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Notice Regarding Citation of these Laws

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The Oklahoma "Little Miller Act"

Oklahoma Statutes, Title 61, Public Buildings and Public Works, Sections 61-1, 61-2, 61-13 and 61-15

Title 61, Public Competitive Bidding Act of 1974 (as amended), Section 61-112

O.S. § 61-1 - Contracts Exceeding Certain Amount - Bond - Irrevocable Letter of Credit - Affidavit of Payment

A. Prior to an award of a contract exceeding Fifty Thousand Dollars (\$50,000.00) for construction or repair of a public building or structure, or improvement to real property, the person that receives the award shall:

1. Furnish a bond with good and sufficient sureties payable to the state in a sum not less than the total sum of the contract; or
2. Cause an irrevocable letter of credit, containing terms the Department of Central Services prescribes, to be issued for the benefit of the state by a financial institution insured by the Federal Deposit Insurance Corporation in a sum not less than the total sum of the contract.

B. The bond or irrevocable letter of credit shall ensure the proper and prompt completion of the work in accordance with the contract and shall ensure that the contractor shall pay all indebtedness the contractor incurs for the contractor's subcontractors and all suppliers of labor, material, rental of machinery or equipment, and repair of and parts for equipment the contract requires the contractor to furnish.

C. For a contract not exceeding Fifty Thousand Dollars (\$50,000.00), in lieu of a bond or irrevocable letter of credit, the contractor shall submit an affidavit of the payment of all indebtedness incurred by the contractor, the contractor's subcontractors, and all suppliers of labor, material, rented machinery or equipment, and repair of and parts for equipment used or consumed in the performance of the contract. The execution of the affidavit with knowledge that any of the contents of the affidavit are false, upon conviction, shall constitute perjury, punishable as provided for by law.

O.S. § 61-2 - Filing of Bond - Action on Bond - Subcontractors.

A. Bonds shall be filed in the office of the agency, institution, department, commission, municipality or government instrumentality that is authorized by law and does enter into contracts for the construction of public improvements or buildings, or repairs to the same; and the officer with whom the bond is filed shall furnish a copy thereof to any person claiming any rights thereunder. Any person to whom there is due any sum for labor, material or repair to

machinery or equipment, furnished as stated in Section 1 of this title, the heirs or assigns of such person, may bring an action on the bond for the recovery of the indebtedness, provided that no action shall be brought on the bond after one (1) year from the day on which the last of the labor was performed or material or parts furnished for which the claim is made.

B. Any person having direct contractual relationship with a subcontractor performing work on the contract, but no contractual relationship express or implied with the contractor furnishing the payment bond, shall have a right of action upon the payment bond only upon giving written notice to the contractor and surety on the payment bond within ninety (90) days from the date on which such person did or performed the last of the labor or furnished or supplied the last of the material or parts for which the claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the material or parts were furnished or supplied or for whom the labor was done or performed. The notice shall be served by mailing the same by registered or certified mail, postage prepaid, in an envelope addressed to the contractor at any place the contractor maintains an office or conducts business, together with a copy thereof to the surety or sureties on the payment bond.

C. 1. The bond or irrevocable letter of credit issued to the Oklahoma Department of Transportation or the Oklahoma Turnpike Authority, pursuant to this section, shall also provide that the contractor shall pay all state and local taxes accruing as a result of the contract, any liquidated damages as provided by the contract and any overpayment of progressive estimates resulting in a balance due and owing the Oklahoma Department of Transportation or the Oklahoma Turnpike Authority.

2. A claim against the bond or irrevocable letter of credit for delinquent taxes shall be made by the public entity to which the tax was payable. The claim shall be made within six (6) months from the date on which the tax became delinquent. Notice of the delinquent tax shall be sent by certified mail to the surety, and a copy of the notice shall be sent to the contractor. Nothing in this paragraph shall be construed to release, at any time, the contractor from responsibility for full payment of all taxes.

3. A claim against the bond or irrevocable letter of credit for overpayment on progressive estimates shall be made by the public entity within one (1) year from the date of final acceptance of the project. Notice of the overpayment shall be sent by certified mail to the surety and a copy of the notice shall be sent to the contractor. Nothing in this paragraph shall be construed as to release, at any time, the contractor from the responsibility of refunding any amount overpaid on progressive estimates which are due and owing the Oklahoma Department of Transportation.

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O.S. § 61-13 - Definitions

(a) For the purpose of this act the term "contractor" means an individual, general partnership, limited partnership, joint venture, association, corporation or a combination of any of the foregoing who does or undertakes for compensation the construction of any public works.

(b) The term "public works" for the purpose of this act means the construction, alteration, repair, improvement, moving, wrecking or demolition of any highway, road, railroad, earthwork, building or other structure, project, development or improvement, whether it be in whole or in part.

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O.S. § 61-15 - Exemption from Act

This act shall not apply to any contractor who is qualified for bidding purposes with the Oklahoma State Highway Department and submits a successful bid wherein part of or the entire funds are furnished by the United States Government.

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Public Competitive Bidding Act of 1974 (as amended)

O.S. § 61-112 - Bids, Contracts, Bonds Open for Public Inspection

All bids, both successful and unsuccessful, and all contracts and required bonds shall be placed on file and maintained in the main office of the awarding public agency for a period of five (5) years from the date of opening of bids or for a period of three (3) years from the date of completion of the contract, whichever is longer, shall be open to public inspection and shall be matters of public record.

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This page was last updated on July 12, 2009.