

1 **SENATE FLOOR VERSION**

2 February 13, 2020

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 1422

6 By: Thompson

7
8 An Act relating to the Oklahoma Central Purchasing
9 Act; amending 74 O.S. 2011, Section 85.1, which
10 relates to the Oklahoma Central Purchasing Act,
11 updating statutory language; amending 74 O.S. 2011,
12 Section 85.2, as last amended by Section 27, Chapter
13 358, O.S.L. 2013 (74 O.S. Supp. 2019, Section 85.2),
14 which relates to definitions; modifying certain
15 definitions; deleting certain definitions; amending
16 74 O.S. 2011, Section 85.3, as last amended by
17 Section 1, Chapter 6, O.S.L. 2015 (74 O.S. Supp.
18 2019, Section 85.3), which relates to the Purchasing
19 Division of the Office of Management and Enterprise
20 Services; modifying authority; establishing certain
21 prohibition; amending 74 O.S. 2011, Section 85.3A, as
22 last amended by Section 1, Chapter 472, O.S.L. 2019
23 (74 O.S. Supp. 2019, Section 85.3A), which relates to
24 exempted entities; providing exemption for certain
interagency agreements; providing exemption for
certain transaction; establishing procedures for
emergency acquisitions; providing definitions;
requiring certain information to be provided in a
timely fashion; amending 74 O.S. 2011, Section 85.5,
as last amended by Section 1, Chapter 359, O.S.L.
2014 (74 O.S. Supp. 2019, Section 85.5), which
relates to the powers and duties of the State
Purchasing Director; providing certain exemption;
requiring certain agency determination; modifying
authority; updating statutory language; establishing
fair and reasonable acquisition threshold amount;
establishing requirement for certain training;
authorizing certain forms of contracting with certain
entities; authorizing testing of procurement
innovations; authorizing research of cost savings;

1 requiring development of standardized contract forms;
2 deleting requirement for development of electronic
3 payment system; deleting certain authorities and
4 responsibilities; modifying minimum amount for
5 applicable contracts; deleting requirement for
6 certain verification; providing exemption for certain
7 purchase types; authorizing use of state laboratories
8 for certain testing; amending Section 1, Chapter 264,
9 O.S.L. 2013 (74 O.S. Supp. 2019, Section 85.5.1),
10 which relates to the Oklahoma Privatization Act;
11 deleting name of act; modifying requirement for
12 establishment of certain repository; amending 74 O.S.
13 2011, Section 85.5a, which relates to the state
14 purchase card; establishing fleet card and state
15 purchase card as only authorized card programs for
16 state agencies; establishing reporting and
17 accessibility requirements; establishing parameters
18 for use; amending 74 O.S. 2011, Section 85.6, which
19 relates to grade and quality of merchandise
20 delivered; requiring that procuring agencies
21 determine grade and quality for acquisitions;
22 amending 74 O.S. 2011, Section 85.7, as last amended
23 by Section 2, Chapter 244, O.S.L. 2013 (74 O.S. Supp.
24 2019, Section 85.7), which relates to competitive bid
procedures; requiring initiation of certain
requisition for all acquisitions; modifying maximum
amount of certain applicable acquisitions; providing
for rules and regulations; prohibiting certain
practice; providing penalty; providing exceptions;
deleting certain requirements; providing for
evaluation of bids; providing for applicability of
certain federal laws; providing for applicability of
court order; amending 74 O.S. 2011, Section 85.12, as
last amended by Section 2, Chapter 71, O.S.L. 2017
(74 O.S. Supp. 2019, Section 85.12), which relates to
nonconflicting procedures; deleting certain non-
conflicting contracts and acquisitions; adding
certain nonconflicting contracts and acquisitions;
making certain audits optional; stating procedures
for certain deposits; amending 74 O.S. 2011, Section
85.12b, as amended by Section 747, Chapter 304,
O.S.L. 2012 (74 O.S. Supp. 2019, Section 85.12b),
which relates to lease, charter or use of contract
for aircraft; deleting requirement for implementation
of certain guidelines; amending 74 O.S. 2011, Section
85.17A, which relates to reciprocal bid preference;
modifying requirement for distribution of certain

1 information; 74 O.S. 2011, Section 85.22, as last
2 amended by Section 1, Chapter 255, O.S.L. 2014 (74
3 O.S. Supp. 2019, Section 85.22), which relates to
4 notarized sworn statements; modifying requirement for
5 certain sworn statement; amending 74 O.S. 2011,
6 Section 85.33, as last amended by Section 3, Chapter
7 244, O.S.L. 2013 (74 O.S. Supp. 2019, Section 85.33),
8 which relates to the Registration of State Vendors
9 Revolving Fund; specifying fund purpose; deleting
10 certain requirement; amending 74 O.S. 2011, Section
11 85.33A, as last amended by Section 753, Chapter 304,
12 O.S.L. 2012 (74 O.S. Supp. 2019, Section 85.33A which
13 relates to the Contract Management Revolving Fund;
14 modifying use of certain fund; amending 74 O.S. 2011,
15 Section 85.39, as amended by Section 755, Chapter
16 304, O.S.L. 2012 (74 O.S. Supp. 2019, Section 85.39),
17 which relates to the development and promulgation of
18 internal purchasing procedures; deleting requirement
19 for report of certain findings; modifying certain
20 prohibition; amending 74 O.S. 2011, Section 85.41,
21 which relates to contracts for professional services;
22 modifying requirement for evaluation of performance;
23 modifying certain filing requirement; deleting
24 certain requirements regarding contract renewal;
amending 74 O.S. 2011, Section 85.42, as amended by
Section 1, Chapter 252, O.S.L. 2019 (74 O.S. Supp.
2019, Section 85.42), which relates to contract
limitations; providing prohibition against certain
contracts; establishing that certain sole source
contracts are allowed at any time; deleting allowance
for certain contracts; amending 74 O.S. 2011, Section
85.43, as amended by Section 756, Chapter 304, O.S.L.
2012 (74 O.S. Supp. 2019, Section 85.43), which
relates to the report of acquisitions exceeding fifty
thousand dollars; modifying reporting requirements;
amending 74 O.S. 2011, Section 85.44B, which relates
to payment for contracted products and services;
providing process for acquisitions that require full
or partial payment prior to deliverability; amending
74 O.S. 2011, Section 85.44C, which relates to
unlawful contracts; updating statutory language;
amending Section 1, Chapter 179, O.S.L. 2015 (74 O.S.
Supp. 2019, Section 85.44E), which relates to the
Disabled Veteran Business Enterprise Act; deleting
name of act; modifying certain preference; amending
74 O.S. 2011, Section 85.45j, as amended by Section
763, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2019,

1 Section 85.45j), which relates to requisition by
2 product or service for sole source contract;
3 providing exception for sole source contracts;
4 modifying contract form; deleting certain penalty;
5 deleting certain grounds for approval or denial;
6 establishing certification requirements; deleting
7 certain reporting requirements; deleting requirement
8 for maintenance of certain data; amending 74 O.S.
9 2011, Section 85.45q, which relates to the Oklahoma
10 Online Bidding Act; deleting definitions; modifying
11 definitions; amending 74 O.S. 2011, Section 85.45r,
12 as amended by Section 766, Chapter 304, O.S.L. 2012
13 (74 O.S. Supp. 2019, Section 85.45r), which relates
14 to online bidding process provisions; modifying
15 requirements for online bidding process; amending 74
16 O.S. 2011, Section 85.58A, as last amended by Section
17 1, Chapter 244, O.S.L. 2014 (74 O.S. Supp. 2019,
18 Section 85.58A), which relates to the comprehensive
19 professional risk management program; authorizing the
20 risk management administrator to declare certain
21 emergency; amending 62 O.S. 2011, Section 34.62, as
22 amended by Section 385, Chapter 304, O.S.L. 2012 (62
23 O.S. Supp. 2019, Section 34.62), which relates to
24 encumbrance requirements for payments from state
funds; modifying authority to allow agencies to make
acquisitions without competitive bid procedures or
compliance with certain program; providing process
for emergency acquisitions; establishing requirements
for emergency acquisitions; repealing 74 O.S. 2011,
Section 85.4, as amended by Section 736, Chapter 304,
O.S.L. 2012 (74 O.S. Supp. 2019, Section 85.4), which
relates to requisitions; repealing Section 1, Chapter
29, O.S.L. 2019 (74 O.S. Supp. 2019, Section 85.5b),
which relates to the Oklahoma Film and Music Division
purchase card use; repealing 74 O.S. 2011, Section
85.7a, as amended by Section 739, Chapter 304, O.S.L.
2012 (74 O.S. Supp. 2019, Section 85.7a), which
relates to bidder requirements; repealing 74 O.S.
2011, Section 85.7e, as amended by Section 741,
Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2019, Section
85.7e), which relates to the Office of Management and
Enterprise Services wiki; repealing 74 O.S. 2011,
Section 85.7g, which relates to the "State Government
Conferences Web-based Transparency pilot program";
repealing 74 O.S. 2011, Section 85.8, as amended by
Section 742, Chapter 304, O.S.L. 2012 (74 O.S. Supp.
2019, Section 85.8), which relates to testing;

1 repealing 74 O.S. 2011, Section 85.9B, as amended by
2 Section 743, Chapter 304, O.S.L. 2012 (74 O.S. Supp.
3 2019, Section 85.9B), which relates to purchase from
4 surplus property program; repealing 74 O.S. 2011,
5 Section 85.9D, as amended by Section 744, Chapter
6 304, O.S.L. 2012 (74 O.S. Supp. 2019, Section 85.9D),
7 which relates to coordination of computer contract
8 purchases; repealing 74 O.S. 2011, Section 85.9G,
9 which relates to qualifications for contract provider
10 employees; repealing 74 O.S. 2011, Section 85.10,
11 which relates to records open for public inspection;
12 repealing 74 O.S. 2011, Section 85.11, which relates
13 to publication of rules; repealing 74 O.S. 2011,
14 Section 85.12a, as amended by Section 746, Chapter
15 304, O.S.L. 2012 (74 O.S. Supp. 2019, Section
16 85.12a), which relates to insurance purchaser
17 requirements; repealing 74 O.S. 2011, Section 85.12c,
18 which relates to purchases from funds exempt from
19 Oklahoma Central Purchasing Act; repealing 74 O.S.
20 2011, Section 85.13, as amended by Section 748,
21 Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2019, Section
22 85.13), which relates to the accepting or giving of
23 gifts; repealing 74 O.S. 2011, Section 85.14, which
24 relates to federal laws to govern; repealing 74 O.S.
2011, Section 85.15, which relates to penalties;
repealing 74 O.S. 2011, Section 85.19, which relates
to analyzing and evaluating of goods and services;
repealing 74 O.S. 2011, Section 85.33B, as amended by
Section 754, Chapter 304, O.S.L. 2012 (74 O.S. Supp.
2019, Section 85.33B), which relates to the state
purchase card; repealing 74 O.S. 2011, Section 85.44,
which relates to certain prohibited contracts;
repealing 74 O.S. 2011, Section 85.44A, which relates
to certain court orders; repealing 74 O.S. 2011,
Section 85.44D, as amended by Section 757, Chapter
304, O.S.L. 2012 (74 O.S. Supp. 2019, Section
85.44D), which relates to preference for Oklahoma
tree products; repealing Section 2, Chapter 219,
O.S.L. 2013, as amended by Section 2, Chapter 255,
O.S.L. 2014 (74 O.S. Supp. 2019, Section 85.45j.1),
which relates to geographic preference for vendors;
updating statutory language; providing for
codification; providing for recodification; and
providing an effective date.

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

2 SECTION 1. AMENDATORY 74 O.S. 2011, Section 85.1, is
3 amended to read as follows:

4 Section 85.1. Sections 85.1 through ~~85.45~~ 85.44E of this title
5 shall be known and may be cited as "~~The~~ the "Oklahoma Central
6 Purchasing Act".

7 SECTION 2. AMENDATORY 74 O.S. 2011, Section 85.2, as
8 last amended by Section 27, Chapter 358, O.S.L. 2013 (74 O.S. Supp.
9 2019, Section 85.2), is amended to read as follows:

10 Section 85.2. As used in ~~The~~ the Oklahoma Central Purchasing
11 Act, unless the context otherwise requires:

12 1. "Acquisition" means items, products, materials, supplies,
13 services, and equipment a state agency acquires by purchase, lease-
14 purchase, lease with option to purchase, ~~or~~ rental or value provided
15 to the state pursuant to ~~The~~ the Oklahoma Central Purchasing Act
16 unless the items, products, supplies, services, or equipment are
17 exempt pursuant to ~~The~~ the Oklahoma Central Purchasing Act or
18 authority exercised by the Chief Information Officer;

19 2. "Best value criteria" means evaluation criteria which may
20 include, but is not limited to, the following:

- 21 a. the acquisition's operational cost a state agency
22 would incur,
23 b. the quality of the acquisition, or its technical
24 competency,

- 1 c. the reliability of the bidder's delivery and
2 implementation schedules,
- 3 d. the acquisition's facilitation of data transfer and
4 systems integration,
- 5 e. the acquisition's warranties and guarantees and the
6 bidder's return policy,
- 7 f. the bidder's financial stability,
- 8 g. the acquisition's adherence to the state agency's
9 planning documents and announced strategic program
10 direction,
- 11 h. the bidder's industry and program experience and
12 record of successful past performance with
13 acquisitions of similar scope and complexity,
- 14 i. the anticipated acceptance by user groups, and
15 j. the acquisition's use of proven development
16 methodology, and innovative use of current
17 technologies that lead to quality results;

18 3. "Bid" or "proposal" means an offer a bidder submits in
19 response to an invitation to bid or request for proposal;

20 4. "Bidder" means an individual or business entity that submits
21 a bid or proposal in response to an invitation to bid or a request
22 for proposal;

23 5. "Business entity" means individuals, partnerships, business
24 trusts, cooperatives, associates, corporations, limited liability

1 companies or any other firm, group or concern which functions as a
2 separate entity for business purposes;

3 6. ~~"Change order" means a unilateral written order directing a~~
4 ~~supplier to make a change;~~

5 7. "Chief administrative officer" means an individual
6 responsible for directing the administration of a state agency. The
7 term does not mean one or all of the individuals that make policy
8 for a state agency;

9 ~~8.~~ 7. "Component" means any item supplied as part of an end
10 item or of another component;

11 ~~9.~~ 8. "Contract" means a mutually binding legal relationship
12 obligating the seller to furnish an acquisition and the buyer to pay
13 for it or provide a potential financial incentive in lieu of
14 payment. It includes all types of commitments that obligate a state
15 agency to an expenditure of funds or action that, unless otherwise
16 authorized, is in writing. In addition to bilateral instruments,
17 contracts include, but are not limited to:

- 18 a. awards ~~and notices of awards,~~
19 b. orders issued under basic ordering agreements,
20 c. letter ~~contracts~~ agreements, and
21 d. orders under which the contract becomes effective by
22 written acceptance or performance, ~~and~~
23 e. ~~bilateral contract modifications;~~

24

1 ~~10. "Contract modification" means any written change in the~~
2 ~~terms of the contract;~~

3 ~~11. 9. "Contracting" means purchasing, renting, leasing, or~~
4 ~~otherwise obtaining acquisitions from private sources. Contracting~~
5 ~~includes description, but not determination, of acquisitions~~
6 ~~required, selection and solicitation of sources, preparation and~~
7 ~~award of contracts, and contract administration;~~

8 ~~12. "Contractor" means an individual or business entity~~
9 ~~entering into a contract for goods and/or services with the state as~~
10 ~~a result of a solicitation;~~

11 ~~13. 10. "Electronic commerce" means the use of electronic~~
12 ~~methods to enable solicitation, supplier response, notice of~~
13 ~~contract award, state agency acquisition processes, or any other~~
14 ~~function to make an acquisition;~~

15 ~~14. 11. "Electronic payment mechanism" means a method of~~
16 ~~electronic payment for authorized acquisitions;~~

17 ~~15. 12. "Environmentally preferable products and services~~
18 ~~(EPPS)" means acquisitions that best meet the requirements as~~
19 ~~defined in the solicitation for human health and the environment;~~

20 ~~16. "Equipment" means personal property a state agency acquires~~
21 ~~for its use which is an item or product and shall include all~~
22 ~~personal property used or consumed by a state agency that is not~~
23 ~~included within the category of materials and supplies;~~

24

1 ~~17. "Item" or "product" means some quantity or kind of such~~
2 ~~supplies, materials or equipment;~~

3 ~~18.~~ 13. "Local governmental entity" means any unit of local
4 government including, but not limited to, any school district,
5 county, or municipality of this state;

6 ~~19.~~ 14. "Lowest and best" means an acquisition based on
7 criteria which include, but are not limited to, the following:

- 8 a. the lowest total purchase price,
9 b. the quality and reliability of the product, and
10 c. the consistency of the proposed acquisition with the
11 state agency's planning documents and announced
12 strategic program direction;

13 ~~20. "Materials" or "supplies" includes all property except real~~
14 ~~property or equipment that a state agency acquires for its use or~~
15 ~~consumption;~~

16 ~~21.~~ 15. "Multistate contract" or "multigovernmental contract"
17 means an agreement entered into between two or more entities of
18 government for acquisitions pursuant to a single contract;

19 ~~22.~~ 16. "Nonprofessional services" means services which are
20 predominantly physical or manual in character and may involve the
21 supplying of products;

22 ~~23. "Political subdivision" means local governmental entities~~
23 ~~and such other entities specified as political subdivisions pursuant~~
24 ~~to The Governmental Tort Claims Act;~~

1 ~~24. "Open market contract" means a contract for a one-time~~
2 ~~acquisition not exceeding the acquisition amount requiring~~
3 ~~competitive bid pursuant to Section 85.7 of this title~~

4 17. "Open market contract" means a contract for a one-time
5 acquisition not exceeding the acquisition amount, requiring a
6 competitive bid pursuant to Section 85.7 of this title;

7 18. "Political subdivision" means local governmental entities
8 and such other entities specified as political subdivisions pursuant
9 to The Governmental Tort Claims Act;

10 ~~25.~~ 19. "Professional services" means services which are
11 predominantly mental or intellectual in character rather than
12 physical or manual and which do not involve the supplying of
13 products. Professional services include services to support or
14 improve state agency policy development, decision making,
15 management, administration, or the operation of management systems;

16 ~~26.~~ 20. "Purchase order" means an offer by a state agency to
17 make an acquisition utilizing simplified procedures;

18 ~~27.~~ 21. "Purchasing cooperative" means an association of public
19 entities working together to provide leverage in achieving best
20 value and/or the best terms in contracts awarded through a
21 competitive bidding process;

22 ~~28.~~ 22. "Requisition" means a written request by a state agency
23 for an acquisition;

24

1 ~~29.~~ "Services" or "contractual services" means direct
2 engagement of the time and effort of a contractor for the primary
3 purpose of performing an identifiable task rather than for the
4 furnishing of an end item of supply;

5 ~~30.~~ 23. "Sole brand acquisition" means an acquisition that by
6 specification restricts the acquisition to one manufacturer or brand
7 name;

8 ~~31.~~ 24. "Sole source acquisition" means an acquisition which,
9 by specification, restricts the acquisition to one supplier;

10 ~~32.~~ 25. "Solicitation" means a request or invitation by the
11 State Purchasing Director or a state agency for a supplier to submit
12 a priced offer to sell one or more acquisitions to the state. A
13 solicitation may be an invitation to bid, request for proposal, or a
14 request for quotation;

15 ~~33.~~ 26. "Split purchase" means dividing a known quantity or
16 failing to consolidate a known quantity of an acquisition for the
17 purpose of evading a competitive bidding requirement;

18 ~~34.~~ 27. "State agency" includes any office, officer, bureau,
19 board, counsel, court, commission, department, institution, unit,
20 division, body or house of the executive or judicial branches of the
21 state government, whether elected or appointed, excluding only
22 political subdivisions of the state;

23 ~~35.~~ 28. "State purchase card" means ~~an electronic transaction~~
24 ~~device used for making acquisitions~~ a type of commercial card that

1 allows state agencies to take advantage of existing credit card
2 infrastructure to make electronic payments for acquisitions;

3 ~~36.~~ 29. "State Purchasing Director" ~~or "Director of Central~~
4 ~~Purchasing"~~ includes any employee or agent of the State Purchasing
5 Director, acting within the scope of delegated authority;

6 ~~37.~~ 30. "Statewide contract" means a contract for specific
7 acquisitions for a specified period with a provision allowing ~~the~~
8 some or all state agencies and local governmental entities to place
9 orders as the acquisitions are needed for delivery during the period
10 specified; and

11 ~~38.~~ 31. "Supplier" or "vendor" means an individual or business
12 entity that ~~sells~~ provides or desires to ~~sell~~ provide acquisitions
13 to state agencies.

14 SECTION 3. AMENDATORY 74 O.S. 2011, Section 85.3, as
15 last amended by Section 1, Chapter 6, O.S.L. 2015 (74 O.S. Supp.
16 2019, Section 85.3), is amended to read as follows:

17 Section 85.3. A. There is hereby created and established in
18 the Office of Management and Enterprise Services a Purchasing
19 Division, the administrative head of which shall be the State
20 Purchasing Director.

21 B. The Director of the Office of Management and Enterprise
22 Services shall hire the State Purchasing Director. The State
23 Purchasing Director shall:

24

1 1. Have a thorough knowledge of office practices and buying
2 procedures in volume purchasing; and

3 2. Be a graduate of an accredited college or university with at
4 least five (5) years' experience in commercial or governmental
5 purchasing, or, in lieu of such education, have at least ten (10)
6 years' experience in commercial or governmental purchasing.

7 C. ~~The Purchasing Division~~ State Purchasing Director, with the
8 approval of the Director of the Office of Management and Enterprise
9 Services, ~~may include the following employees, and employment of~~
10 ~~such employees is hereby authorized:~~

11 1. ~~One assistant director;~~

12 2. ~~One qualified specifications engineer;~~

13 3. ~~Buyers who have at least three (3) years' procurement~~
14 ~~experience for:~~

15 a. ~~food,~~

16 b. ~~hardware,~~

17 c. ~~textiles,~~

18 d. ~~petroleum,~~

19 e. ~~office supplies,~~

20 f. ~~building materials,~~

21 g. ~~pharmaceutical supplies,~~

22 h. ~~automotive equipment, parts, and accessories, and~~

23

24

1 ~~i. any other commodity group found by the Director of the~~
2 ~~Office of Management and Enterprise Services to~~
3 ~~justify special purchasing attention;~~

4 ~~4. One buyer for products and services of the severely disabled~~
5 ~~as provided in Section 3001 et seq. of this title;~~

6 ~~5. One dietitian, who shall have the qualifications required by~~
7 ~~the State Department of Health; and~~

8 ~~6. Such other technical and clerical personnel as shall be~~
9 ~~assigned to the Purchasing Division by the Director of the Office of~~
10 ~~Management and Enterprise Services~~ employ such personnel as may be
11 necessary to exercise authority and perform duties under the
12 Oklahoma Central Purchasing Act.

13 D. All activities of any state agency, department, or
14 institution relating to purchasing shall be under the direction of
15 the Purchasing Division unless otherwise provided by ~~The~~ the
16 Oklahoma Central Purchasing Act.

17 E. The Purchasing Division shall provide qualified personnel to
18 assist the purchasing activities of state agencies, departments, and
19 institutions, as required by the Oklahoma Central Purchasing Act.

20 F. Each state agency, department, and institution shall
21 designate personnel to coordinate its purchasing functions with the
22 Purchasing Division.

23 G. The Purchasing Division may, if the needs of a state agency,
24 department, or institution are such as to so require, employ, and

1 establish a buyer within a state agency, ~~department, or institution.~~
2 The state agency shall pay all expenses incurred for any buyer
3 required to be placed within its agency.

4 H. ~~No~~ Except as provided in Section 34.36 of Title 62 of the
5 Oklahoma Statutes, no state agency, ~~department, or institution~~
6 subject to ~~The~~ the Oklahoma Central Purchasing Act shall have or
7 maintain a purchasing section without the prior approval in writing
8 of the Purchasing Division unless otherwise provided in ~~The~~ the
9 Oklahoma Central Purchasing Act nor shall such purchasing section
10 perform purchasing functions for another state agency.

11 I. The Purchasing Division shall make acquisitions from
12 industries operated by the Department of Corrections pursuant to the
13 provisions of Section 549.1 of Title 57 of the Oklahoma Statutes.

14 J. None of the personnel authorized by this section shall:

15 1. Sell to or otherwise provide acquisitions to any state
16 agency subject to ~~The~~ the Oklahoma Central Purchasing Act;

17 2. Be employees, partners, associates, officers, or
18 stockholders in or with any business entity that sells to or
19 otherwise provides acquisitions to any state agency subject to ~~The~~
20 the Oklahoma Central Purchasing Act;

21 3. Be employed in any of the positions authorized by this
22 section if a spouse or child owns any stock in any business entity
23 which sells to or otherwise provides acquisitions to any agency
24 subject to ~~The~~ the Oklahoma Central Purchasing Act; ~~or~~

1 4. Be employed in any of the positions authorized by this
2 section if a relative within the third degree of consanguinity or
3 affinity sells to or otherwise provides acquisitions to any state
4 agency subject to ~~The~~ the Oklahoma Central Purchasing Act or is
5 interested in any business entity which does so, except that such
6 relative, excluding a spouse or child, may own ~~Five~~ Twenty-five
7 Thousand Dollars ~~(\$5,000.00)~~ (\$25,000.00) worth or less, or one
8 percent (1%) or less, whichever amount is the lesser amount, of the
9 stock of a corporation or any business entity which sells to or
10 otherwise provides acquisitions to any state agency subject to ~~The~~
11 the Oklahoma Central Purchasing Act; or

12 5. Violate applicable rules of the Ethics Commission
13 promulgated pursuant to Article XXIX of the Oklahoma Constitution
14 that relate to accepting gifts from a vendor or a vendor's agent.

15 SECTION 4. AMENDATORY 74 O.S. 2011, Section 85.3A, as
16 last amended by Section 1, Chapter 472, O.S.L. 2019 (74 O.S. Supp.
17 2019, Section 85.3A), is amended to read as follows:

18 Section 85.3A. A. Compliance with the provisions of ~~The~~ the
19 Oklahoma Central Purchasing Act shall not be required of:

- 20 1. County government;
- 21 2. The Oklahoma State Regents for Higher Education, the
22 institutions, centers, or other constituent agencies of The Oklahoma
23 State System of Higher Education;
- 24 3. The telecommunications network known as OneNet;

1 4. The Department of Public Safety gun range;

2 5. The State Treasurer for the following purchases:

3 a. services, including, but not limited to, legal
4 services to assist in the administration of the
5 Uniform Unclaimed Property Act, as provided in Section
6 668 of Title 60 of the Oklahoma Statutes, and

7 b. software, hardware and associated services to assist
8 in the administration of funds and securities held by
9 the state, as provided in Section 71.2 of Title 62 of
10 the Oklahoma Statutes;

11 6. ~~CompSource Oklahoma if CompSource Oklahoma is operating~~
12 ~~pursuant to a pilot program authorized by Sections 3316 and 3317 of~~
13 ~~this title~~ Statutorily allowed interagency agreements between state
14 agencies; or

15 7. The Oklahoma Department of Veterans Affairs, in accordance
16 with Section ~~2 of this act~~ 63.22 of Title 72 of the Oklahoma
17 Statutes; or

18 8. A transaction, wholly funded by monies other than state-
19 derived funds, in which a state agency functions only as a pass-
20 through conduit to fund an acquisition that is required by the
21 funding source for the benefit of another entity or individuals and
22 the state agency does not retain ownership of any part of the
23 acquisition as a result of the transaction.

1 B. The State Purchasing Director may form an advisory committee
2 consisting of representatives from entities exempted from the
3 provisions of ~~The~~ the Oklahoma Central Purchasing Act. The purpose
4 of the committee shall be to allow committee members to provide
5 input into the development of shared state purchasing contracts,
6 collaboratively participate in the integration of their purchasing
7 platforms or electronic purchasing catalogs, analyze solutions that
8 may be used by state government to meet the purchasing needs of the
9 entities, explore joint purchases of general use items that result
10 in mutual procurement of quality goods and services at the lowest
11 reasonable cost and explore flexibility, administrative relief, and
12 transformation changes through utilization of procurement
13 technology.

14 C. At the invitation of the State Purchasing Director entities
15 exempted from the provisions of ~~The~~ the Oklahoma Central Purchasing
16 Act shall participate in the advisory committee referenced in
17 subsection B of this section.

18 D. The State Purchasing Director may invite representatives of
19 ~~local government~~ political subdivisions, and local common education
20 entities to participate as members of the advisory committee.

21 SECTION 5. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 85.41A of Title 74, unless there
23 is created a duplication in numbering, reads as follows:

24

1 A. Emergency acquisitions shall be made in compliance with
2 Section 85.39 of Title 74 of the Oklahoma Statutes regarding
3 internal purchasing procedures, Section 85.5a of Title 74 of the
4 Oklahoma Statutes regarding the purchasing card program and
5 applicable rules but are not subject to other provisions of the
6 Oklahoma Central Purchasing Act. The following are emergency
7 acquisitions:

8 1. An acquisition declared as an emergency by a state agency;

9 2. An acquisition to alleviate a serious environmental
10 emergency if, upon receiving a request from the Chair of the
11 Corporation Commission and after having examined the facts and
12 circumstances of the case, the Governor certifies in writing the
13 existence of a serious environmental emergency. For the purposes of
14 this subsection, "serious environmental emergency" means a situation
15 within the jurisdiction of the Commission:

16 a. in which serious damage to the environment will
17 quickly occur if immediate action is not taken and the
18 damage will be so significant that the urgent need for
19 action outweighs the need for competitive bids, or

20 b. a situation in which human life or safety is in
21 imminent danger or significant property interests are
22 threatened with imminent destruction;

23 3. An acquisition of livestock through a market agency, dealer,
24 commission house or livestock auction market bonded or licensed

1 under federal or state law for the acquisition or collection of
2 semen or embryos, and for the placement of embryos into recipient
3 livestock;

4 4. An acquisition by a state agency pursuant to a contract with
5 the United States Army Corps of Engineers for emergency response or
6 to protect the public health, safety or welfare;

7 5. An acquisition declared by the Office of Management and
8 Enterprise Services (OMES) Risk Management Administrator pursuant to
9 Section 85.58A of Title 74 of the Oklahoma Statutes; or

10 6. A condition certified by the Governor as an emergency.

11 B. Notwithstanding a state agency's exemption from requisition
12 and competitive bidding requirements, a state agency making an
13 emergency acquisition shall timely provide the Purchasing Division
14 within OMES all information required by the State Purchasing
15 Director.

16 SECTION 6. AMENDATORY 74 O.S. 2011, Section 85.5, as
17 last amended by Section 1, Chapter 359, O.S.L. 2014 (74 O.S. Supp.
18 2019, Section 85.5), is amended to read as follows:

19 Section 85.5. A. Except as otherwise provided in this section,
20 ~~pursuant to the provisions of Section 85.4 of this title,~~ the State
21 Purchasing Director, under the supervision of the Director of the
22 Office of Management and Enterprise Services, shall have sole and
23 exclusive authority and responsibility for all acquisitions ~~used or~~
24 ~~consumed~~ by state agencies. In order to carry out the powers and

1 ~~duties established in Section 34.11.1 of Title 62 of the Oklahoma~~
2 ~~Statutes of the Chief Information Officer and the Information~~
3 ~~Services Division~~, the Chief Information Officer shall have sole and
4 exclusive authority and responsibility for all acquisitions of
5 information and telecommunications technology, equipment, software,
6 products and related peripherals and services ~~used or consumed~~ by
7 state agencies. Public construction contracts are awarded pursuant
8 to Title 61 of the Oklahoma Statutes and are not subject to the
9 Oklahoma Central Purchasing Act.

10 B. Every state agency shall determine its own quantitative
11 needs for acquisitions and the general class or nature of the
12 acquisitions. The State Purchasing Director, after consultation
13 with the requisitioning state agency, shall have authority to
14 determine the particular brand, model, or other specific
15 classification of each acquisition and to draft or invoke pursuant
16 to ~~The~~ the Oklahoma Central Purchasing Act specifications
17 establishing the requirements for all necessary contracts or
18 purchase orders.

19 C. The Director of the Office of Management and Enterprise
20 Services shall have authority and responsibility to promulgate rules
21 ~~pursuant to~~ in connection with provisions of ~~The~~ the Oklahoma
22 Central Purchasing Act ~~governing, providing for, prescribing, or~~
23 ~~authorizing any act, practice, or requirement for which regulatory~~
24 ~~power is delegated for:~~

- 1 1. The time, manner, authentication~~7~~ and form of making
2 requisitions for acquisitions;
- 3 2. Inspection, analysis~~7~~ and testing of acquisitions or samples
4 ~~suppliers~~ bidders submit prior to contract award;
- 5 3. The form and manner of submission for bids or proposals a
6 ~~supplier~~ bidder submits and the manner of accepting and opening bids
7 or proposals;
- 8 4. The conditions under which the Office of Management and
9 Enterprise Services shall require written contracts for
10 acquisitions, the conditions under which acquisitions may be made on
11 an open account basis, and the conditions and manner of negotiating
12 such contracts;
- 13 5. Obtaining acquisitions produced by state institutions;
- 14 6. Conditions under which any of the rules herein authorized
15 may be waived;
- 16 7. The amounts of and deposits on any bond or other surety
17 required to be submitted with a bid or contract for the furnishing
18 of acquisitions and the conditions under which such bond or other
19 surety shall be required;
- 20 8. ~~Storage and storage facilities necessary to accomplish~~
21 ~~responsibilities of the Director of the Office of Management and~~
22 ~~Enterprise Services;~~
- 23 9~~.~~ The manner and conditions of delivery, which shall include
24 the designation of the common carrier of property to be used to

1 transport acquisitions whenever a common carrier is used, and the
2 acceptance, or rejection, including check of quantities, of any
3 acquisitions;

4 ~~10. 9.~~ The form of any estimate, order, or other document the
5 ~~Director of the Office of Management and Enterprise Services~~
6 ~~requires~~ information required in connection with an acquisition;

7 ~~11. 10.~~ State agency acquisitions not exceeding the acquisition
8 ~~purchase~~ threshold amount requiring competitive bid ~~pursuant to~~
9 ~~Section 85.7 of this title~~ to ensure competitiveness, fairness,
10 compliance with ~~provisions of all sections of The~~ the Oklahoma
11 Central Purchasing Act, and ~~compliance with provisions of~~ Section
12 3001 et seq. of this title, which ~~relate~~ relates to the State Use
13 Committee. The rules shall include separate provisions based on
14 acquisition ~~purchase price~~ amounts as follows:

- 15 a. state agencies shall make acquisitions not exceeding
16 ~~Five Thousand Dollars (\$5,000.00)~~ Twenty-five Thousand
17 Dollars (\$25,000.00), provided the acquisition process
18 is fair and reasonable and is conducted pursuant to
19 rules authorized pursuant to this section, and
- 20 b. state agencies with certified procurement officers and
21 internal purchasing procedures found compliant by the
22 State Purchasing Director ~~of the Office of Management~~
23 ~~and Enterprise Services pursuant to this section~~ may
24 make acquisitions in excess of ~~Five Thousand Dollars~~

1 ~~(\$5,000.00)~~ the fair and reasonable acquisition
2 threshold amount provided for in this section and not
3 exceeding ~~One Hundred Thousand Dollars (\$100,000.00)~~
4 Two Hundred Fifty Thousand Dollars (\$250,000.00),
5 pursuant to rules authorized by this section;

6 ~~12.~~ 11. Training by the State Purchasing Director of state
7 agency procurement officers;

8 ~~13.~~ 12. Review and audit by the State Purchasing Director of
9 state agency acquisitions;

10 ~~14.~~ 13. The conditions for increasing acquisition limits for
11 state agencies which have had a prior reduction in acquisition limit
12 by the Director of the Office of Management and Enterprise Services;

13 ~~15.~~ 14. Use of a state purchase card to make acquisitions;

14 ~~16.~~ 15. Any other matter or practice which relates to the
15 responsibilities of the ~~Director of the Office of Management and~~
16 ~~Enterprise Services~~ State Purchasing Director;

17 ~~17.~~ 16. Conditions for determination and authorization of
18 acquisition ~~limits~~ threshold amounts of state agencies ~~pursuant to~~
19 ~~Section 85.7 of this title~~; and

20 ~~18.~~ 17. The form and manner of verification by suppliers that
21 the supplier is eligible to do business in the State of Oklahoma and
22 has obtained all necessary permits and licenses, pursuant to
23 applicable provisions of law; and

24

1 18. Payment procedure rules for state agencies to adhere to
2 regarding statewide contracts.

3 D. The State Purchasing Director shall provide training for
4 state agency ~~purchasing~~ procurement officials, and other ~~purchasing~~
5 procurement staff, and is authorized to require retraining of such
6 procurement personnel found not to be in compliance with provisions
7 of the Oklahoma Central Purchasing Act or associated rules. The
8 training ~~shall~~ may include ~~principles of state procurement~~
9 ~~practices, basic contracting, provisions of The Oklahoma Central~~
10 ~~Purchasing Act, rules promulgated pursuant to The Oklahoma Central~~
11 ~~Purchasing Act, provisions of Section 3001 et seq. of this title,~~
12 ~~which relate to the State Use Committee, and any other matters~~
13 related to state procurement practices. State agency purchasing
14 officials that demonstrate proficiency shall be certified as
15 "certified procurement officers" by the State Purchasing Director
16 and shall be authorized to make acquisitions pursuant to provisions
17 of ~~The~~ the Oklahoma Central Purchasing Act and associated rules
18 ~~authorized by this section.~~ The State Purchasing Director ~~shall~~ may
19 assess a fee to state agencies for the training that does not exceed
20 each state agency's pro rata share of the costs the State Purchasing
21 Director incurs to provide the training.

22 E. The State Purchasing Director shall review state agency
23 acquisitions for the purposes of:
24

1 1. Ensuring state agency compliance with provisions of ~~The~~ the
2 Oklahoma Central Purchasing Act;

3 2. Ensuring state agency compliance with rules promulgated by
4 the Office of Management and Enterprise Services pursuant to ~~The~~ the
5 Oklahoma Central Purchasing Act;

6 3. Ensuring state agency compliance with provisions of Section
7 3001 et seq. of this title pertaining to the State Use Committee;

8 4. Reporting any acquisition by any state agency found not to
9 be in compliance with those sections or rules to the Director of the
10 Office of Management and Enterprise Services; ~~and~~

11 5. ~~Recommending that the~~ A determination by the State
12 Purchasing Director of the Office of Management and Enterprise
13 Services to reduce the a state agency's acquisition competitive bid
14 limit authority amount for any when the state agency is found not to
15 be in compliance with The the Oklahoma Central Purchasing Act or
16 associated rules promulgated pursuant thereto or requirements of the
17 State Purchasing Director pursuant to this section; and

18 6. A determination by the State Purchasing Director to increase
19 a state agency's acquisition authority amount after the agency cures
20 deficiencies in connection with a prior reduction in the authority
21 amount by the State Purchasing Director.

22 F. ~~When recommended by the State Purchasing Director, based~~
23 Based on written findings and when recommended by the State

24

1 Purchasing Director, the Director of the Office of Management and
2 Enterprise Services may:

3 ~~1. Require retraining of state agency procurement officials and~~
4 ~~other purchasing staff found not to be in compliance with provisions~~
5 ~~of The Oklahoma Central Purchasing Act, or rules promulgated~~
6 ~~pursuant to The Oklahoma Central Purchasing Act;~~

7 ~~2. Reduce the acquisition competitive bid limit for any state~~
8 ~~agency found not to be in compliance with provisions of The Oklahoma~~
9 ~~Central Purchasing Act or rules promulgated pursuant to The Oklahoma~~
10 ~~Central Purchasing Act;~~

11 ~~3. Transmit written findings by the State Purchasing Director~~
12 ~~to the State Auditor and Inspector for further investigation,~~
13 ~~indicating purchasing procedures that do not conform to provisions~~
14 ~~pursuant to The the Oklahoma Central Purchasing Act or associated~~
15 ~~rules promulgated pursuant to The Oklahoma Central Purchasing Act;~~
16 or

17 ~~4. 2. Transmit to the Attorney General or the State Auditor and~~
18 ~~Inspector for further investigation a report made by the State~~
19 ~~Purchasing Director that the Director of the Office of Management~~
20 ~~and Enterprise Services reasonably believes indicates that an action~~
21 ~~that constitutes a criminal violation pursuant to ~~The~~ the Oklahoma~~
22 ~~Central Purchasing Act or other laws has been taken by any state~~
23 ~~agency, state agency official, bidder, or supplier; ~~or~~~~

24

1 5. ~~Increase the state agency acquisition purchase amount~~
2 ~~requiring competitive bid, not to exceed the acquisition purchase~~
3 ~~amount requiring competitive bid, pursuant to Section 85.7 of this~~
4 ~~title.~~

5 G. 1. Pursuant to the requirements of ~~The~~ the Oklahoma Central
6 Purchasing Act, the State Purchasing Director shall have authority
7 to enter into any statewide, multistate or multigovernmental
8 contract. The state entity designated by law, as specified in
9 Section 1010.3 of Title 56 of the Oklahoma Statutes, shall
10 participate in the purchase of pharmaceuticals available through
11 such multistate or multigovernmental contracts entered into by the
12 State Purchasing Director.

13 2. ~~The State Purchasing Director~~ Whenever it appears
14 advantageous to the state or to any state agency to purchase or
15 otherwise acquire any acquisition which may be offered for sale by
16 the United States government or any agency thereof, the State
17 Purchasing Director may execute a contract for the acquisition with
18 the federal government or federal agency and may also utilize
19 contracts awarded by other governmental agencies, including, but not
20 limited to, agencies of the United States of America.

21 3. The State Purchasing Director may designate, for use by
22 state agencies, contracts described in this subsection ~~for use by~~
23 ~~state agencies~~ and contracts awarded on behalf of one or more state
24 agencies.

1 4. Prior to exercising the authority to cancel a contract, the
2 State Purchasing Director may authorize renegotiation of an existing
3 contract with an incumbent supplier for the purposes of obtaining
4 more favorable terms for the state ~~provided the State Purchasing~~
5 ~~Director shall not renegotiate the term of the contract.~~

6 5. The State Purchasing Director shall have the authority to
7 designate certain contracts for state agencies as statewide
8 contracts and mandatory statewide contracts. In order to carry out
9 the powers and duties ~~established in Section 34.11.1 of Title 62 of~~
10 ~~the Oklahoma Statutes,~~ of the Chief Information Officer and
11 Information Services Division, the Chief Information Officer shall
12 have the authority to designate certain information technology and
13 telecommunication contracts ~~for state agencies as statewide~~
14 contracts and mandatory statewide contracts and may negotiate
15 consolidation contracts, enterprise agreements and high technology
16 system contracts in lieu of or in conjunction with competitive
17 bidding procedures to reduce acquisition cost.

18 6. The State Purchasing Director may publish such
19 specifications relating to materials, supplies, equipment and
20 services to be acquired for the state as may best promote
21 competition and apprise potential suppliers of the type of product
22 desired.

23 H. 1. The State Purchasing Director may develop and test new
24 contracting policies ~~and,~~ procedures and innovations that hold

1 potential for making ~~the Purchasing Division~~ state procurement more
2 effective and efficient and identify, and make recommendations to
3 the Legislature of, any appropriate changes in law. Such
4 development and testing, proof of concept, pilot project or other
5 similar test shall not be considered an acquisition subject to the
6 Oklahoma Central Purchasing Act.

7 2. The State Purchasing Director is authorized to explore and
8 investigate cost savings in energy, resource usage and maintenance
9 contracts and to identify and negotiate contract solutions
10 including, but not limited to, pilot projects to achieve cost
11 savings for this state.

12 I. The State Purchasing Director shall endeavor to satisfy
13 state agencies in terms of cost, quality~~7~~ and timeliness of the
14 delivery of acquisitions by using bidders who have a record of
15 successful past performance, promoting competition, minimizing
16 administrative operating costs~~7~~ and conducting business with
17 integrity, fairness~~7~~ and openness.

18 J. The State Purchasing Director shall undertake the following:

19 1. The use of electronic commerce pursuant to the Oklahoma
20 Online Bidding Act for solicitation, notification~~7~~ and other
21 purchasing processes;

22 2. Monitoring rules promulgated pursuant to ~~The~~ the Oklahoma
23 Central Purchasing Act to ensure that the rules~~7~~ satisfy the
24

1 interests of the state, are clear and succinct, and encourage
2 efficiency in purchasing processes;

3 3. A program to identify ~~vendors with poor delivery and~~
4 suppliers' performance records;

5 4. Development of criteria for the use of sealed bid
6 contracting procedures, negotiated contracting procedures, selection
7 of types of contracts, postaward administration of purchase orders
8 and contracts, ~~contract modifications~~ addendums, termination of
9 contracts, and contract pricing;

10 5. Continual improvement in the quality of the performance of
11 the Purchasing Division through training programs, management
12 seminars, development of benchmarks and key management indicators,
13 and development of standard provisions, clauses and forms;

14 6. ~~Development of electronic means of making state agencies~~
15 ~~aware of office furniture, equipment, machinery, tools, and hardware~~
16 ~~available for purchase from the surplus property programs~~ The State
17 Purchasing Director shall prescribe standardized contract forms and
18 all other forms or certifications requisite or deemed necessary by
19 the State Purchasing Director to effectuate the provisions of the
20 Oklahoma Central Purchasing Act and associated rules;

21 7. Development of programs to improve customer relations
22 through training, improved communications, and appointment of
23 technical representatives;

24

1 8. ~~In cooperation with the Office of Management and Enterprise~~
2 ~~Services and the State Treasurer, develop an electronic payment~~
3 ~~mechanism for use in the settlement of accounts payable invoices,~~
4 ~~with no limit, to make payment for products or services acquired in~~
5 ~~accordance with The Oklahoma Central Purchasing Act and any rules~~
6 ~~promulgated pursuant thereto; and~~

7 9. ~~Implement a policy to approve the ability of the department,~~
8 ~~agencies, boards, commissions and trusts to accept the terms of~~
9 ~~service for usage of social media services and contract for~~
10 ~~technology products and services provided the terms of service or~~
11 ~~contract contains standard language including a liability agreement~~
12 ~~which is considered customary or largely similar to terms of service~~
13 ~~agreed to or contracts entered into by other government entities and~~
14 ~~private sector enterprises.~~

15 K. ~~The State Purchasing Director shall, in cooperation with the~~
16 ~~Oklahoma Department of Agriculture, Food, and Forestry, identify the~~
17 ~~needs of state agencies and institutions for agricultural products~~
18 ~~grown and produced in Oklahoma.~~

19 L. ~~The State Purchasing Director may authorize the use of a~~
20 ~~state purchase card for acquisitions within the following~~
21 ~~parameters:~~

22 1. ~~No limit on the amount of the transaction for the following:~~

23 a. ~~purchases from statewide contracts issued by the State~~

24 ~~Purchasing Director,~~

1 ~~b. utilities,~~

2 ~~c. interagency payments, and~~

3 ~~d. professional services as defined in Section 803 of~~
4 ~~Title 18 of the Oklahoma Statutes; and~~

5 ~~2. For any other transaction with a state purchase card, the~~
6 ~~transaction shall not exceed Five Thousand Dollars (\$5,000.00).~~

7 Provide for public two-way communication between procurement
8 officers and potential bidders who have questions regarding a
9 request for proposal or invitation to bid; and

10 9. Determine whether and to what extent information included in
11 a bid or similar offer is confidential and reject all requests to
12 disclose the information so designated.

13 ~~M. K.~~ The State Purchasing Director may utilize and authorize
14 state agencies to utilize reverse auctions to obtain acquisitions.

15 ~~N. L.~~ Prior to the award of a contract to a supplier, the State
16 Purchasing Director shall verify, pursuant to applicable provisions
17 of law, that the supplier is eligible to do business in ~~the State of~~
18 ~~Oklahoma~~ this state by confirming registration with the Secretary of
19 State and franchise tax payment status pursuant to Sections 1203 and
20 1204 of Title 68 of the Oklahoma Statutes. The provisions of this
21 subsection shall be applicable only if the contract amount is
22 ~~Twenty-five Thousand Dollars (\$25,000.00)~~ Two Hundred Fifty Thousand
23 Dollars (\$250,000.00) or greater.

1 ~~O. As a condition of awarding a contract in excess of the~~
2 ~~dollar amount prescribed by paragraph 11 of subsection C of this~~
3 ~~section pursuant to The Oklahoma Central Purchasing Act, the State~~
4 ~~Purchasing Director shall verify with the Oklahoma Tax Commission~~
5 ~~that the business entity to which the state contract is to be~~
6 ~~awarded, whether subject to the procedures required by Section 85.7~~
7 ~~of this title or not, has obtained a sales tax permit pursuant to~~
8 ~~the provisions of Section 1364 of Title 68 of the Oklahoma Statutes~~
9 ~~if such entity is required to do so.~~

10 ~~P. The State Purchasing Director is hereby authorized to~~
11 ~~explore and investigate cost savings in energy, resource usage, and~~
12 ~~maintenance contracts and to identify and negotiate contract~~
13 ~~solutions including, but not limited to, pilot projects to achieve~~
14 ~~cost savings for the State of Oklahoma.~~

15 ~~Q. The Office of Management and Enterprise Services, with input~~
16 ~~from the State Purchasing Director, shall promulgate payment~~
17 ~~procedure rules for state agencies to adhere to regarding statewide~~
18 ~~contracts issued by the State Purchasing Director.~~

19 ~~R. The Office of Management and Enterprise Services, Central~~
20 ~~Purchasing Division, shall promulgate payment procedure rules for~~
21 ~~agencies to adhere to regarding statewide contracts issued by the~~
22 ~~Division.~~

23 ~~S. M. On an annual basis, the State Purchasing Director shall~~
24 ~~transmit to the Governor, Speaker of the House of Representatives~~

1 and President Pro Tempore of the State Senate a report documenting
2 the savings realized by each agency through the application of best
3 spend practices including the collection and tracking of spend data,
4 strategic sourcing programs, and implementation of managed and
5 mandatory statewide contracts. ~~The report shall document the~~
6 ~~reasons for the failure to issue a mandatory statewide contract for~~
7 ~~any items comprising total statewide spend in the amount of Five~~
8 ~~Million Dollars (\$5,000,000.00) or greater~~ and include in the report
9 information regarding emergency acquisitions.

10 ~~T. N.~~ The acquisition ~~limitations provided for in subparagraph~~
11 ~~b of paragraph 11 of subsection C of this section and paragraph 1 of~~
12 ~~subsection A of Section 85.7 of this title~~ threshold amount
13 applicable to an acquisition made pursuant to this act or associated
14 rules shall not apply to state agency purchases; provided, the State
15 Purchasing Director determines the agency has subject matter experts
16 on staff having the specialized expertise to purchase ~~said~~ goods or
17 services, the agency possesses the necessary legal and procurement
18 staff to procure and monitor the contracts and provided the Director
19 of the Office of Management and Enterprise Services shall certify
20 that the proposed purchase does not conflict with consolidated
21 statewide spend initiatives.

22 1. Nothing in this subsection shall give an agency authority to
23 issue statewide, multistate, or multigovernmental contracts.

24 2. Agencies making purchases pursuant to this subsection shall:

- 1 a. be responsible for contracts awarded pursuant to this
2 subsection, which includes, but may not be limited to,
3 contract management, protest costs, all costs
4 connected with or incurred as a result of the
5 contract, including legal representation,
- 6 b. comply with rules and policies of the Office of
7 Management and Enterprise Services, and
- 8 c. report contracts issued pursuant to this subsection to
9 the Office of Management and Enterprise Services,
10 Central Purchasing Division, on a quarterly basis.

11 3. Purchases made in accordance with this subsection shall be
12 made pursuant to rules authorized by this section.

13 O. The State Purchasing Director, with approval by the Director
14 of the Office of Management and Enterprise Services, is authorized
15 to make use of any state laboratories for the tests and analyses
16 authorized in this section wherever practicable and to use private
17 laboratories or the laboratories of another government agency if it
18 is impracticable to use state laboratories. The State Purchasing
19 Director is further authorized to cooperate in test and analysis
20 programs or agreements with other states or the United States
21 government and to accept federal funds and funds donated by private
22 endowments or foundations for the purpose of participation in such
23 testing programs.

1 SECTION 7. AMENDATORY Section 1, Chapter 264, O.S.L.
2 2013 (74 O.S. Supp. 2019, Section 85.5.1), is amended to read as
3 follows:

4 Section 85.5.1. A. ~~This act shall be known and may be cited as~~
5 ~~the "Oklahoma Privatization Act"~~ Privatization Projects.

6 ~~B.~~ The Office of Management and Enterprise Services shall
7 establish a repository of the best privatization ~~and surplus asset~~
8 ~~sales~~ practices, have expertise to select projects or services for
9 privatization, be capable of rapid evaluation and response to
10 privatization proposals, and have the ability to oversee the
11 contracting for privatization opportunities.

12 ~~C.~~ B. The Director of the Office of Management and Enterprise
13 Services shall report legislative recommendations as the Director
14 deems necessary to further implement the provisions of this ~~act~~
15 section.

16 SECTION 8. AMENDATORY 74 O.S. 2011, Section 85.5a, is
17 amended to read as follows:

18 Section 85.5a. A. Except for the state fleet card, the state
19 purchase card program administered by the Purchasing Division is the
20 only card program authorized for use by state agencies.

21 B. On a monthly basis the State Purchasing Director and
22 institutions of higher education shall provide to the Director of
23 the Office of Management and Enterprise Services (OMES) a complete
24 listing in electronic format of all transactions paid by a state

1 purchase card. The list shall contain the name of the purchaser and
2 purchasing agency, amount of purchase and all available descriptions
3 of items purchased.

4 C. Upon receipt of the list described in subsection B of this
5 section, the Director of the OMES shall allow the public access to
6 the list in searchable format through its website defined in Section
7 46 of Title 62 of the Oklahoma Statutes.

8 D. The State Purchasing Director may authorize the use of a
9 state purchase card for acquisitions within the following
10 parameters:

11 1. No limit on the amount of the transaction for the following:

12 a. purchases from statewide contracts and from contracts
13 awarded by the State Purchasing Director for the
14 benefit of a state agency,

15 b. utilities,

16 c. interagency payments,

17 d. emergency acquisitions; provided, requirements to
18 establish an emergency pursuant to Section 5 of this
19 act or other applicable statute or rule have been met,

20 and

21 e. professional services as defined in Section 803 of
22 Title 18 of the Oklahoma Statutes; and

23 2. For any other transaction with a state purchase card, the
24 transaction shall not exceed the greater of Five Thousand Dollars

1 (\$5,000.00) or the limit determined by the State Purchasing
2 Director, not to exceed the fair and reasonable acquisition
3 threshold amount.

4 E. The State Purchasing Director may authorize personnel
5 ~~assigned to the Office of Global Business Services~~ of the Department
6 of Commerce, upon a finding by the Secretary of Commerce that such
7 personnel have a legitimate need therefore, to utilize a state
8 purchase card for acquisitions for programs, functions or services
9 essential to the mission of the agency while traveling on Department
10 of Commerce business in foreign locations with transaction limits
11 not to exceed Thirty-five Thousand Dollars (\$35,000.00). The
12 purchase cardholders are required to sign a purchase card agreement
13 prior to becoming a cardholder and to attend purchase card procedure
14 training. The Department of Commerce will conduct quarterly
15 internal auditing on all purchase card transactions associated with
16 business and travel in foreign locations.

17 SECTION 9. AMENDATORY 74 O.S. 2011, Section 85.6, is
18 amended to read as follows:

19 Section 85.6. State agencies shall have the right to question
20 the grade and quality of any ~~merchandise~~ acquisition delivered to
21 the agency. The ~~Central Purchasing Division~~ procuring agency ~~must~~
22 shall determine, ~~through postaward contract administration~~
23 ~~procedures,~~ whether the ~~supplies and services meet~~ acquisition meets
24 the grade and quality specified in the contract, and take remedial

1 action with the appropriate ~~vendor~~ supplier if the ~~supply or service~~
2 acquisition does not.

3 SECTION 10. AMENDATORY 74 O.S. 2011, Section 85.7, as
4 last amended by Section 2, Chapter 244, O.S.L. 2013 (74 O.S. Supp.
5 2019, Section 85.7), is amended to read as follows:

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

8 a. every state agency shall initiate all acquisitions by
9 the submission of a requisition to the Purchasing
10 Division, and

11 b. no state agency shall make an acquisition for an
12 amount exceeding Fifty Thousand Dollars (\$50,000.00)
13 or the limit determined by the State Purchasing
14 Director pursuant to rules authorized by Section 85.5
15 of this title, not to exceed ~~One Hundred Thousand~~
16 ~~Dollars (\$100,000.00) Two Hundred Fifty Thousand~~
17 Dollars (\$250,000.00), without submission of a
18 requisition to the ~~State Purchasing Director~~ and
19 ~~submission of suppliers' competitive bids or proposals~~
20 ~~to the State Purchasing Director~~ Division for issuance
21 of a solicitation for the acquisition on behalf of the
22 agency. Any exemption from competitive bid
23 requirements of the Oklahoma Central Purchasing Act

24

1 further exempts the acquisition from requisition
2 requirements of the act.

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

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

11 a. accepting gifts or donations in any manner authorized
12 by law, or

13 b. making an acquisition for itself without submitting a
14 requisition under this section when authorized in
15 writing by the State Purchasing Director.

16 ~~2.~~ 4. Any acquisition a state agency makes shall be made
17 pursuant to ~~The Oklahoma Central Purchasing Act~~ this act and
18 associated rules ~~promulgated pursuant thereto.~~

19 ~~a. Split~~ No agency shall use split purchasing for the
20 purpose of evading the requirement of competitive
21 bidding shall be a felony or other requirement of this
22 act or associated rules. Violation of this provision
23 shall be cause for discipline of a state employee up
24 to and including termination.

1 ~~b.~~

2 5. The State Purchasing Director may waive or increase the
3 limit authorized for a state agency acquisition ~~by not more than ten~~
4 ~~percent (10%) to~~ made pursuant to its own competitive procedures.
5 To perfect an otherwise valid acquisition inadvertently exceeding
6 the limit due to administrative error by ~~the~~ a state agency or
7 unforeseeable circumstances. ~~The,~~ the state agency shall request a
8 limited waiver or increase upon the discovery of the error or
9 circumstance to the State Purchasing Director ~~on a form the Director~~
10 ~~requires.~~

11 ~~e.~~ The State Purchasing Director shall report ~~all~~
12 requests for waivers or increases, stating the amount
13 and whether the request was granted or denied, ~~monthly~~
14 ~~to~~ upon request by the Governor, President Pro Tempore
15 of the Senate, ~~and~~ or Speaker of the House of
16 Representatives.

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

19 ~~3.~~ a. ~~Contracts~~ contracts for master custodian banks or
20 trust companies, investment managers, investment
21 consultants, and actuaries for the state retirement
22 systems, ~~CompSource Oklahoma,~~ and Oklahoma Employees
23 Insurance and Benefits Board, pension fund management
24 consultants of the Oklahoma State Pension Commission

1 and the Commissioners of the Land Office, financial
2 institutions to act as depositories and managers of
3 the Oklahoma College Savings Plan accounts and other
4 professional services as defined in Section 803 of
5 Title 18 of the Oklahoma Statutes ~~shall be exempt from~~
6 ~~competitive bidding procedures of this section and~~
7 ~~requisition requirements of Section 85.4 of this~~
8 ~~title.~~

9 ~~b. Contracts with financial institutions to act as~~
10 ~~depositories and managers of the Oklahoma College~~
11 ~~Savings Plan accounts shall be exempt from competitive~~
12 ~~bidding procedures. When requested by the Oklahoma~~
13 ~~Employees Insurance and Benefits Board or the~~
14 ~~governing board of a state retirement system~~
15 ~~authorized to hire investment managers, the Purchasing~~
16 ~~Division shall assist in the process of selecting~~
17 ~~investment managers,~~

18 ~~e. A~~

19 ~~b. a state agency that makes making such an acquisition~~
20 ~~pursuant to this paragraph shall notify the State~~
21 ~~Purchasing Director within fifteen (15) days following~~
22 ~~completion of the acquisition. ~~The Office of~~~~
23 ~~~~Management and Enterprise Services shall compile a A~~~~
24 ~~list of the exempt contracts ~~and send the list~~ shall~~

1 be provided, upon request, to a member of the
2 Appropriations and Budget Committee of the House of
3 Representatives or Appropriations Committee of the
4 Senate, ~~if the member requests.~~

5 ~~4. Requisitions pursuant to this section shall not be required~~
6 ~~prior to emergency acquisitions by a state agency not exceeding One~~
7 ~~Hundred Thousand Dollars (\$100,000.00). The state agency shall~~
8 ~~submit a requisition to the State Purchasing Director within five~~
9 ~~(5) days following the acquisition together with a statement of the~~
10 ~~emergency. The State Purchasing Director shall send the requisition~~
11 ~~and a written analysis to the Governor, the President Pro Tempore of~~
12 ~~the Senate, and the Speaker of the House of Representatives~~
13 ~~specifying the facts and circumstances giving rise to the emergency~~
14 ~~requisition.~~

15 ~~5. Requisitions pursuant to this section for acquisitions to~~
16 ~~alleviate a serious environmental emergency shall not be required~~
17 ~~if, upon receiving a request from the Chair of the Corporation~~
18 ~~Commission and after having examined the facts and circumstances of~~
19 ~~the case, the Governor certifies in writing the existence of a~~
20 ~~serious environmental emergency. For the purposes of this section,~~
21 ~~"serious environmental emergency" means a situation within the~~
22 ~~jurisdiction of the Commission:~~

23 ~~a. in which serious damage to the environment will~~
24 ~~quickly occur if immediate action is not taken and the~~

1 ~~damage will be so significant that the urgent need for~~
2 ~~action outweighs the need for competitive bids, or~~
3 ~~b. a situation in which human life or safety is in~~
4 ~~imminent danger or significant property interests are~~
5 ~~threatened with imminent destruction.~~

6 ~~6. Acquisitions for repairs of equipment in emergencies, of~~
7 ~~livestock through a market agency, dealer, commission house, or~~
8 ~~livestock auction market bonded or licensed under federal or state~~
9 ~~law, the purchase or collection of semen or embryos, and the~~
10 ~~placement of embryos into recipient livestock shall not require~~
11 ~~requisitions pursuant to this section or any other provisions of The~~
12 ~~Oklahoma Central Purchasing Act.~~

13 ~~7. The Board of Directors of the Oklahoma Historical Society~~
14 ~~shall select suppliers for the restoration of historical sites and~~
15 ~~museums and shall not be subject to the requisition requirements of~~
16 ~~this section or any other provision of The Oklahoma Central~~
17 ~~Purchasing Act. The Board may send a requisition to the State~~
18 ~~Purchasing Director and request supplier bid or proposal submission~~
19 ~~procedures, but supplier and bid selection will be the prerogative~~
20 ~~of the Board and will be based on contractors' documented~~
21 ~~qualifications and experience.~~

22 ~~8. Purchases~~

23 ~~c. purchases of postage by state agencies shall be made~~
24 ~~pursuant to Sections 90.1 through 90.4 of this title.~~

1 ~~9. Sole~~

2 ~~d. a sole source or sole brand acquisitions acquisition~~
3 ~~by a state agency or the State Purchasing Director~~
4 ~~shall comply~~ made in compliance with Section 85.45j of
5 this title.

6 ~~10. Acquisitions~~

7 ~~e. an acquisition for the design, development,~~
8 ~~communication, or implementation of the state~~
9 ~~employees flexible benefits plan shall not be subject~~
10 ~~to the requirements of this section; provided, that~~
11 ~~the Flexible Benefits Advisory Council shall use~~
12 ~~procedures used for the acquisition are consistent~~
13 ~~with the competitive bid requirements of The Oklahoma~~
14 ~~Central Purchasing Act. this act and associated rules,~~

15 ~~11. a. Any~~

16 ~~f. any acquisition of a service which the Office of~~
17 ~~Management and Enterprise Services has approved as~~
18 ~~qualifying for a fixed and uniform rate shall be made~~
19 ~~pursuant to provisions of this paragraph, subject to~~
20 the following:

21 ~~b. The Office of Management and Enterprise Services~~

22 ~~(1) the Purchasing Division shall establish criteria~~
23 ~~and guidelines for those services which may~~
24 ~~qualify for a fixed and uniform rate.~~

1 e. ~~Fixed~~

2 (2) fixed and uniform rate contracts authorized by
3 this ~~paragraph~~ subsection shall be limited to
4 contracts for those services furnished to persons
5 directly benefiting from such services and shall
6 not be used by a state agency to employ
7 consultants or to make other acquisitions.

8 d. ~~Any~~

9 (3) any state agency desiring to have a service
10 qualified for a fixed and uniform rate shall make
11 a request for service qualification to the ~~Office~~
12 ~~of Management and Enterprise Services~~ State
13 Purchasing Director and submit documentation to
14 support the request. The ~~Office of Management~~
15 ~~and Enterprise Services~~ State Purchasing Director
16 shall approve or deny the request. If ~~the Office~~
17 ~~of Management and Enterprise Services~~ approves
18 ~~the request~~ approved, the state agency shall
19 establish a fixed and uniform rate for the
20 service. No contracts shall be entered into by
21 the state agency until the rate has been approved
22 by the state agency in a public hearing. The
23 proposed rate shall be clearly and separately
24 identified in the agenda of the state agency for

1 the hearing and shall be openly and separately
2 discussed during such hearing. The state agency
3 shall notify the ~~Director of the Office of~~
4 ~~Management and Enterprise Services~~ State
5 Purchasing Director of its pending consideration
6 of the proposed rate at least thirty (30) days
7 before the state agency is to meet on the
8 proposed rate. ~~The state agency shall and~~
9 ~~deliver to the Director of the Office of~~
10 ~~Management and Enterprise Services~~ a copy of the
11 agenda items concerning the proposed rate with
12 supporting documentation. The State Purchasing
13 ~~Director of the Office of Management and~~
14 ~~Enterprise Services~~ shall communicate any
15 observation, reservation, criticism, or
16 recommendation to the agency, either in person at
17 the time of the hearing or in writing delivered
18 to the state agency before or at the time of the
19 hearing. The State Purchasing Director ~~of the~~
20 ~~Office of Management and Enterprise Services~~
21 shall specifically note in the written
22 communications whether the Director ~~of the Office~~
23 ~~of Management and Enterprise Services~~ has
24 determined the rate to be excessive. Any written

1 communication presented in the absence of the
2 State Purchasing Director ~~of the Office of~~
3 ~~Management and Enterprise Services~~ shall be
4 presented orally during the public hearing.
5 Whether made in person or in writing, any comment
6 made by the State Purchasing Director ~~of the~~
7 ~~Office of Management and Enterprise Services~~
8 shall be made a part of the minutes of the
9 hearing in full.

10 e. ~~Within~~

11 (4) within two (2) weeks after the convening of the
12 Legislature, the administrative officer of the
13 state agency shall furnish to the Speaker of the
14 House of Representatives, the President Pro
15 Tempore of the Senate and to any member of the
16 House or Senate, if requested by the member, a
17 complete list of all of the types of services
18 paid for by uniform fixed rates, the amount of
19 the rate last approved by the agency for the
20 service, and the number of contracts then in
21 existence for each type of service. Any rate
22 which has been determined to be excessive by the
23 State Purchasing Director ~~of the Office of~~
24 ~~Management and Enterprise Services~~ shall be

1 specifically identified in the list by the state
2 agency~~, and~~

3 ~~f. At~~

4 (5) at any time, the State Purchasing Director ~~of the~~
5 ~~Office of Management and Enterprise Services~~ may
6 review, suspend~~, or terminate~~ a contract entered
7 into pursuant to the provisions of this paragraph
8 if the Director ~~of the Office of Management and~~
9 ~~Enterprise Services~~ determines the contract is
10 not necessary, is excessive~~, or is not~~
11 justified~~,.~~

12 ~~12. Specifically prescribed nonmedical adaptive technology-~~
13 ~~related acquisitions for individuals with disabilities who are~~
14 ~~clients~~

15 g. an acquisition for a client of the State Department of
16 Rehabilitation Services ~~and which are prescribed by a~~
17 ~~physician, rehabilitation engineer, qualified~~
18 ~~rehabilitation technician, speech therapist, speech~~
19 ~~pathologist, occupational therapist, physical~~
20 ~~therapist, or qualified sensory aids specialist, and~~
21 ~~other client acquisitions, shall not be subject to the~~
22 ~~requisition requirements of this section. The~~
23 ~~Commission for Rehabilitation Services shall develop;~~
24 provided, the agency develops and maintains standards

1 for the purchase of such acquisitions and an
2 acquisition. The agency may elect to utilize the
3 Purchasing Division for an acquisition. The standards
4 shall foster economy, provide a short response time,
5 include appropriate safeguards, require written
6 records, ensure appropriate competition for economical
7 and efficient purchasing, and shall be approved by the
8 State Purchasing Director.

9 ~~13. The Department of Human Services shall develop procedures~~
10 ~~for acquisitions of specifically prescribed nonmedical assistive~~
11 ~~technology related items not exceeding the acquisition purchase~~
12 ~~amount requiring a requisition pursuant to this section for~~
13 ~~individuals under sixteen (16) years of age who are recipients of~~
14 ~~Supplemental Security Income which are prescribed by a physician,~~
15 ~~qualified sensory aids specialist or qualified special education~~
16 ~~instructor. The procedures shall reflect standards for the~~
17 ~~acquisition of such nonmedical assistive technology related items,~~
18 ~~may provide for utilization of the Purchasing Division when~~
19 ~~appropriate, shall foster economy, provide a short response time,~~
20 ~~shall include appropriate safeguards and written records to ensure~~
21 ~~appropriate competition and economical and efficient purchasing, and~~
22 ~~shall be approved by the State Purchasing Director.~~

23 14. a. Structured
24

1 h. structured settlement agreements entered into by the
2 Attorney General's office in order to settle any
3 lawsuit involving the state, the Legislature, any
4 state agency or any employee or official of the state
5 ~~shall not be subject to the competitive bidding~~
6 ~~requirements of this section~~ if:

7 (1) prior to entering into any contract for the
8 services of an entity to administer a structured
9 settlement agreement, the Attorney General
10 receives proposals from at least three entities
11 engaged in providing such services, and

12 (2) the selection of a particular entity is made on
13 the basis of the response to the request which is
14 the most economical and provides the most
15 competent service which furthers the best
16 interests of the state.

17 ~~b. A list of any such structured settlement agreements~~
18 ~~entered into by the Attorney General with summary~~
19 ~~thereon for the previous calendar year shall be~~
20 ~~submitted to the Speaker of the House of~~
21 ~~Representatives and the President Pro Tempore of the~~
22 ~~Senate on January 31 of each year.~~

23 ~~15. Acquisitions~~

1 i. an acquisition by a state agency ~~makes~~ pursuant to a
2 contract the State Purchasing Director enters into on
3 behalf of a state agency or awards and designates for
4 use by state agencies ~~shall be exempt from competitive~~
5 ~~bidding procedures.~~

6 ~~16. The Commission on Marginally Producing Oil and Gas Wells~~
7 ~~shall be exempt from the competitive bid requirements of this~~
8 ~~section for contracts~~

9 j. an acquisition by the Committee for Sustaining
10 Oklahoma's Energy Resources pursuant to a contract
11 with a local vendors supplier for the purpose of
12 holding ~~special events and exhibitions~~ a special event
13 or an exhibition throughout the state.

14 ~~17. Agreements entered into by any state agency with the United~~
15 ~~States Army Corps of Engineers in order to provide emergency~~
16 ~~response or to protect the public health, safety, or welfare shall~~
17 ~~not require requisitions and shall not be subject to competitive~~
18 ~~bidding requirements of this section.~~

19 ~~18.~~ 7. Notwithstanding any other provision of law, an
20 acquisition may be exempted from requirements of this section by the
21 State Purchasing Director ~~may exempt a procurement from the~~
22 ~~requirements of this section~~ when in the State Purchasing Director's
23 discretion unusual, time-sensitive or unique circumstances exist
24 which make such exemption in the best and immediate interest of the

1 state. As used in this subsection, "State Purchasing Director"
2 ~~means the administrative head of the Purchasing Division of the~~
3 ~~Office of Management and Enterprise Services and shall not mean a~~
4 ~~designee. Any such acquisitions made pursuant to this paragraph~~
5 ~~shall be described in detail and publicly posted through the~~
6 ~~transparency portal as provided in Section 34.11.2 of Title 62 of~~
7 ~~the Oklahoma Statutes as a data feed.~~ The description shall include
8 the name of the supplier, cost of the acquisition, reason for
9 exemption ~~under the provisions of this subsection, the and, as~~
10 ~~applicable, detailed comparison of the acquisition with comparable~~
11 ~~items, any identified~~ cost savings resulting from the ~~purchase,~~
12 ~~acquisition~~ and a description of benefits to the state. The State
13 Purchasing Director shall take no action under the provisions of
14 this ~~paragraph subsection~~ prior to the ~~publication of a document~~
15 ~~describing the significant savings that will be realized by the~~
16 ~~state. The document shall provide a detailed comparison of the~~
17 ~~acquisition with comparable items and clearly detail the savings~~
18 ~~such public posting.~~

19 B. ~~Acquisitions~~ Competitively bid acquisitions shall be awarded
20 to the lowest and best, or best value, bidder ~~at a specified time~~
21 ~~and place, which shall be open to the public or bidders.~~

22 C. Bids ~~for professional service contracts~~ for an amount
23 requiring submission of requisitions to the State Purchasing
24 ~~Director~~ Division shall be evaluated by the State Purchasing

1 ~~Director~~ Division and the state agency ~~contracting for such service~~
2 receiving the acquisition. ~~Both~~ At a minimum, cost and technical
3 expertise shall be considered in determining the lowest and best, or
4 best value, bid. Further, the state agency shall present its
5 evaluation and recommendation to the State Purchasing Director. A
6 documented evaluation report containing the evaluations of the ~~State~~
7 ~~Purchasing Director and~~ Division or the state agency ~~contracting for~~
8 ~~such service~~ shall be completed prior to the ~~awarding of a~~
9 ~~professional service~~ contract award and such report shall be a
10 matter of public record.

11 D. ~~When requested by CompSource Oklahoma, the Oklahoma~~
12 ~~Employees Insurance and Benefits Board, or the governing board of a~~
13 ~~state retirement system authorized to hire investment managers, the~~
14 ~~Office of Management and Enterprise Services shall assist the~~
15 ~~requesting body in the process of selecting investment managers.~~
16 ~~When requested by the Flexible Benefits Advisory Council, the Office~~
17 ~~of Management and Enterprise Services shall assist the Council in~~
18 ~~the process of selecting contracts for the design, development,~~
19 ~~communication, or implementation of the state employees flexible~~
20 ~~benefits plan.~~

21 E. Except as otherwise specifically provided by law, the
22 acquisition of food items or food products by a state agency from a
23 public trust created pursuant to Sections 176 through 180.56 of
24 Title 60 of the Oklahoma Statutes shall comply with competitive

1 bidding ~~procedures pursuant to the provisions~~ requirements of this
2 section.

3 ~~F.~~ E. Cooperative contracts shall not be utilized unless the
4 purchasing cooperative and its affiliated suppliers have complied
5 with ~~all provisions~~ competitive bid requirements of ~~The Oklahoma~~
6 ~~Central Purchasing Act~~ this act and associated rules.

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

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

16 SECTION 11. AMENDATORY 74 O.S. 2011, Section 85.12, as
17 last amended by Section 2, Chapter 71, O.S.L. 2017 (74 O.S. Supp.
18 2019, Section 85.12), is amended to read as follows:

19 Section 85.12. A. The provisions of this section shall not be
20 construed to affect any law relating to fiscal or accounting
21 procedure except as they may be directly in conflict herewith; and
22 all claims, warrants, and bonds shall be examined, inspected, and
23 approved as now provided by law.

24

1 B. Except as otherwise provided by this section, the
2 acquisitions specified in this subsection shall be made in
3 compliance with Section 85.39 of this title and purchasing card
4 program requirements but are not subject to other provisions of ~~The~~
5 the Oklahoma Central Purchasing Act:

6 1. Food and other products produced by state institutions and
7 agencies;

8 2. The printing or duplication of publications or forms of
9 whatsoever kind or character by state agencies if the work is
10 performed upon their own equipment by their own employees. Pursuant
11 to this paragraph, the state agency may only use equipment owned or
12 leased by the agency and may only utilize that equipment for
13 printing services required by the agency in performing duties
14 imposed upon the agency or functions authorized to be performed by
15 the agency. Any use of the equipment by the agency pursuant to an
16 agreement or contract with any other entity resulting in delivery of
17 intermediate or finished products to the entity purchasing or using
18 the products shall be subject to the provisions of ~~The Oklahoma~~
19 ~~Central Purchasing Act~~ this act and associated rules;

20 3. Department of Transportation and Transportation Commission
21 contractual services or right-of-way ~~purchases~~; acquisitions,
22 contracts awarded pursuant to bids let by the Transportation
23 Commission for the maintenance or construction of streets, roads,
24 highways, bridges, underpasses, or any other transportation

1 facilities under the control of the Department of Transportation,
2 ~~the acquisitions of equipment or materials~~ material acquisitions
3 accruing to the Department of Transportation required in Federal-Aid
4 contracts~~,~~ and ~~contracts~~ acquisitions for public service type
5 announcements initiated by the Department of Transportation~~,~~ but
6 not ~~contractual services~~ acquisitions for advertising ~~or,~~ public
7 relations or employment services;

8 4. Utility services regulated by a state or federal regulatory
9 commission, ~~or by~~ municipal ordinance~~,~~ or ~~by~~ an Indian Tribal
10 Council;

11 5. Acquisitions by the University Hospitals Authority. The
12 Authority shall develop standards for the acquisition of products
13 and services and may elect to utilize the Purchasing Division. The
14 standards shall foster economy and short response time and shall
15 include appropriate safeguards and record-keeping requirements to
16 ensure appropriate competition and economical and efficient
17 purchasing;

18 6. ~~Contracts for custom~~ Custom harvesting by the Department of
19 Corrections for the Department or its institutions;

20 7. ~~Contracts with~~ Subject to prior approval of the State
21 Purchasing Director, acquisitions from private prison contractors
22 suppliers which are subject to the contracting procedures of Section
23 561 of Title 57 of the Oklahoma Statutes;

24 8. Acquisitions by the Oklahoma Municipal Power Authority;

1 9. Acquisitions by the Grand River Dam Authority;

2 10. Acquisitions by rural water, sewer, gas, or solid waste
3 management districts created pursuant to the Rural Water, Sewer, Gas
4 and Solid Waste Management Districts Act;

5 11. Acquisitions by the Oklahoma Ordnance Works Authority, the
6 Northeast Oklahoma Public Facilities Authority, or the Midwestern
7 Oklahoma Development Authority;

8 ~~12. Contracts entered into by the Oklahoma Industrial Finance
9 Authority for the services of an appraiser or for acquisition of
10 insurance when the Authority's Board of Directors determines that an
11 emergency exists, and contracts for the services of legal counsel
12 when approved by the Attorney General;~~

13 ~~13.~~ Expenditure of monies appropriated to the State Board of
14 Education for Local and State Supported Financial Support of Public
15 Schools, except monies allocated therefrom for the Administrative
16 and Support Functions of the State Department of Education;

17 ~~14.~~ 13. Expenditure of monies appropriated to the State
18 Department of Rehabilitation Services for educational programs or
19 educational materials for the Oklahoma School for the Blind and the
20 Oklahoma School for the Deaf;

21 ~~15.~~ 14. Contracts entered into by the Oklahoma Department of
22 Career and Technology Education for the development, revision, or
23 updating of vocational curriculum materials, and contracts entered
24 into by the Oklahoma Department of Career and Technology Education

1 for training and supportive services that address the needs of new
2 or expanding industries;

3 ~~16.~~ 15. Contracts entered into by the Oklahoma Center for the
4 Advancement of Science and Technology for professional services;

5 ~~17.~~ 16. Contracts entered into by the Oklahoma Department of
6 Commerce pursuant to the provisions of Section 5066.4 of this title;

7 ~~18.~~ 17. Acquisitions made by the Oklahoma Historical Society
8 from monies used to administer the White Hair Memorial;

9 ~~19.~~ ~~Acquisitions available to an agency through a General~~
10 ~~Services Administration (GSA) contract or other federal contract if~~
11 ~~the acquisition is on current statewide contract and the terms of~~
12 ~~the GSA or other federal contract, as determined by the State~~
13 ~~Purchasing Director, are more favorable to the agency than the terms~~
14 ~~of a statewide contract for the same products;~~

15 ~~20.~~ 18. Purchases of pharmaceuticals available through a
16 multistate or multigovernmental contract if such pharmaceuticals are
17 or have been on state contract within the last fiscal year, and the
18 terms of such contract are more favorable to the state or agency
19 than the terms of a state contract for the same products, as
20 determined by the State Purchasing Director. The state entity
21 designated by law, as specified in Section 1010.3 of Title 56 of the
22 Oklahoma Statutes, shall participate in the purchase of
23 pharmaceuticals available through such contracts;

24

1 ~~21.~~ 19. Contracts for managed health care services entered into
2 by the state entity designated by law or the Department of Human
3 Services, as specified in paragraph 1 of subsection A of Section
4 1010.3 of Title 56 of the Oklahoma Statutes;

5 ~~22.~~ 20. Acquisitions by ~~the Forestry Service of the Oklahoma~~
6 ~~Department of Agriculture, Food, and Forestry as authorized by the~~
7 ~~federal General Services Administration~~ a state agency through a
8 General Services Administration contract or other federal contract
9 if the acquisitions are not on current statewide contract or the
10 terms of the federal contract are more favorable to the agency than
11 the terms of a statewide contract for the same products;

12 ~~23.~~ 21. Acquisitions of clothing for clients of the Department
13 of Human Services and acquisitions of food for group homes operated
14 by the Department of Human Services;

15 ~~24.~~ 22. Acquisitions by the Oklahoma Energy Resources Board;

16 ~~25.~~ 23. Acquisitions of clothing for juveniles in the custody
17 of the Office of Juvenile Affairs and acquisitions of food for group
18 homes operated by the Office of Juvenile Affairs;

19 ~~26.~~ 24. State contracts for flexible benefits plans pursuant to
20 the Oklahoma State Employees Benefits Act, Section 1361 et seq. of
21 this title;

22 ~~27.~~ 25. Acquisitions by the Department of Securities to
23 investigate, initiate, or pursue administrative, civil, or criminal
24 proceedings involving potential violations of the acts under the

1 Department's jurisdiction and acquisitions by the Department of
2 Securities for its investor education program;

3 ~~28. Acquisitions by the Native American Cultural and~~
4 ~~Educational Authority and acquisitions by the Oklahoma Department of~~
5 ~~Commerce to assist the Native American Cultural and Educational~~
6 ~~Authority pursuant to Section 5017 of this title;~~

7 ~~29.~~ 26. Acquisitions for resale in and through canteens
8 operated pursuant to Section 537 of Title 57 of the Oklahoma
9 Statutes and canteens established at an institution or facility
10 operated by the Office of Juvenile Affairs;

11 ~~30.~~ 27. Acquisitions by the Oklahoma Boll Weevil Eradication
12 Organization for employment and personnel services, and for
13 acquiring sprayers, blowers, traps, and attractants related to the
14 eradication of boll weevils in this state or as part of a national
15 or regional boll weevil eradication program;

16 ~~31.~~ 28. Contracts entered into by the Oklahoma Indigent Defense
17 System for expert services pursuant to the provisions of subsection
18 D of Section 1355.4 of Title 22 of the Oklahoma Statutes;

19 ~~32.~~ 29. Acquisitions by the Oklahoma Correctional Industries
20 and the Agri-Services programs of the Department of Corrections of
21 raw materials, component parts and other products, any equipment
22 excluding vehicles, and any services excluding computer consultant
23 services used to produce goods or services for resale and for the
24 production of agricultural products;

1 ~~33.~~ 30. Contracts entered into by the Department of Human
2 Services for provision of supported living services to members of
3 the plaintiff class in Homeward Bound, Inc., et al. v. The Hisson
4 Memorial Center, et al., Case Number 85-C-437-E, United States
5 District Court for the Northern District of Oklahoma;

6 ~~34.~~ 31. Contracts negotiated by the Office of Juvenile Affairs
7 with designated Youth Services Agencies and the Oklahoma Association
8 of Youth Services, or another Oklahoma nonprofit corporation whose
9 membership consists solely of Youth Services Agencies and of whom at
10 least a majority of Youth Services Agencies are members, pursuant to
11 the provisions of Section 2-7-306 of Title 10A of the Oklahoma
12 Statutes and contracts entered into by the Department of Human
13 Services pursuant to Section 1-9-110 of Title 10A of the Oklahoma
14 Statutes with designated Youth Services Agencies;

15 ~~35. Contracts not to exceed One Hundred Thousand Dollars~~
16 ~~(\$100,000.00) entered into by the Department of Environmental~~
17 ~~Quality for engineering services to assist qualifying small~~
18 ~~municipalities or rural water or sewer districts with engineering~~
19 ~~reports or plans and specifications needed for construction or~~
20 ~~repairs to achieve compliance with federal and state public water~~
21 ~~supply or wastewater laws and regulations;~~

22 ~~36.~~ 32. Contracts for annuities for structured settlements
23 provided for in Section 158 of Title 51 of the Oklahoma Statutes;
24 and

1 ~~37. Contracts entered into by the State Department of Education~~
2 ~~with current or retired employees of Oklahoma public school~~
3 ~~districts to assist the Department when the expertise and~~
4 ~~qualifications of an Oklahoma certified educator are required, as~~
5 ~~provided for in Section 1 of this act~~

6 33. Subject to subsection E of this section, purchases made
7 from funds received by local offices administered by the Department
8 of Human Services or administered by the Office of Juvenile Affairs
9 for fund-raising activities and donations for the benefit of clients
10 and potential clients at the local offices where such purchases may
11 not otherwise be paid for from appropriated funds; and

12 34. Acquisitions by the Oklahoma Historical Society for
13 restoration of historical sites and museums although the agency may
14 elect to utilize the Purchasing Division for an acquisition with
15 supplier and bid selection being the prerogative of the agency,
16 based on the supplier's documented qualifications and experience.

17 C. Pursuant to the terms of a contract the State Purchasing
18 Director enters into or awards, a state agency, common school,
19 municipality, rural fire protection district, county officer, or any
20 program contract, purchase, acquisition or expenditure that is not
21 subject to the provisions of ~~The~~ the Oklahoma Central Purchasing
22 Act, may, unless acting pursuant to a contract with the state that
23 specifies otherwise, make use of statewide contracts and the
24 services of the Purchasing Division and the State Purchasing

1 Director. Any political subdivision or rural fire protection
2 district may designate the State Purchasing Director as its agent
3 for any acquisition from a statewide contract or otherwise available
4 to the state.

5 D. The State Purchasing Director ~~shall~~ may make periodic audits
6 of the purchasing procedures of ~~the Oklahoma Ordnance Works~~
7 ~~Authority, the Northeast Oklahoma Public Facilities Authority, the~~
8 ~~University Hospitals Authority, and the Midwestern Oklahoma~~
9 ~~Development Authority~~ acquisitions listed in subsection B of this
10 section to ensure that the procedures are being followed.

11 E. With respect to the Department of Human Services or the
12 Office of Juvenile Affairs, as applicable, monies received by
13 fundraising activities or donations from the local office, vending
14 operations administered by employees of the agency and all other
15 nonrestricted cash and cash-equivalent items received by employees
16 of the agency shall be deposited in the agency special account
17 established for this purpose. The deposits shall be made at local
18 banking institutions approved by the State Treasurer.

19 SECTION 12. AMENDATORY 74 O.S. 2011, Section 85.12b, as
20 amended by Section 747, Chapter 304, O.S.L. 2012 (74 O.S. Supp.
21 2019, Section 85.12b), is amended to read as follows:

22 Section 85.12b. All agencies or departments of this state shall
23 lease, charter or contract for the use of any aircraft pursuant to
24 the provisions of ~~The~~ the Oklahoma Central Purchasing Act, except

1 ~~for use of aircraft owned and operated by another state agency or~~
2 ~~department of this state. The Office of Management and Enterprise~~
3 ~~Services shall develop and implement guidelines for the use of such~~
4 ~~aircraft.~~

5 SECTION 13. AMENDATORY 74 O.S. 2011, Section 85.17A, is
6 amended to read as follows:

7 Section 85.17A. A. State agencies shall not discriminate
8 against bidders from states or nations outside Oklahoma, except as
9 provided by this section. State agencies shall reciprocate the
10 bidding preference given by other states or nations to bidders
11 domiciled in their jurisdictions for acquisitions pursuant to ~~The~~
12 ~~the~~ Oklahoma Central Purchasing Act. ~~The State Purchasing Director~~
13 ~~Division shall annually prepare and distribute to provide to~~
14 ~~certified procurement officers a schedule providing which states~~
15 ~~give bidders in their states a preference and the extent of the~~
16 ~~preference information regarding the reciprocity provided by other~~
17 ~~states.~~ This ~~schedule~~ information shall be used by state agencies
18 in evaluating bids.

19 B. For purposes of awarding contracts state agencies shall:
20 1. Give preference to goods and services that have been
21 manufactured or produced in this state if the price, fitness,
22 availability and quality are otherwise equal;
23 2. Give preference to goods and services from another state
24 over foreign goods or services if goods or services manufactured or

1 produced in this state are not equal in price, fitness,
2 availability, or quality; and

3 3. Add a percent increase to the bid of a nonresident bidder
4 equal to the percent, if any, of the preference given to the bidder
5 in the state in which the bidder resides.

6 SECTION 14. AMENDATORY 74 O.S. 2011, Section 85.22, as
7 last amended by Section 1, Chapter 255, O.S.L. 2014 (74 O.S. Supp.
8 2019, Section 85.22), is amended to read as follows:

9 Section 85.22. Any competitive bid submitted to ~~the State of~~
10 ~~Oklahoma~~ this state or contract executed by the state for ~~goods or~~
11 ~~services~~ an acquisition in excess of ~~Five Thousand Dollars~~
12 ~~(\$5,000.00)~~ the fair and reasonable acquisition threshold amount
13 shall contain a certification, ~~which shall be~~ dated and in
14 substantially the following form:

15 A. ~~For purposes of competitive bids,~~ I certify:

16 1. I am the duly authorized agent of _____, ~~the bidder~~
17 ~~submitting the competitive bid which is attached to this statement,~~
18 for the purpose of certifying ~~the~~ facts pertaining to the existence
19 of collusion among and between bidders and ~~between bidders~~ suppliers
20 and state officials or employees, as well as facts pertaining to the
21 giving or offering of things of value to government personnel in
22 return for special consideration in connection with the ~~letting of~~
23 ~~any contract pursuant to the bid to which this statement is attached~~
24 prospective acquisition;

1 2. I am fully aware of the facts and circumstances surrounding
2 the acquisition or making of the bid to which this statement ~~is~~
3 ~~attached~~ relates and have been personally and directly involved in
4 ~~the proceedings~~ events leading to the acquisition or submission of
5 such bid; and

6 3. Neither the ~~bidder~~ business entity that I represent in this
7 certification nor anyone subject to the ~~bidder's~~ business entity's
8 direction or control has been a party:

9 a. to any collusion among bidders or suppliers in
10 restraint of freedom of competition by agreement to
11 bid or contract at a fixed price or to refrain from
12 bidding or contracting,

13 b. to any collusion with any state official or employee
14 as to quantity, quality or price in the prospective
15 contract, or as to any other terms of such prospective
16 contract, nor

17 c. ~~in~~ to any discussions between bidders or suppliers and
18 any state official concerning exchange of money or
19 other thing of value for special consideration in ~~the~~
20 ~~letting of a~~ connection with the prospective contract,
21 ~~nor~~

22 d. ~~to any collusion with any state agency or political~~
23 ~~subdivision official or employee as to create a sole~~

1 ~~source acquisition in contradiction to Section~~
2 ~~85.45j.1 of this title.~~

3 B. I certify, if awarded the contract, whether competitively
4 bid or not, neither the ~~contractor~~ business entity I represent nor
5 anyone subject to the ~~contractor's~~ business entity's direction or
6 control has paid, given or donated or agreed to pay, give or donate
7 to any officer or employee of ~~the State of Oklahoma~~ this state any
8 money or other thing of value, either directly or indirectly, in
9 procuring the contract to which this statement ~~is attached~~ relates.

10 Certified this _____ day of _____ 20__.

11 SECTION 15. AMENDATORY 74 O.S. 2011, Section 85.33, as
12 last amended by Section 3, Chapter 244, O.S.L. 2013 (74 O.S. Supp.
13 2019, Section 85.33), is amended to read as follows:

14 Section 85.33. A. There is hereby created in the State
15 Treasury a revolving fund for the Office of Management and
16 Enterprise Services to be designated the "Registration of State
17 Vendors Revolving Fund". The fund shall consist of any monies
18 received from fees collected in accordance with subsection B of this
19 section. The revolving fund shall be a continuing fund, without
20 legislative appropriation, not subject to fiscal year limitations,
21 and shall be under the control and management of the Office of
22 Management and Enterprise Services. Expenditures from the
23 Registration of State Vendors Revolving Fund shall be budgeted and
24 expended pursuant to the laws of the state and the statutes relating

1 to public finance. The fund shall be used to defray the costs of
2 the Purchasing Division ~~for commodity research, classification, and~~
3 ~~analysis and expenses the Office incurs to support Purchasing~~
4 ~~Division operations.~~ Warrants for expenditures from said the fund
5 shall be drawn by the State Treasurer, based on claims signed by an
6 authorized employee or employees of the Office, and approved for
7 payment by the Director of the Office of Management and Enterprise
8 Services.

9 B. The Office of Management and Enterprise Services may collect
10 a fee of Twenty-five Dollars (\$25.00) to register suppliers that
11 desire to do business with this state through the Purchasing
12 Division. The suppliers shall register separately for each
13 commodity list. Each registration shall entitle the supplier to be
14 on that list for one (1) year, to receive all bid notices in that
15 classification for that period, ~~and to receive one copy of the~~
16 ~~State's Commodity Classification Manual when published.~~ All fees
17 collected in accordance with this ~~section~~ subsection shall be
18 deposited in the revolving fund created in subsection A of this
19 section.

20 SECTION 16. AMENDATORY 74 O.S. 2011, Section 85.33A, as
21 amended by Section 753, Chapter 304, O.S.L. 2012 (74 O.S. Supp.
22 2019, Section 85.33A), is amended to read as follows:

23 Section 85.33A. A. There is hereby created in the State
24 Treasury a revolving fund for the Office of Management and

1 Enterprise Services to be designated the "Contract Management
2 Revolving Fund". The fund shall consist of any monies received from
3 fees, levies or rebates the Office receives in accordance with
4 subsection B of this section. The revolving fund shall be a
5 continuing fund, without legislative appropriation, not subject to
6 fiscal year limitations, and shall be under the control and
7 management of the Office of Management and Enterprise Services.
8 Expenditures from the Contract Management Revolving Fund shall be
9 budgeted and expended pursuant to the laws of the state and the
10 statutes relating to public finance. The fund shall be used to
11 defray the costs of the Purchasing Division ~~for operations of the~~
12 ~~Purchasing Division and expenses the Office of Management and~~
13 ~~Enterprise Services incurs to support operation of the Purchasing~~
14 ~~Division~~. Warrants for expenditures from the fund shall be drawn by
15 the State Treasurer, based on claims signed by an authorized
16 employee or employees of the Office, and approved for payment by the
17 Director of the Office of Management and Enterprise Services.

18 B. The State Purchasing Director may enter into or award
19 contracts that provide a contract management fee, levy or rebate to
20 the Office of Management and Enterprise Services. The State
21 Purchasing Director shall ensure that a contract that provides a
22 management fee, levy or rebate provides value to acquiring agencies
23 exceeding open market acquisition costs.

24

1 SECTION 17. AMENDATORY 74 O.S. 2011, Section 85.39, as
2 amended by Section 755, Chapter 304, O.S.L. 2012 (74 O.S. Supp.
3 2019, Section 85.39), is amended to read as follows:

4 Section 85.39. A. 1. Each state agency shall develop internal
5 purchasing procedures for acquisitions by the state agency.
6 Procedures shall, at a minimum, include provisions for the state
7 agency's needs assessment, funding, routing, review, audits,
8 monitoring, and evaluations. Following development, the state
9 agency shall submit the procedures to the State Purchasing Director
10 for approval.

11 2. The State Purchasing Director shall review the procedures
12 submitted pursuant to paragraph 1 of this subsection to determine
13 compliance with ~~The~~ the Oklahoma Central Purchasing Act, rules
14 promulgated pursuant thereto, Sections 3001 through 3010 of this
15 title, and provisions of paragraph 1 of this subsection. The State
16 Purchasing Director shall ~~provide written findings, including~~
17 ~~details of noncompliance, if any, to the Director of the Office of~~
18 ~~Management and Enterprise Services.~~

19 ~~3. The Director of the Office of Management and Enterprise~~
20 ~~Services shall, within fifteen (15) days after the procedures are~~
21 ~~submitted,~~ notify the state agency that the procedures are in
22 compliance or indicate revisions necessary to bring the procedures
23 into compliance.

24

1 B. A state agency shall not make acquisitions exceeding ~~Five~~
2 ~~Thousand Dollars (\$5,000.00)~~ pursuant to ~~Section 85.5~~ of this title
3 the fair and reasonable acquisition threshold amount, unless the
4 State Purchasing Director ~~of the Office of Management and Enterprise~~
5 ~~Services~~ provides notice of compliance.

6 C. Each state agency shall maintain a document file for each
7 acquisition the state agency makes which shall include, at a
8 minimum, justification for the acquisition, supporting
9 documentation, copies of all contracts, if any, pertaining to the
10 acquisition, evaluations, written reports if required by contract,
11 and any other information the State Purchasing Director requires be
12 kept.

13 SECTION 18. AMENDATORY 74 O.S. 2011, Section 85.41, is
14 amended to read as follows:

15 Section 85.41. A. A state agency that acquires professional
16 services shall comply with the provisions of this section.

17 B. The state agency ~~shall~~ may evaluate the performance of the
18 professional services provided pursuant to all professional services
19 contracts exceeding the "fair and reasonable" ~~dollar~~ acquisition
20 threshold amount. The performance evaluation shall indicate the
21 quality of service or work product of the supplier. The state
22 agency shall retain the evaluation in the document file the state
23 agency maintains for the acquisition pursuant to Section 85.39 of
24 this title. If the evaluation indicates deficiencies with the

1 supplier's work, the state agency shall send a copy of the
2 evaluation to the State Purchasing Director.

3 C. If the work product of the contract is a report subject to
4 disclosure under state or federal law or regulation, the state
5 agency shall file the report with the State Librarian and Archivist.

6 D. A state agency shall administer, monitor, and audit the
7 professional services contract. ~~The State Purchasing Director may~~
8 ~~require the state agency and may be required~~ to report the status of
9 an unfinished professional services contract to the State Purchasing
10 Director ~~the status of an unfinished professional services contract~~.

11 E. A professional services contract shall include an audit
12 clause which provides that all items of the supplier that relate to
13 the professional services are subject to examination by the state
14 agency, the State Auditor and Inspector and the State Purchasing
15 Director.

16 F. ~~1. If~~ Except for a contract renewal, the final product of
17 the professional services contract is a written proposal, report, or
18 study, the professional services contract shall require the supplier
19 to certify that the supplier has not previously provided the state
20 agency or another state agency with a final product that is a
21 substantial duplication of the final product of the proposed
22 contract.

23 ~~2. Any state agency renewing a contract with a supplier shall~~
24 ~~not be subject to the provisions of paragraph 1 of this subsection.~~

1 ~~G. 1. Contracts for professional services shall provide for~~
2 ~~payment for services at a uniform rate throughout the duration of~~
3 ~~the contract if the services throughout the duration of the contract~~
4 ~~are similar and consistent.~~

5 ~~2. No state agency shall execute a contract for professional~~
6 ~~services providing for nonuniform payments throughout the duration~~
7 ~~of the contract without authorization of the State Purchasing~~
8 ~~Director.~~

9 SECTION 19. AMENDATORY 74 O.S. 2011, Section 85.42, as
10 amended by Section 1, Chapter 252, O.S.L. 2019 (74 O.S. Supp. 2019,
11 Section 85.42), is amended to read as follows:

12 Section 85.42. A. 1. Except as otherwise provided for in this
13 section or other applicable law, any agency, whether or not such
14 agency is subject to ~~The~~ the Oklahoma Central Purchasing Act, is
15 prohibited from entering into a sole source contract or a contract
16 for professional services with or for the services of any person,
17 who has terminated employment with or who has been terminated by
18 that agency for one (1) year after the termination date of the
19 employee from the agency. The provisions of this subsection shall
20 not prohibit an agency from hiring or rehiring such person as a
21 state employee.

22 2. Any chief administrative officer of an agency, whether or
23 not such agency is subject to the Oklahoma Central Purchasing Act,
24 shall not enter into any contract for nonprofessional or

1 professional services for the purpose of or which would result in
2 the circumvention of the full-time equivalent employee limitation
3 established by law for such agency.

4 B. Each contract entered into by any person or firm with the
5 State of Oklahoma shall include a statement certifying that no
6 person who has been involved in any manner in the development of
7 that contract while employed by the ~~State of Oklahoma~~ state shall be
8 employed to fulfill any of the services provided for under the
9 contract. This subsection shall not preclude faculty and staff of
10 the institutions within The State System of Higher Education from
11 negotiating and participating in research grants and educational
12 contracts. Nor shall this subsection apply to ~~personnel of the~~
13 ~~Capital Resources Division of the~~ Oklahoma Department of Commerce
14 personnel who contract to provide services to the Oklahoma Capital
15 Investment Board.

16 C. As used in this section, person is defined as any state
17 official or employee of a department, board, bureau, commission,
18 agency, trusteeship, authority, council, committee, trust, school
19 district, fair board, court, executive office, advisory group, task
20 force, study group, supported in whole or in part by public funds or
21 entrusted with the expenditure of public funds or administering or
22 operating public property, and all committees, or subcommittees
23 thereof, judges, justices, and state legislators.

24

1 D. ~~An agency may enter into a sole source contract or a~~
2 Notwithstanding anything to the contrary in this section, the
3 following sole source or professional services contracts are allowed
4 at any time:

5 1. A contract for professional services at any time with a
6 person who is a qualified interpreter for the deaf; and

7 2. A contract between a business entity that is a part-time
8 certified court reporter and the Administrative Office of the
9 Courts, on behalf of the district courts, or the Office of the
10 Attorney General.

11 E. Provided the provisions specified in subsection B of this
12 section are satisfied, the following professional services contracts
13 are allowed:

14 1. The Department of Transportation, Oklahoma Water Resources
15 Board, Department of Environmental Quality, Oklahoma Tourism and
16 Recreation Department, the Oklahoma Turnpike Authority and the
17 Oklahoma Department of Agriculture, Food, and Forestry may enter
18 into a contract for professional services at any time with a person
19 who has retired from state service, provided the provisions
20 specified in subsection B of this section are satisfied.

21 F. ~~The Department of Human Services may enter into a contract~~
22 ~~for professional services related to computer application~~
23 ~~development support and network engineering at any time with a~~
24

1 ~~person who has separated from state service, provided the provisions~~
2 ~~specified in subsection B of this section are satisfied.;~~

3 ~~G. 2.~~ 2. To maintain public health infrastructure and
4 preparedness, the State Department of Health and city-county health
5 departments may ~~enter into a contract for professional services at~~
6 ~~any time~~ with a ~~physicians~~ physician assistant, registered nurse,
7 advanced practice nurse, nurse midwife, registered dietician,
8 occupational therapist, physical therapist, or speech-language
9 pathologist who has retired from state service; ~~provided, the~~
10 ~~provisions specified in subsection B of this section are also~~
11 ~~satisfied. and~~ and

12 ~~H. 3.~~ 3. The Department of Mental Health and Substance Abuse
13 Services may ~~enter into a contract for professional services at any~~
14 ~~time~~ with a physician, registered nurse, registered pharmacist, or
15 person meeting the definition of a licensed mental health
16 professional, as defined in Title 43A of the Oklahoma Statutes, who
17 has separated and/or retired from state service; ~~provided that the~~
18 ~~provisions specified in subsection B of this section are satisfied.~~

19 ~~I. The Administrative Office of the Courts may, on behalf of~~
20 ~~the district courts, enter into a sole source contract or a contract~~
21 ~~for professional services at any time with a person who is a part-~~
22 ~~time certified court reporter.~~

23

24

1 SECTION 20. AMENDATORY 74 O.S. 2011, Section 85.43, as
2 amended by Section 756, Chapter 304, O.S.L. 2012 (74 O.S. Supp.
3 2019, Section 85.43), is amended to read as follows:

4 Section 85.43. A. Each chief administrative officer of a state
5 agency shall submit to the State Purchasing Director by November 1
6 of each year a report listing all acquisitions exceeding ~~Fifty~~
7 ~~Thousand Dollars (\$50,000.00) but not exceeding One Hundred Thousand~~
8 ~~Dollars (\$100,000.00) of the state agency~~ the agency's acquisition
9 threshold amount for the preceding fiscal year ~~which will include~~
10 and identify the following ~~information~~:

- 11 1. Professional services contracts;
- 12 2. Nonprofessional services contracts; ~~and~~
- 13 3. ~~Contracts for the leasing of property including real~~
14 ~~property contracts and any lease agreements for products or~~
15 ~~equipment~~ Sole source and sole brand acquisitions; and
- 16 4. Contracts for the leasing of personal property other than a
17 lease acquisition utilizing a statewide contract.

- 18 B. The report shall contain:
- 19 1. The name of the supplier;
 - 20 2. A description of each acquisition;
 - 21 3. The purchase price of the acquisition; and
 - 22 4. The total amount expended to date for the preceding fiscal
23 year for the acquisition.

24

1 C. ~~The report shall specifically identify sole source and sole~~
2 ~~brand acquisitions.~~

3 ~~D.~~ The state agency shall additionally submit the report to the
4 State Auditor and Inspector and ~~to the Office of Management and~~
5 ~~Enterprise Services.~~ ~~The state agency shall submit the report,~~ upon
6 request, to any member of the Appropriations and Budget Committee of
7 the House of Representatives or Appropriations Committee of the
8 Senate ~~if a member so requests.~~

9 ~~E.~~ D. The State Auditor and Inspector shall review the report
10 for compliance with statutes and rules or other provisions of law
11 applicable to sole source and sole brand acquisitions.

12 SECTION 21. AMENDATORY 74 O.S. 2011, Section 85.44B, is
13 amended to read as follows:

14 Section 85.44B. A. Payment for products or services pursuant
15 to a contract executed by a state agency, whether or not such state
16 agency is subject to the Oklahoma Central Purchasing Act, ~~Section~~
17 ~~85.1 et seq. of this title,~~ shall be made only after products or
18 services have been ~~provided or services rendered~~ accepted as
19 satisfactory. This section shall not prohibit the payment of
20 membership dues or payment for subscriptions to magazines,
21 periodicals, ~~or books~~ or for payment to vendors providing
22 subscription services. ~~This section shall not prohibit payment for~~
23 ~~services provided by the United States Army Corps of Engineers prior~~
24 ~~to the services being rendered if the action is taken pursuant to a~~

1 ~~cooperative agreement between a state agency and the Corps to~~
2 ~~provide emergency response or to protect the public health, safety,~~
3 ~~or welfare.~~

4 B. If the State Purchasing Director approves an acquisition
5 from the federal government or agency and determines that the
6 regulations of the federal government or agency handling the
7 acquisition require that partial or full payment be made before the
8 acquisition will be delivered, the State Purchasing Director, upon
9 requisition by the requesting party, shall have a state warrant
10 drawn against the funds of the acquiring state agency payable to the
11 United States of America or its proper agency. The warrant shall be
12 in such amount as may be necessary to meet the terms and conditions
13 of the acquisition without requiring a certificate showing that the
14 acquisition has actually been delivered to the state agency in whose
15 behalf the purchase is being negotiated.

16 SECTION 22. AMENDATORY 74 O.S. 2011, Section 85.44C, is
17 amended to read as follows:

18 Section 85.44C. ~~It shall be unlawful for any state agency,~~
19 ~~whether~~ Whether or not ~~such~~ a state agency is subject to the
20 Oklahoma Central Purchasing Act, ~~to~~ no agency shall enter into any
21 contract which provides for the state or state agency to furnish
22 material or equipment to be used by the ~~vendor or service provider~~
23 supplier contracting with the state in the performance of the
24 contract if the contract allows the vendor or service provider to

1 acquire ownership of the material or equipment during or after the
2 term of the contract in any manner other than through competitive
3 bidding or a public sale procedure.

4 SECTION 23. AMENDATORY Section 1, Chapter 179, O.S.L.
5 2015 (74 O.S. Supp. 2019, Section 85.44E), is amended to read as
6 follows:

7 Section 85.44E. A. ~~This act shall be known and may be cited as~~
8 ~~the "Disabled Veteran Business Enterprise Act"~~ Disabled Veteran
9 Businesses.

10 ~~B.~~ As used in this section:

11 1. "Service-disabled veteran" means any individual that is
12 disabled as certified by the appropriate federal agency responsible
13 for the administration of veterans' affairs; and

14 2. "Service-disabled veteran business" means a business:

15 a. not less than fifty-one percent (51%) of which is
16 owned by one or more service-disabled veterans or, in
17 the case of any publicly owned business, not less than
18 fifty-one percent (51%) of the stock of which is owned
19 by one or more service-disabled veterans, and

20 b. the management and daily business operations of which
21 are controlled by one or more service-disabled
22 veterans.

23 ~~C.~~ B. In awarding contracts for the performance of any job or
24 service, all agencies, departments, institutions and other entities

1 of this state and of each political subdivision of this state shall
2 give a ~~three-point~~ three-percentage point bonus preference to
3 service-disabled veteran businesses doing business as Oklahoma
4 firms, corporations or individuals, or which maintain Oklahoma
5 offices or places of business.

6 ~~D.~~ C. In implementing the provisions of subsection ~~C~~ B of this
7 section, the following shall apply:

8 1. The Director of the Office of Management and Enterprise
9 Services shall have the goal of three percent (3%) of all such
10 contracts described in subsection ~~C~~ B of this section to be awarded
11 to such veterans; and

12 2. If an insufficient number of such veterans doing business in
13 this state submit a bid or proposal for a contract by an agency,
14 department, institution or other entity of the state or a political
15 subdivision, such goal shall not be required and the provisions of
16 paragraph 1 of this subsection shall not apply.

17 ~~E.~~ D. The Director of the Office of Management and Enterprise
18 Services may promulgate rules in order to implement the provisions
19 of this section.

20 SECTION 24. AMENDATORY 74 O.S. 2011, Section 85.45j, as
21 amended by Section 763, Chapter 304, O.S.L. 2012 (74 O.S. Supp.
22 2019, Section 85.45j), is amended to read as follows:

23 Section 85.45j. A. 1. ~~Pursuant to the provisions of this~~
24 ~~section, an~~ A sole source acquisition ~~may be~~ is exempt from

1 competitive bidding procedures as a sole source or requirements of
2 this act, but a sole brand acquisition is subject to such
3 competitive bidding requirements.

4 2. ~~If a state agency desires to make a~~ For each sole source or
5 sole brand acquisition, the state agency shall retain in the state
6 agency's acquisition file ~~or~~ and attach to the requisition, a
7 certification signed by the chief administrative officer of the
8 state agency, in the following form:

9 SOLE SOURCE OR SOLE BRAND ACQUISITION
10 CERTIFICATION

11 STATE AGENCY _____

12 SUPPLIER NAME _____

13 SUPPLIER ADDRESS _____

14 SUPPLIER ~~TELEPHONE~~ CONTACT INFORMATION

15 _____

16 In connection with the attached requisition or contract, I
17 hereby affirm ~~that pursuant to the provisions of the attached~~
18 ~~requisition or contract~~ that

19 (Name of Supplier)

20 is the only ~~person or~~ business entity singularly qualified to
21 provide the acquisition, ~~and if a product or~~ is the only brand or
22 ~~product which is unique~~ satisfying the acquisition requirements, for
23 the following reasons:

24 _____

1 _____
2 _____
3 _____
4 _____

5 The following is a brief description of all efforts ~~which were~~
6 made to verify that the ~~services or products to be purchased~~
7 ~~pursuant to the provisions of the attached requisition or contract~~
8 ~~qualify~~ acquisition qualifies as a sole source or sole brand
9 acquisition:

10 _____
11 _____
12 _____
13 _____
14 _____

15 I understand that the signing of this certification knowing such
16 information to be false may ~~subject me to punishment for perjury~~
17 result in forfeiture of my position and ineligibility for
18 appointment to or employment in state service for a period of five
19 (5) years following forfeiture of position.

20 _____
21 (Chief administrative officer)

22 3. A court order requiring ~~the purchase of specific products or~~
23 ~~services~~ a particular acquisition, but which does not specify a
24 brand or supplier shall not substitute for the certification

1 required by this ~~subsection~~ section or otherwise invalidate the
2 acquisition procedures required pursuant to The by the Oklahoma
3 Central Purchasing Act.

4 4. ~~Any chief administrative officer of a state agency affirming~~
5 ~~the certification required by this subsection who knows the~~
6 ~~information to be false shall be deemed guilty of perjury and upon~~
7 ~~conviction shall be punished by fine or by imprisonment or both fine~~
8 ~~and imprisonment pursuant to law. Upon conviction or upon entering~~
9 ~~a plea of nolo contendere pursuant to this paragraph, the chief~~
10 ~~administrative officer shall immediately forfeit his or her position~~
11 ~~and shall be ineligible for appointment to or employment in the~~
12 ~~state service for a period of five (5) years after entering a plea~~
13 ~~of nolo contendere or being convicted.~~

14 5. Upon a determination by the Director of the Office of
15 Management and Enterprise Services that there are reasonable grounds
16 to believe that a violation of this ~~subsection~~ section has occurred,
17 the Director shall send findings to the Attorney General that
18 support the determination. The Attorney General shall review the
19 findings and determine whether to investigate or prosecute the
20 person.

21 6. ~~If the acquisition's purchase price is such that the state~~
22 ~~agency is required to submit a requisition to the State Purchasing~~
23 ~~Director, the State Purchasing Director shall approve or deny the~~
24 ~~requisition for a sole source or sole brand acquisition.~~

1 5. Prior to approving a requisition ~~pursuant to this paragraph~~
2 for a sole source or sole brand acquisition, the ~~State Purchasing~~
3 ~~Director~~ Division shall ~~document reasons~~ require the signed
4 certification documenting the need for a sole source or sole brand
5 ~~purchase is necessary~~ acquisition and shall retain a ~~written record~~
6 ~~for three (3) fiscal years following the end of the fiscal year~~
7 ~~during which the sole source or sole brand acquisition was made~~ the
8 certification in accordance with state record retention
9 requirements.

10 ~~7.~~ 6. For a sole source or sole brand acquisitions exceeding
11 ~~Five Thousand Dollars (\$5,000.00)~~ the fair and reasonable
12 acquisition threshold amount and not requiring submission of a
13 requisition to the ~~State Purchasing Director~~ Division, the state
14 agency's certified procurement officer ~~shall document reasons a sole~~
15 ~~source or sole brand acquisition is necessary~~ and shall retain a
16 ~~written record for three (3) fiscal years following the end of the~~
17 ~~fiscal year during which the sole source or sole brand acquisition~~
18 ~~was made.~~

19 ~~8.~~ ~~The chief administrative officer of each state agency shall~~
20 ~~submit to the State Purchasing Director a monthly listing of all~~
21 ~~sole source and sole brand acquisitions exceeding Five Thousand~~
22 ~~Dollars (\$5,000.00) executed by the state agency in the preceding~~
23 ~~month. The report shall indicate whether requisitions for sole~~
24 ~~source and sole brand acquisitions were disapproved or modified by~~

1 ~~the State Purchasing Director and information the State Purchasing~~
2 ~~Director requires.~~

3 ~~9. The State Purchasing Director shall electronically provide~~
4 ~~to the Office of Management and Enterprise Services the information~~
5 ~~received pursuant to paragraph 8 of this subsection in machine-~~
6 ~~readable format and in the form the Office of Management and~~
7 ~~Enterprise Services requires, in the acquisition file, the signed~~
8 ~~certification documenting the need for the sole source or sole brand~~
9 ~~acquisition in accordance with state record retention requirements.~~

10 B. By the fifteenth day of each month, or the first working day
11 thereafter, the Office of Management and Enterprise Services shall
12 provide a report ~~from the information received pursuant to this~~
13 ~~section to:~~

14 1. The Speaker of the House of Representatives and the
15 President Pro Tempore of the Senate; and

16 2. ~~The Majority and Minority Leaders of both the House of~~
17 ~~Representatives and the Senate;~~

18 3. ~~The Chair and Vice-chair of the Appropriations and Budget~~
19 ~~Committee of the House of Representatives and the Appropriations~~
20 ~~Committee of the Senate; and~~

21 4. Any member of the Legislature requesting the report.

22 The report shall detail ~~all~~ sole source and sole brand
23 acquisitions by state agencies for the month prior to the month
24 preceding the submission of the report. The report shall be titled

1 "Monthly Sole Source and Sole Brand Contracting Report of Oklahoma
2 State Agencies" and indicate the time period of the report. The
3 report shall be provided ~~in physical form unless the requesting~~
4 ~~person specifies the electronic version. The report shall be signed~~
5 by the Director of the Office of Management and Enterprise Services
6 or the Director's designee. The report shall be in columnar
7 database format and shall include at least the following fields of
8 information: state agency number; state agency name; date created
9 by the Office of Management and Enterprise Services for the
10 requisition; date of either approval or disapproval of the
11 requisition; if disapproved, the reason why such contract
12 requisition was disapproved; estimated amount of the requisition
13 acquisition; purchase order amount; purchase order number; actual
14 business name of supplier; supplier federal employer identification
15 number; ~~contact person~~; and the commodity classification listing at
16 the appropriate level to distinguish between similar acquisitions.
17 Information required by this subsection shall be reported and
18 maintained on each report through the next reporting period after an
19 acquisition is made. The applicable data in the fields of
20 information specified in this subsection shall be listed even if the
21 state agency requisition is disapproved.

22 ~~C. The Office of Management and Enterprise Services shall~~
23 ~~maintain electronic historic data or any other data received~~
24 ~~pursuant to this section for at least two (2) years.~~

1 ~~D. By August 15 of each year, from the data received pursuant~~
2 ~~to this section, the Office of Management and Enterprise Services~~
3 ~~shall complete and submit a report detailing the number of sole~~
4 ~~source or sole brand contracts issued by each state agency and a~~
5 ~~list of the business names of the suppliers who received sole source~~
6 ~~or sole brand awards during the previous fiscal year and if more~~
7 ~~than one such award, the number of awards so executed.~~

8 SECTION 25. AMENDATORY 74 O.S. 2011, Section 85.45q, is
9 amended to read as follows:

10 Section 85.45q. As used in the Oklahoma Online Bidding Act:

11 1. ~~"Information technology" means data processing,~~
12 ~~telecommunications, and office systems technologies and services;~~

13 2. ~~"Services" means the furnishing of labor, time, or effort by~~
14 ~~a contractor not required to deliver a specific end product, other~~
15 ~~than reports which are merely incidental to required performance;~~

16 3. ~~"Construction" shall be defined as provided by Section 202~~
17 ~~of Title 61 of the Oklahoma Statutes for online bids subject to the~~
18 ~~Public Building Construction and Planning Facilities Act;~~

19 4. 2. "Procurement" means buying, purchasing, renting, leasing,
20 or otherwise acquiring any goods, services, construction, or
21 information services. The term also means all functions that
22 pertain to the obtaining of any goods, services, construction, or
23 information services, including, but not limited to, the description
24 of requirements, selection, and solicitation of sources,

1 negotiation, preparation and award of contracts, and all phases of
2 contract administration;

3 ~~5.~~ 3. "State agencies" or "agencies" shall be defined as
4 ~~provided by state agency is defined in~~ Section 85.2 of ~~Title 74 of~~
5 ~~the Oklahoma Statutes~~ this title for online bids subject to the
6 Oklahoma Central Purchasing Act or as defined by Section 202 of
7 Title 61 of the Oklahoma Statutes for online bids subject to the
8 Public ~~Building Construction and Planning~~ Facilities Act;

9 ~~6.~~ 4. "Online bidding" means an electronic procurement process
10 in which state agencies receive bids ~~from vendors for goods,~~
11 ~~services, construction, or information services~~ over the Internet in
12 a real-time, competitive bidding event; and

13 ~~7.~~ "Internet" means the international computer network of both
14 ~~federal and nonfederal interoperable packet-switched data networks,~~
15 ~~including the graphical subnetwork called the World Wide Web; and~~

16 ~~8.~~ 5. "Solicitation" means ~~a request or invitation by the State~~
17 ~~Purchasing Director or a state agency for a supplier to submit a~~
18 ~~priced offer to sell acquisitions to the state. A solicitation may~~
19 ~~be an invitation to bid, request for proposal, or request for~~
20 ~~quotation~~ shall be defined as provided in Section 85.2 of this
21 title.

22 SECTION 26. AMENDATORY 74 O.S. 2011, Section 85.45r, as
23 amended by Section 766, Chapter 304, O.S.L. 2012 (74 O.S. Supp.
24 2019, Section 85.45r), is amended to read as follows:

1 Section 85.45r. A. When a state agency ~~purchasing agent~~
2 determines that ~~electronic or~~ online bidding is more advantageous
3 than other procurement methods provided by the laws of this state,
4 the ~~purchasing agent~~ agency may use online bidding to obtain bids as
5 authorized by ~~The~~ the Oklahoma Central Purchasing Act or the Public
6 ~~Building Construction and Planning~~ Facilities Act for ~~the purchase~~
7 ~~of goods, services, construction, or information services~~ purchases
8 or acquisitions as defined in Section 85.2 of this title.

9 B. The online bidding process shall provide:

10 1. A designated opening and closing date and time. At the
11 opening date and time, state agencies shall begin accepting online
12 ~~electronic~~ bids. Online bids shall be accepted until the designated
13 closing date and time, except as provided by paragraph 6 of this
14 subsection;

15 2. The posting of all online bids electronically and updating
16 of bids on a real-time basis by state agencies;

17 3. The authorization for state agencies to require bidders to
18 register before the opening date and time and, as part of that
19 registration, require bidders to agree to any terms, conditions or
20 other requirements ~~of the solicitation or applicable acts;~~

21 4. The authorization for state agencies to also require
22 potential bidders to prequalify as bidders and to restrict
23 solicitations to prequalified online bidders for bids submitted
24 pursuant to the Public Facilities Act;

1 5. The retention of the authority of state agencies to
2 determine the criteria that will be used as the basis for making
3 awards; and

4 6. The authorization for the State Purchasing Director ~~of the~~
5 ~~Office of Management and Enterprise Services~~, under the Oklahoma
6 Central Purchasing Act or the State Facilities Director under the
7 Public Facilities Act, in the event the state agency determines that
8 a significant error or event occurred that affected the electronic
9 receipt of any online bid by the agency, to determine it is in the
10 best interest of the state to allow the agency to accept an
11 electronic bid after the specified official closing date and time.

12 C. The provisions of the Oklahoma Online Bidding Act shall not
13 apply to bid or proposal sealing or opening provisions found in any
14 state law other than ~~The~~ the Oklahoma Central Purchasing Act or the
15 Public ~~Building Construction and Planning~~ Facilities Act.

16 D. All bids submitted ~~electronically~~ through the online bidding
17 process pursuant to the Oklahoma Online Bidding Act are subject to
18 the same public disclosure laws that govern bids received pursuant
19 to sealed bid procurement procedures pursuant to ~~The~~ the Oklahoma
20 Central Purchasing Act or the Public ~~Building Construction and~~
21 ~~Planning~~ Facilities Act.

22 E. All remedies available to state agencies and suppliers
23 through the sealed bid process pursuant to ~~The~~ the Oklahoma Central
24 Purchasing Act or the Public ~~Building Construction and Planning~~

1 Facilities Act are also available to state agencies and online
2 bidders in an online bidding process.

3 SECTION 27. AMENDATORY 74 O.S. 2011, Section 85.58A, as
4 last amended by Section 1, Chapter 244, O.S.L. 2014 (74 O.S. Supp.
5 2019, Section 85.58A), is amended to read as follows:

6 Section 85.58A. A. The Office of Management and Enterprise
7 Services (OMES) shall establish for all state agencies, whether or
8 not subject to ~~The~~ the Oklahoma Central Purchasing Act, and other
9 entities as provided by law a comprehensive professional risk
10 management program which shall:

11 1. Identify and evaluate risks of loss and exposures to loss to
12 officers, employees and properties;

13 2. Minimize risks through loss-prevention and loss-control
14 programs;

15 3. Transfer risks, if economically advantageous to the state,
16 by acquiring commercial insurance, contractual pass through of
17 liability, or by other means;

18 4. Consolidate and administer risk management plans and
19 programs including self-insurance programs, except State Employees
20 Group Insurance;

21 5. Determine feasibility of and, if feasible, establish self-
22 insurance programs, considering whether a program may be self-
23 supporting to remain financially and actuarially sound;

24

1 6. Provide a system to allocate insurance and program costs to
2 determine payment for insurance coverage and program expenses
3 provided by the Office of Management and Enterprise Services;

4 7. When requested by a state retirement system or the State and
5 Education Employees Group Insurance Board, assist in obtaining
6 insurance authorized by law. If requested by the Oklahoma State
7 Regents for Higher Education, assist trust funds for which the State
8 Regents serve as trustees in obtaining insurance authorized by law;

9 8. Assist state agencies and officers, employees, and members
10 thereof, charged with licensing authority, in obtaining insurance
11 for liability for judgments, based on the licensing authority,
12 rendered by any court pursuant to federal law;

13 9. When requested by a public trust established pursuant to
14 Title 60 of the Oklahoma Statutes of which the State of Oklahoma is
15 the beneficiary, obtain, provide or assist the public trust in
16 obtaining insurance authorized by law or trust indenture covering
17 any board member, trustee, official, officer, employee or volunteer
18 for errors and omissions or liability risks arising from the
19 performance of official duties pursuant to law or trust indenture;

20 ~~and~~

21 10. When requested by the Oklahoma State Regents for Higher
22 Education, for the purpose of insuring real property required
23 pursuant to Section 4018 of Title 70 of the Oklahoma Statutes, of
24 which the Oklahoma State Regents for Higher Education is the

1 beneficiary, obtain, provide or assist the Oklahoma State Regents
2 for Higher Education in obtaining insurance for the real property
3 pursuant to the provisions of this section; and

4 11. Authorize the Risk Management Administrator to declare an
5 emergency for the purpose of mitigating damages to any state-owned
6 property insured under the comprehensive professional risk
7 management program administered by OMES.

8 B. The Director of the Office of Management and Enterprise
9 Services may hire or contract for the services of a Risk Management
10 Administrator to supervise the Comprehensive Professional Risk
11 Management Program established pursuant to this section. If
12 appointed by the Director as a state employee, the Risk Management
13 Administrator shall be in the unclassified service.

14 C. The Risk Management Administrator shall evaluate insurance
15 coverage needs and in force for state agencies, whether or not
16 subject to ~~The~~ the Oklahoma Central Purchasing Act, and other
17 entities as provided by law. All entities shall submit to the Risk
18 Management Administrator all information which the Risk Management
19 Administrator deems necessary to perform this duty.

20 D. The Risk Management Administrator in conjunction with the
21 State Purchasing Director under the authority of the Director of the
22 Office of Management and Enterprise Services may negotiate insurance
23 coverage and insurance-related services, including, but not limited
24 to, insurance brokerage and consulting services. The State

1 Purchasing Director shall ensure open processes for solicitation and
2 qualification of insurance coverage and services providers. The
3 State Purchasing Director shall award contracts for insurance
4 coverage and services to the provider or providers which offer the
5 best and final terms and conditions. The State Purchasing Director
6 may authorize the Risk Management Administrator to bind for
7 insurance coverage with providers.

8 E. The school districts of this state may request the Risk
9 Management Administrator to advise for the purchase of insurance
10 coverage for the school districts.

11 F. A state agency, whether or not subject to ~~The~~ the Oklahoma
12 Central Purchasing Act, that contemplates purchase of property and
13 casualty insurance, shall provide details of the proposed purchase
14 to the Risk Management Administrator for approval or disapproval
15 prior to the purchase.

16 G. The Director of the Office of Management and Enterprise
17 Services shall promulgate rules to effect the provisions of the
18 comprehensive professional risk management program.

19 H. 1. a. Any community action agency established pursuant to
20 Sections 5035 through 5040 of this title may
21 participate in the comprehensive professional risk
22 management program established pursuant to this
23 section for risks incurred as a result of operating a
24 Head Start program or providing transportation

1 services to the public. The Risk Management
2 Administrator shall obtain or provide for insurance
3 coverage for such community action agencies or bonding
4 for employees of such community action agencies. Any
5 liability insurance coverage obtained or provided
6 shall include expenses for administrative and legal
7 services obtained or provided by the Risk Management
8 Administrator.

9 b. The Risk Management Administrator shall determine
10 criteria for participation in the risk management
11 program by such community action agencies. In
12 addition, the Risk Management Administrator may
13 require each such community action agency to:

14 (1) provide adequate qualified personnel and suitable
15 facilities and equipment for operating a Head
16 Start program or providing transportation
17 services to the public, and

18 (2) comply with such standards as are necessary for
19 the protection of the clients it serves.

20 2. To receive coverage pursuant to this section, a community
21 action agency shall make payments for any insurance coverage and
22 shall otherwise comply with the provisions of this section and rules
23 promulgated by the Office pursuant to the provisions of this
24 section.

1 3. Requests for the insurance coverage provided pursuant to the
2 provisions of this subsection shall be submitted in writing to the
3 Risk Management Administrator by the community action agencies.

4 I. The Risk Management Administrator may provide or obtain for
5 any state agency, public trust with the state as a beneficiary and a
6 director, officer, employee or member thereof, insurance for
7 liability for loss, including judgments, awards, settlements, costs
8 and legal expenses, resulting from violations of rights or
9 privileges secured by the Constitution or laws of the United States
10 of America which occur while a director, officer, employee or member
11 is acting within the scope of service to the State of Oklahoma. The
12 insurance shall be for coverage in excess of the limits on liability
13 established by The Governmental Tort Claims Act but shall not limit
14 or waive any immunities now or hereafter available to the State of
15 Oklahoma or any state agency, any public trust with the state as a
16 beneficiary, or any director, officer, employee or member thereof,
17 including, but not limited to, any immunities under the Eleventh
18 Amendment to the Constitution of the United States, state sovereign
19 immunity, and any absolute or qualified immunity held by any
20 director, officer, employee or member.

21 SECTION 28. AMENDATORY 62 O.S. 2011, Section 34.62, as
22 amended by Section 385, Chapter 304, O.S.L. 2012 (62 O.S. Supp.
23 2019, Section 34.62), is amended to read as follows:
24

1 Section 34.62. Encumbrance requirements for payments from funds
2 of the state shall include the following:

3 1. Whenever agencies of this state enter into contracts for, or
4 on behalf of the state for the purchase of tangible or intangible
5 property, or for services or labor, such agreement shall be
6 evidenced by written contracts or purchase orders, and must be
7 transmitted to the Director of the Office of Management and
8 Enterprise Services within a reasonable time from the date of the
9 awarding of the contract or purchase order, as determined by the
10 Director;

11 2. The Director of the Office of Management and Enterprise
12 Services shall charge such contracts or purchase orders against the
13 proper account as an outstanding order until it is liquidated by
14 payment of a claim, or claims, against ~~said~~ the contracts or
15 purchase orders, or by cancellation of the contract or purchase
16 order;

17 3. The Director of the Office of Management and Enterprise
18 Services shall have the power to authorize agencies of the state to
19 make ~~purchases~~ acquisitions without the submission of competitive
20 bids or compliance with the state purchase card program as otherwise
21 required by ~~Sections 85.7 and 85.12 of Title 74 of the Oklahoma~~
22 ~~Statutes~~ the Oklahoma Central Purchasing Act, for or on behalf of
23 the state whenever the Director determines that it is in the best
24 interests of the state. The administrative head of any agency shall

1 be personally liable for obligations incurred in excess of the
2 authorization granted by the Director;

3 4. The Director of the Office of Management and Enterprise
4 Services shall never authorize payment of claims for any agency of
5 the state unless they are supported by:

- 6 a. contracts or purchase orders of the Office of
7 Management and Enterprise Services,
- 8 b. institutional purchase orders or contracts,
- 9 c. departmental purchase orders or contracts, or
- 10 d. authorizations for purchases granted by the Director
11 as provided by paragraph 3 of this section;

12 5. Any invoice or claim dated prior to the date of any of the
13 above-mentioned encumbrance documents shall be rejected by the
14 Office of Management and Enterprise Services;

15 6. Any encumbrance document that is outstanding on the records
16 in the Office of Management and Enterprise Services when its funding
17 source or sources lapse shall be canceled, unless another current
18 funding source is assigned; and

19 7. The Commissioners of the Land Office shall be authorized to
20 make payment of fees to its custodial bank and investment managers
21 from the proceeds of total realized investment gains and such
22 payments may be made from a special fund hereby created in the State
23 Treasury for this purpose. Total payments for this purpose in a
24 fiscal year shall not exceed one-half percent (0.5%) of the market

1 value of the funds under the Commissioners' management on June 30 of
2 the previous fiscal year.

3 SECTION 29. RECODIFICATION 74 O.S. 2011, Sections 85.26,
4 as amended by Section 749, Chapter 304, O.S.L. 2012, 85.27, 85.28,
5 85.29, as last amended by Section 31, Chapter 254, O.S.L. 2015,
6 85.30 and 85.31, as amended by Section 751, Chapter 304, O.S.L.
7 2012, shall be recodified as Sections 85.58Q through 85.58V of Title
8 74 of the Oklahoma Statutes, unless there is created a duplication
9 in numbering.

10 SECTION 30. RECODIFICATION 74 O.S. 2011, Section 85.45j,
11 as last amended by Section 24 of this act, shall be recodified as
12 Section 85.44D.1 of Title 74 of the Oklahoma Statutes, unless there
13 is created a duplication in numbering.

14 SECTION 31. REPEALER 74 O.S. 2011, Section 85.4, as
15 amended by Section 736, Chapter 304, O.S.L. 2012 (74 O.S. Supp.
16 2019, Section 85.4), is hereby repealed.

17 SECTION 32. REPEALER Section 1, Chapter 29, O.S.L. 2019
18 (74 O.S. Supp. 2019, Section 85.5b), is hereby repealed.

19 SECTION 33. REPEALER 74 O.S. 2011, Section 85.7a, as
20 amended by Section 739, Chapter 304, O.S.L. 2012 (74 O.S. Supp.
21 2019, Section 85.7a) is hereby repealed.

22 SECTION 34. REPEALER 74 O.S. 2011, Section 85.7e, as
23 amended by Section 741, Chapter 304, O.S.L. 2012 (74 O.S. Supp.
24 2019, Section 85.7e), is hereby repealed.

1 SECTION 35. REPEALER 74 O.S. 2011, Section 85.7g, is
2 hereby repealed.

3 SECTION 36. REPEALER 74 O.S. 2011, Section 85.8, as
4 amended by Section 742, Chapter 304, O.S.L. 2012 (74 O.S. Supp.
5 2019, Section 85.8), is hereby repealed.

6 SECTION 37. REPEALER 74 O.S. 2011, Section 85.9B, as
7 amended by Section 743, Chapter 304, O.S.L. 2012 (74 O.S. Supp.
8 2019, Section 85.9B), is hereby repealed.

9 SECTION 38. REPEALER 74 O.S. 2011, Section 85.9D, as
10 amended by Section 744, Chapter 304, O.S.L. 2012 (74 O.S. Supp.
11 2019, Section 85.9D), is hereby repealed.

12 SECTION 39. REPEALER 74 O.S. 2011, Section 85.9G, is
13 hereby repealed.

14 SECTION 40. REPEALER 74 O.S. 2011, Section 85.10, is
15 hereby repealed.

16 SECTION 41. REPEALER 74 O.S. 2011, Section 85.11, is
17 hereby repealed.

18 SECTION 42. REPEALER 74 O.S. 2011, Section 85.12a, as
19 amended by Section 746, Chapter 304, O.S.L. 2012 (74 O.S. Supp.
20 2019, Section 85.12a), is hereby repealed.

21 SECTION 43. REPEALER 74 O.S. 2011, Section 85.12c, is
22 hereby repealed.

23

24

1 SECTION 44. REPEALER 74 O.S. 2011, Section 85.13, as
2 amended by Section 748, Chapter 304, O.S.L. 2012 (74 O.S. Supp.
3 2019, Section 85.13), is hereby repealed.

4 SECTION 45. REPEALER 74 O.S. 2011, Section 85.14, is
5 hereby repealed.

6 SECTION 46. REPEALER 74 O.S. 2011, Section 85.15, is
7 hereby repealed.

8 SECTION 47. REPEALER 74 O.S. 2011, Section 85.19, is
9 hereby repealed.

10 SECTION 48. REPEALER 74 O.S. 2011, Section 85.33B, as
11 amended by Section 754, Chapter 304, O.S.L. 2012 (74 O.S. Supp.
12 2019, Section 85.33B), is hereby repealed.

13 SECTION 49. REPEALER 74 O.S. 2011, Section 85.44, is
14 hereby repealed.

15 SECTION 50. REPEALER 74 O.S. 2011, Section 85.44A, is
16 hereby repealed.

17 SECTION 51. REPEALER 74 O.S. 2011, Section 85.44D, as
18 amended by Section 757, Chapter 304, O.S.L. 2012 (74 O.S. Supp.
19 2019, Section 85.44D), is hereby repealed.

20 SECTION 52. REPEALER Section 2, Chapter 219, O.S.L.
21 2013, as amended by Section 2, Chapter 255, O.S.L. 2014 (74 O.S.
22 Supp. 2019, Section 85.45j.1), is hereby repealed.

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1 SECTION 53. This act shall become effective November 1, 2020.

2 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT
3 February 13, 2020 - DO PASS AS AMENDED
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