

1 STATE OF OKLAHOMA

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

3 SENATE BILL 1270

By: Garvin

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6 AS INTRODUCED

7 An Act relating to the Public Facilities Act;
8 amending 61 O.S. 2021, Section 208, as amended by
9 Section 31, Chapter 238, O.S.L. 2022 (61 O.S. Supp.
10 2023, Section 208), which relates to contracts for
11 construction projects; directing the Office of
12 Management and Enterprise Services to prepare an
13 eight-year plan for state facility management,
14 operations, and maintenance; requiring the
15 distribution of such plan; providing for information
16 to be included in such plan; updating statutory
17 references; and providing an effective date.

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

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

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

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

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

4 D. 1. When all bids for a public construction contract exceed
5 the programmed estimate and available funding, the Office may enter
6 into negotiations with the lowest responsible bidder for the purpose
7 of modifying the project scope and reducing the construction cost,
8 provided that:

9 a. the unexpected higher construction costs resulted from
10 unforeseen economic conditions or otherwise sudden
11 price volatility in the construction industry,

12 b. the project was appropriately planned, and cost
13 estimates were developed using standards of care
14 acceptable to the Office, and

15 c. further delay caused by redesigning and rebidding the
16 project would jeopardize the using agency's mission or
17 result in the loss of a planned funding source.

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

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

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

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

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

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

22 1. The state agency initiates a request with the Director; or

23 2. The Director determines a state agency is performing in the
24 bottom ten percent (10%) of all state agencies with respect to

1 performance measures for facility management established by the
2 Office.

3 G. 1. The Office shall prepare each year an annual plan for
4 addressing state facility management, operations, and maintenance
5 needs for the next ensuing eight (8) years. Each year, by December
6 1, the plan shall be submitted to the President Pro Tempore of the
7 Senate, the Speaker of the House of Representatives, and the
8 Governor. The Office shall annually update the eight-year plan.

9 2. Such plan shall:

- 10 a. supplement and integrate, not replace, any existing
11 facility management, operations, and maintenance
12 planning processes,
- 13 b. assess long-term needs for state facilities to support
14 state government needs as determined by the Office,
- 15 c. review and assess the inventory of facilities operated
16 by state agencies and make recommendations on
17 reallocation, reuse, or liquidation of properties,
- 18 d. address agency strategic facility plans for new,
19 improved, renovated, or expanded facilities or
20 facilities that should be reallocated or liquidated,
- 21 e. include estimates of life cycle costs for new and
22 substantially expanded or renovated facilities,

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- 1 f. evaluate the effectiveness of planning processes at
2 the agency level to account for all facility costs
3 related to management, operations, and maintenance,
4 g. include a comprehensive listing of all public
5 facilities expenditures of the state which the Office
6 recommends be undertaken or continued for the next two
7 (2) fiscal years, together with information as to the
8 effect of such public facilities projects on future
9 operating expenses of the state, and with
10 recommendations as to the priority of such projects
11 and the means of funding them,
12 h. forecast the requirements for public facilities
13 projects of the state for the eight-year period and
14 for such additional periods, if any, as may be
15 necessary or desirable for adequate presentation of
16 particular public facilities projects, and include a
17 schedule for the planning and implementation of such
18 projects, and
19 i. include such other information as the Office deems
20 relevant to its duties.

21 H. In addition to the exception from ~~this act~~ Section 60 et
22 seq. of this title hereby provided to the Oklahoma State Regents for
23 Higher Education and its constituent institutions and the
24 Commissioners of the Land Office, the Director may authorize an

1 exemption to the provisions of ~~this act~~ Section 60 et seq. of this
2 title to any other state agency provided that the recipient of the
3 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 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 Office; and

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

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

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