# An Act

ENROLLED HOUSE
BILL NO. 1081

By: Sanders of the House

and

Marlatt of the Senate

An Act relating to Public Competitive Bidding Act of 1974; amending 61 O.S. 2011, Section 121, as amended by Section 315, Chapter 304, O.S.L. 2012 (61 O.S. Supp. 2012, Section 121), which relates to change orders to public construction contracts; modifying approval requirements for certain change orders; and providing an effective date.

SUBJECT: Change orders to public construction contracts

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

SECTION 1. AMENDATORY 61 O.S. 2011, Section 121, as amended by Section 315, Chapter 304, O.S.L. 2012 (61 O.S. Supp. 2012, Section 121), is amended to read as follows:

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

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

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

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

E. If the awarding public agency has a governing body, all change orders shall be formally approved by the governing body of the awarding public agency and the reasons for approval recorded in the permanent records of the governing body. The governing body of a municipality or technology center may delegate approval of change orders up to Forty Thousand Dollars ($40,000.00) or ten percent (10%) of any contract, whichever is less, to the chief administrative officer of the municipality or technology center or their designee, with any approved change orders reported to the governing body at the next regularly scheduled meeting.

F. The governing body of the Oklahoma Tourism and Recreation Department is authorized, upon approval of a majority of all of the members of the Oklahoma Tourism and Recreation Commission, to delegate to the Director of the agency the authority to approve change orders on a construction contract provided that the individual change order does not exceed Twenty-five Thousand Dollars ($25,000.00) in expenditure and complies with the limits established by this section. The Administrator of the Division shall sign and execute all contracts and change orders.

G. The Transportation Commission may, by rule, authorize the Director of the Department of Transportation to approve change orders in an amount of not to exceed Five Hundred Thousand Dollars ($500,000.00). Change orders approved by the Director shall be presented to the Transportation Commission during the next regular meeting and the reasons therefor recorded in the permanent records. The Oklahoma Turnpike Authority may authorize the Director of the Authority to approve change orders in an amount not to exceed Two Hundred Fifty Thousand Dollars ($250,000.00). Change orders approved by the Director of the Authority shall be presented to the Authority during the next regular meeting and the reasons for the orders recorded in permanent records.

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

1. All materials with cost per item;

2. Itemization of all labor with number of hours per operation and cost per hour;

3. Itemization of all equipment with the type of equipment, number of each type, cost per hour for each type, and number of hours of actual operation for each type;

4. Itemization of insurance cost, bond cost, social security, taxes, workers' compensation, employee fringe benefits and overhead cost; and

5. Profit for the contractor.

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

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

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

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

SECTION 2. This act shall become effective November 1, 2013.

Passed the House of Representatives the 14th day of February, 2013.

Lee R. Denney Jr.

Presiding Officer of the House of Representatives

Passed the Senate the 23rd day of April, 2013.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 24th day of April, 20 13, at 5:27 o'clock P M.

By: Audrey Rockwell

Approved by the Governor of the State of Oklahoma this 29th day of April, 20 13, at 3:58 o'clock P M.

Mary Fallin

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 29th day of April, 20 13, at 5:30 o'clock P. M.

By: Kathy V. Parman