STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

SENATE BILL 1262

By: Dahm

AS INTRODUCED

An Act relating to public buildings and public works; amending 61 O.S. 2011, Section 62, as last amended by Section 3, Chapter 302, O.S.L. 2013 (61 O.S. Supp. 2017, Section 62), which relates to construction management and consultant services; providing certain selection procedure for counties; and providing an effective date.

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

SECTION 1. AMENDATORY 61 O.S. 2011, Section 62, as last amended by Section 3, Chapter 302, O.S.L. 2013 (61 O.S. Supp. 2017, Section 62), is amended to read as follows:

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

B. The requisitioning state agency shall define the scope of a proposed project. The scope shall identify project components, phases and timetables and shall include detailed project descriptions. The state agency may request the Department to assist with scope development. The state agency shall send the scope and a requisition for construction management or consultant services, signed by an authorized official, to the Department. The Department shall review the scope and approve it before the state agency issues a solicitation.

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

1. Description and scope of the project;
2. Estimated construction cost or available funds, anticipated starting date, and completion date the state agency desires for the project;
3. Certification of funds available for the construction manager or consultant fee, including federal, state or other participation;

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

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

D. After the closing date, the Department shall provide information from the construction managers' or consultants' files to the state agency. Should there be an inadequate expression of interest in the project, the state agency and Department personnel shall confer to add construction managers or consultants for consideration.

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

1. Professional qualifications for the type of work contemplated;
2. Capacity for completing the project in the specified time period; and

3. Past performance on projects of a similar nature.

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

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

2. If the Department and the first-choice construction manager or consultant cannot reach an agreement, the negotiations shall terminate and negotiations with the second-choice construction manager or consultant shall commence. If the Department and the second-choice construction manager or consultant cannot reach an agreement, the negotiations shall terminate and negotiations with the third-choice construction manager or consultant shall commence. If the Department and the third-choice construction manager or consultant cannot reach an agreement, then all negotiations shall terminate. Should the Department be unable to negotiate a satisfactory contract with any of the three selected construction managers or consultants, the Department shall select additional construction managers or consultants in order of their competency...
and qualifications and shall continue negotiations in accordance
with the provisions of this section until an agreement is reached.

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

I. For all state agencies subject to the Public Facilities Act,
Sections 202 through 220 of this title, the Department shall perform
the necessary procurement actions on behalf of a requisitioning
agency as enumerated in subsections B through H of this section:

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

2. Issue solicitations for construction manager and consultant
services;

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

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

J. In the selection of a construction manager or consultant,
all political subdivisions of this state, except counties, shall
follow these procedures:

The subdivision shall select a construction manager or
consultant based upon the professional qualifications and technical
experience of the construction manager or consultant. The subdivision shall negotiate a contract with the highest qualified construction manager or consultant, provided that a fee can be negotiated that is fair and reasonable to both parties. In the event a reasonable fee cannot be negotiated with the selected construction manager or consultant, the subdivision may negotiate with other construction managers or consultants in order of their qualifications.

K. In the selection of a construction manager or consultant, all counties of this state shall follow these procedures:

1. The county shall select a construction manager or consultant who meets the required professional qualifications and technical experience of the construction manager or consultant;

2. If more than one construction manager or consultant meets the required professional qualifications and technical experience, the qualifying construction managers or consultants shall submit a bid based on percentage of the project total plus any separate costs that may be added. The county clerk shall receive the sealed bids received from vendors and shall forward the sealed bids to the board of county commissioners. The board of county commissioners, in an open meeting, shall open the sealed bids and compare them. The board shall select the lowest and best bid. The board shall keep a written record of the meeting as required by law, and any time the lowest bid was not considered to be the lowest and best bid, the
reason for such conclusion shall be recorded. The board may refuse all bids. The county purchasing agent shall notify the successful bidder and shall maintain a copy of the notification; and

3. If only one construction manager or consultant meets the required professional qualifications and technical experience, the county shall negotiate a contract, provided that a fee can be negotiated that is fair and reasonable to both parties.

SECTION 2. This act shall become effective November 1, 2018.