidelity of the proposed renovation or
15 redevelopment with the historic significance of the property.

16 C. The Office of Management and Enterprise Services may enter
17 into negotiations with one or more respondents and may enter into
18 contracts with the respondent or respondents selected by the
19 committee.

20 The Office of Management and Enterprise Services may reject any
21 and all ~~bids~~ proposals.

22 SECTION 49. AMENDATORY 61 O.S. 2021, Section 330.1, is
23 amended to read as follows:

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1 Section 330.1 All instruments vesting any right, title or
2 interest in lands or minerals and mineral rights, ~~in~~ providing for
3 the passage of title or release of interest to or from the Office of
4 Management and Enterprise Services or any other state agency,
5 whether as grantor or grantee, and all instruments to adjust any
6 defect or irregularity or to remove any cloud on the title to lands
7 or minerals or mineral rights owned by the state, and all notices
8 and orders issued by the Office of Management and Enterprise
9 Services and proofs of publication thereof shall be filed and
10 recorded by the proper officers of all counties of the State of
11 Oklahoma at the request of the Office of Management and Enterprise
12 Services without any filing or recording fee being charged.

13 SECTION 50. REPEALER 61 O.S. 2021, Sections 8, 9, 10,
14 14, and 15, are hereby repealed.

15 SECTION 51. REPEALER 61 O.S. 2021, Section 51, is hereby
16 repealed.

17 SECTION 52. REPEALER 61 O.S. 2021, Sections 103.8 and
18 129, are hereby repealed.

19 SECTION 53. REPEALER 61 O.S. 2021, Section 203, is
20 hereby repealed.

21 SECTION 54. REPEALER 61 O.S. 2021, Sections 315, 321,
22 329, 330, and 331, are hereby repealed.

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SECTION 55. This act shall become effective November 1, 2022.

58-2-10512 JM 02/15/22