

1 STATE OF OKLAHOMA

2 2nd Session of the 59th Legislature (2024)

3 COMMITTEE SUBSTITUTE
4 FOR
5 HOUSE BILL NO. 3930

By: Deck

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7 COMMITTEE SUBSTITUTE

8 An Act relating to public buildings and public works;
9 amending 61 O.S. 2021, Section 103, as amended by
10 Section 23, Chapter 228, O.S.L. 2022 (61 O.S. Supp.
11 2023, Section 103), which relates to public
12 contracts; modifying provisions related to qualified
13 contractors; providing for codification; providing an
14 effective date; and declaring an emergency.

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

16 SECTION 1. AMENDATORY 61 O.S. 2021, Section 103, as
17 amended by Section 23, Chapter 228, O.S.L. 2022 (61 O.S. Supp. 2023,
18 Section 103), is amended to read as follows:

19 Section 103. A. Unless otherwise provided by law, all public
20 construction contracts exceeding One Hundred Thousand Dollars
21 (\$100,000.00) or construction management trade contracts or
22 subcontracts exceeding Fifty Thousand Dollars (\$50,000.00) shall be
23 let and awarded to the lowest responsible bidder, by open
24 competitive bidding after solicitation for sealed bids, in
accordance with the provisions of the Public Competitive Bidding Act

1 of 1974. No work shall be commenced until a written contract is
2 executed and all required bonds and insurance have been provided by
3 the contractor to the awarding public agency.

4 B. Notwithstanding subsection A of this section, in awarding
5 public construction contracts exceeding One Hundred Thousand Dollars
6 (\$100,000.00) or construction management trade contracts or
7 subcontracts exceeding Fifty Thousand Dollars (\$50,000.00),
8 counties, cities, other local units of government and any public
9 trust with a county or a municipality as its sole beneficiary may
10 provide for a local bid preference of not more than five percent
11 (5%) of the bid price if the awarding public agency determines that
12 there is an economic benefit to the local area or economy.
13 Provided, however, the local bidder or contractor must agree to
14 perform the contract for the same price and terms as the bid
15 proposed by the nonlocal bidder or contractor. Any bid preference
16 granted hereunder must be in accordance with an established policy
17 adopted by the governing body of the awarding public agency to
18 clearly demonstrate the economic benefit to the local area or
19 economy. Provided, further, no local bid preference shall be
20 granted unless the local bidding entity is the second lowest
21 qualified bid on the contract. The bid specifications shall clearly
22 state that the bid is subject to a local bidder preference law. For
23 purposes of this section, "local bid" means the bidding person is
24 authorized to transact business in this state and maintains a bona

1 fide establishment for transacting such business within this state.
2 This provision does not apply to any construction contract for which
3 federal funds are available for expenditure when its provisions may
4 be in conflict with federal law or regulation.

5 C. Except as provided in subsection E of this section, other
6 construction contracts for the purpose of making any public
7 improvements or constructing any public building or making repairs
8 to the same for One Hundred Thousand Dollars (\$100,000.00) or less
9 shall be let and awarded to the lowest responsible bidder by receipt
10 of written bids or awarded on the basis of competitive quotes to the
11 lowest responsible qualified contractor. Work may be commenced in
12 accordance with the purchasing policies of the public agency.

13 D. Except as provided in subsection E of this section, other
14 construction contracts for less than ~~Ten Thousand Dollars~~
15 ~~(\$10,000.00)~~ Twenty-five Thousand Dollars (\$25,000.00) may be
16 negotiated with a qualified contractor. Work may be commenced in
17 accordance with the purchasing policies of the public agency.

18 E. The provisions of this subsection shall apply to public
19 construction for minor maintenance or minor repair work to public
20 school district property. Other construction contracts for less
21 than Twenty-five Thousand Dollars (\$25,000.00) may be negotiated
22 with a qualified contractor. Construction contracts equal to or
23 greater than Fifty Thousand Dollars (\$50,000.00) but less than One
24 Hundred Thousand Dollars (\$100,000.00) shall be let and awarded to

1 the lowest responsible bidder by receipt of written bids. No work
2 shall be commenced on any construction contract until a written
3 contract is executed and proof of insurance has been provided by the
4 contractor to the awarding public agency.

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

14 G. 1. A public agency shall not let or award a public
15 construction contract exceeding One Hundred Thousand Dollars
16 (\$100,000.00) or a construction management trade contract or
17 subcontract exceeding Fifty Thousand Dollars (\$50,000.00) to any
18 contractor affiliated with a purchasing cooperative unless the
19 purchasing cooperative and the contractor have complied with all of
20 the provisions of the Public Competitive Bidding Act of 1974,
21 including but not limited to open competitive bidding after
22 solicitation for sealed bids. A public agency shall not let or
23 award a public construction contract exceeding Ten Thousand Dollars
24 (\$10,000.00) up to One Hundred Thousand Dollars (\$100,000.00) to any

1 contractor affiliated with a purchasing cooperative unless the
2 purchasing cooperative and the contractor have complied with all of
3 the provisions of the Public Competitive Bidding Act of 1974,
4 including submission of a written bid upon notice of competitive
5 bidding.

6 2. A purchasing cooperative and its affiliated contractors
7 shall not be allowed to bid on any public construction contract
8 exceeding One Hundred Thousand Dollars (\$100,000.00) or any
9 construction management trade contract or subcontract exceeding
10 Fifty Thousand Dollars (\$50,000.00) unless the purchasing
11 cooperative and its affiliated contractors have complied with all of
12 the provisions of the Public Competitive Bidding Act of 1974,
13 including but not limited to open competitive bidding after
14 solicitation for sealed bids. A purchasing cooperative and its
15 affiliated contractors shall not be allowed to bid on any public
16 construction contract exceeding Five Thousand Dollars (\$5,000.00)
17 unless the purchasing cooperative and its affiliated contractors
18 have complied with all of the provisions of the Public Competitive
19 Bidding Act of 1974, including submission of a written bid upon
20 notice of open competitive bidding.

21 3. Local governmental units, or local governmental units
22 cooperating under the terms of any interlocal cooperative agreement
23 authorized by state law, may create a purchasing cooperative or
24 contract with a purchasing cooperative to provide leverage in

1 achieving best value or the best terms in contracts. To encourage
2 intergovernmental collaboration, any purchasing cooperative or
3 interlocal cooperative entity may utilize any single legal newspaper
4 of this state to serve as sufficient compliance for bid notice
5 requirements of competitive bidding or solicitation of bids. If the
6 purchasing cooperative or interlocal cooperative entity is engaging
7 in a project exclusive to a county or group of counties of this
8 state, and not open to all governmental units or public trusts that
9 wish to participate statewide, the bid notice shall be published in
10 a legal newspaper located within the county or group of counties.
11 Any local governmental unit or public trust that enters into
12 membership or contracts with a purchasing cooperative or interlocal
13 cooperative entity may enter into purchases or contracts under the
14 terms negotiated by the purchasing cooperative or interlocal
15 cooperative entity. If the purchasing cooperative or interlocal
16 cooperative entity complies with the requirements of this section of
17 law, all local governmental units shall be deemed in compliance with
18 the requirements set forth for bid notices and publication.

19 SECTION 2. This act shall become effective July 1, 2024.

20 SECTION 3. It being immediately necessary for the preservation
21 of the public peace, health or safety, an emergency is hereby
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1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

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