

1 ENGROSSED HOUSE  
2 BILL NO. 3930

By: Deck of the House

and

Green of the Senate

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

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

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

18 Section 103. A. Unless otherwise provided by law, all public  
19 construction contracts exceeding One Hundred Thousand Dollars  
20 (\$100,000.00) or construction management trade contracts or  
21 subcontracts exceeding Fifty Thousand Dollars (\$50,000.00) shall be  
22 let and awarded to the lowest responsible bidder, by open  
23 competitive bidding after solicitation for sealed bids, in  
24 accordance with the provisions of the Public Competitive Bidding Act  
of 1974. No work shall be commenced until a written contract is

1 executed and all required bonds and insurance have been provided by  
2 the contractor to the awarding public agency.

3 B. Notwithstanding subsection A of this section, in awarding  
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 counties, cities, other local units of government and any public  
8 trust with a county or a municipality as its sole beneficiary may  
9 provide for a local bid preference of not more than five percent  
10 (5%) of the bid price if the awarding public agency determines that  
11 there is an economic benefit to the local area or economy.

12 Provided, however, the local bidder or contractor must agree to  
13 perform the contract for the same price and terms as the bid  
14 proposed by the nonlocal bidder or contractor. Any bid preference  
15 granted hereunder must be in accordance with an established policy  
16 adopted by the governing body of the awarding public agency to  
17 clearly demonstrate the economic benefit to the local area or  
18 economy. Provided, further, no local bid preference shall be  
19 granted unless the local bidding entity is the second lowest  
20 qualified bid on the contract. The bid specifications shall clearly  
21 state that the bid is subject to a local bidder preference law. For  
22 purposes of this section, "local bid" means the bidding person is  
23 authorized to transact business in this state and maintains a bona  
24 fide establishment for transacting such business within this state.

1 This provision does not apply to any construction contract for which  
2 federal funds are available for expenditure when its provisions may  
3 be in conflict with federal law or regulation.

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

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

17 E. The provisions of this subsection shall apply to public  
18 construction for minor maintenance or minor repair work to public  
19 school district property. Other construction contracts for less  
20 than Twenty-five Thousand Dollars (\$25,000.00) may be negotiated  
21 with a qualified contractor. Construction contracts equal to or  
22 greater than Fifty Thousand Dollars (\$50,000.00) but less than One  
23 Hundred Thousand Dollars (\$100,000.00) shall be let and awarded to  
24 the lowest responsible bidder by receipt of written bids. No work

1 shall be commenced on any construction contract until a written  
2 contract is executed and proof of insurance has been provided by the  
3 contractor to the awarding public agency.

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

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

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

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

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

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

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

19 SECTION 3. It being immediately necessary for the preservation  
20 of the public peace, health or safety, an emergency is hereby  
21 declared to exist, by reason whereof this act shall take effect and  
22 be in full force from and after its passage and approval.  
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1 Passed the House of Representatives the 6th day of March, 2024.

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4 Presiding Officer of the House  
of Representatives

5 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2024.

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9 Presiding Officer of the Senate