

# An Act

ENROLLED SENATE  
BILL NO. 1371

By: Quinn of the Senate

and

Pfeiffer of the House

An Act relating to the Oklahoma Central Purchasing Act; amending 74 O.S. 2021, Section 85.7, which relates to competitive bidding procedures; modifying certain exceptions; and providing an effective date.

SUBJECT: Oklahoma Central Purchasing Act

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

SECTION 1. AMENDATORY 74 O.S. 2021, Section 85.7, is amended to read as follows:

Section 85.7. A. 1. Except as otherwise provided by the Oklahoma Central Purchasing Act, or associated rules:

- a. every state agency shall initiate all acquisitions by the submission of a requisition to the Purchasing Division, and
- b. no state agency shall make an acquisition for an amount exceeding Fifty Thousand Dollars (\$50,000.00) or the limit determined by the State Purchasing Director pursuant to rules authorized by Section 85.5 of this title, not to exceed Two Hundred Fifty Thousand Dollars (\$250,000.00), without submission of a requisition to the Purchasing Division for issuance of a solicitation for the acquisition on behalf of the agency. Any exemption from competitive bid requirements of the Oklahoma Central Purchasing Act

further exempts the acquisition from requisition requirements of the act.

2. The State Purchasing Director may request additional information necessary to adequately review a requisition to ensure compliance with this act and associated rules. If the State Purchasing Director determines that an acquisition is not necessary, excessive or not justified, the State Purchasing Director shall deny the requisition.

3. The provisions of this act shall not preclude a state agency from:

- a. accepting gifts or donations in any manner authorized by law, or
- b. making an acquisition for itself without submitting a requisition under this section when authorized in writing by the State Purchasing Director.

4. Any acquisition a state agency makes shall be made pursuant to this act and associated rules. No agency shall use split purchasing for the purpose of evading the requirement of competitive bidding or other requirement of this act or associated rules. Violation of this provision shall be cause for discipline of a state employee up to and including termination.

5. The State Purchasing Director may waive or increase the limit authorized for a state agency acquisition made pursuant to its own competitive procedures. To perfect an otherwise valid acquisition inadvertently exceeding the limit due to administrative error by a state agency or unforeseeable circumstances, the state agency shall request a limited waiver or increase upon the discovery of the error or circumstance to the State Purchasing Director. The State Purchasing Director shall report requests for waivers or increases, stating the amount and whether the request was granted or denied, upon request by the Governor, President Pro Tempore of the Senate or Speaker of the House of Representatives.

6. Competitive bidding requirements of this section shall not be required for the following:

- a. contracts for master custodian banks or trust companies, investment managers, investment consultants, and actuaries for the state retirement systems, and Oklahoma Employees Insurance and Benefits Board, pension fund management consultants of the Oklahoma State Pension Commission and the Commissioners of the Land Office, examiners, experts, or consultants for the Insurance Department whose job duties are tied to Market Conduct Exams, Financial Exams, and Insurance Business Transfers, financial institutions to act as depositories and managers of the Oklahoma College Savings Plan accounts and other professional services as defined in Section 803 of Title 18 of the Oklahoma Statutes. When requested by the Oklahoma Employees Insurance and Benefits Board or the governing board of a state retirement system authorized to hire investment managers, the Purchasing Division shall assist in the process of selecting investment managers,
- b. a state agency making such an acquisition shall notify the State Purchasing Director within fifteen (15) days following completion of the acquisition. A list of the exempt contracts shall be provided, upon request, to a member of the Appropriations and Budget Committee of the House of Representatives or Appropriations Committee of the Senate~~.,~~
- c. purchases of postage by state agencies made pursuant to Sections 90.1 through 90.4 of this title,
- d. a sole source acquisition made in compliance with Section ~~85.45j~~ 85.44D.1 of this title,
- e. an acquisition for design, development, communication or implementation of the state employees flexible benefits plan; provided, procedures used for the acquisition are consistent with competitive bid requirements of this act and associated rules,
- f. any acquisition of a service which the Office of Management and Enterprise Services has approved as

qualifying for a fixed and uniform rate, subject to the following:

- (1) the Purchasing Division shall establish criteria and guidelines for those services which may qualify for a fixed and uniform rate,
- (2) fixed and uniform rate contracts authorized by this subsection shall be limited to contracts for those services furnished to persons directly benefiting from such services and shall not be used by a state agency to employ consultants or to make other acquisitions,
- (3) any state agency desiring to have a service qualified for a fixed and uniform rate shall make a request for service qualification to the State Purchasing Director and submit documentation to support the request. The State Purchasing Director shall approve or deny the request. If approved, the state agency shall establish a fixed and uniform rate for the service. No contracts shall be entered into by the state agency until the rate has been approved by the state agency in a public hearing. The proposed rate shall be clearly and separately identified in the agenda of the state agency for the hearing and shall be openly and separately discussed during such hearing. The state agency shall notify the State Purchasing Director of its pending consideration of the proposed rate at least thirty (30) days before the state agency is to meet on the proposed rate and deliver a copy of the agenda items concerning the proposed rate with supporting documentation. The State Purchasing Director shall communicate any observation, reservation, criticism or recommendation to the agency, either in person at the time of the hearing or in writing delivered to the state agency before or at the time of the hearing. The State Purchasing Director shall specifically note in the written communications

whether the Director has determined the rate to be excessive. Any written communication presented in the absence of the State Purchasing Director shall be presented orally during the public hearing. Whether made in person or in writing, any comment made by the State Purchasing Director shall be made a part of the minutes of the hearing in full,

- (4) within two (2) weeks after the convening of the Legislature, the administrative officer of the state agency shall furnish to the Speaker of the House of Representatives, the President Pro Tempore of the Senate and to any member of the House or Senate, if requested by the member, a complete list of all of the types of services paid for by uniform fixed rates, the amount of the rate last approved by the agency for the service and the number of contracts then in existence for each type of service. Any rate which has been determined to be excessive by the State Purchasing Director shall be specifically identified in the list by the state agency, and
- (5) at any time, the State Purchasing Director may review, suspend or terminate a contract entered into pursuant to the provisions of this paragraph if the Director determines the contract is not necessary, is excessive or is not justified,

- g. an acquisition for a client of the State Department of Rehabilitation Services; provided, the agency develops and maintains standards for such an acquisition. The agency may elect to utilize the Purchasing Division for an acquisition. The standards shall foster economy, provide a short response time, include appropriate safeguards, require written records, ensure appropriate competition for economical and efficient purchasing and shall be approved by the State Purchasing Director,

- h. structured settlement agreements entered into by the Attorney General's office in order to settle any lawsuit involving the state, the Legislature, any state agency or any employee or official of the state if:
  - (1) prior to entering into any contract for the services of an entity to administer a structured settlement agreement, the Attorney General receives proposals from at least three entities engaged in providing such services, and
  - (2) the selection of a particular entity is made on the basis of the response to the request which is the most economical and provides the most competent service which furthers the best interests of the state,
- i. an acquisition by a state agency pursuant to a contract the State Purchasing Director enters into on behalf of a state agency or awards and designates for use by state agencies,
- j. an acquisition by the Committee for Sustaining Oklahoma's Energy Resources pursuant to a contract with a local supplier for the purpose of holding a special event or an exhibition throughout the state.

7. Notwithstanding any other provision of law, an acquisition may be exempted from requirements of this section by the State Purchasing Director when in the State Purchasing Director's discretion unusual, time-sensitive or unique circumstances exist which make such exemption in the best and immediate interest of the state. As used in this subsection, "State Purchasing Director" shall not mean a designee. Any such acquisitions shall be described in detail and publicly posted as a data feed. The description shall include the name of the supplier, cost of the acquisition, reason for exemption and, as applicable, detailed comparison of the acquisition with comparable items, any identified cost savings resulting from the acquisition and a description of benefits to the state. The State Purchasing Director shall take no action under the provisions of this subsection prior to such public posting.

B. Competitively bid acquisitions shall be awarded to the lowest and best, or best value, bidder or bidders.

C. Bids for an amount requiring submission of requisitions to the Purchasing Division shall be evaluated by the Purchasing Division and the state agency receiving the acquisition. At a minimum, cost and technical expertise shall be considered in determining the lowest and best, or best value, bid. Further, the state agency shall present its evaluation and recommendation to the State Purchasing Director. A documented evaluation report containing the evaluations of the Purchasing Division or the state agency shall be completed prior to the contract award and such report shall be a matter of public record.

D. Except as otherwise specifically provided by law, the acquisition of food items or food products by a state agency from a public trust created pursuant to Sections 176 through 180.56 of Title 60 of the Oklahoma Statutes shall comply with competitive bidding requirements of this section.

E. Cooperative contracts shall not be utilized unless the purchasing cooperative and its affiliated suppliers have complied with competitive bid requirements of this act and associated rules.

F. Notwithstanding any provision of this act, in all cases where federal granted funds are involved, the federal laws, rules and regulations thereto shall govern to the extent necessary to inure to the benefit of such funds to this state.

G. A court order requiring an acquisition by a state agency, whether or not such state agency is subject to this act, shall not invalidate competitive bidding procedures required by this section if such court order does not specify a specific supplier. Any such acquisition shall comply with competitive bid procedures.

SECTION 2. This act shall become effective November 1, 2022.

Passed the Senate the 9th day of March, 2022.

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Presiding Officer of the Senate

Passed the House of Representatives the 28th day of April, 2022.

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Presiding Officer of the House  
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_

Approved by the Governor of the State of Oklahoma this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_