

My Commission expires:

3. A court order requiring the purchase of certain products or services but which does not specify specific vendors or providers shall not constitute an affidavit nor be acceptable as a substitute for the affidavit required by this subsection or otherwise invalidate the competitive bidding procedures required pursuant to Section 85.7 of this title.

4. Any chief administrative officer of an agency affirming the affidavit required by this subsection who knows such information to be false shall be deemed guilty of perjury and upon conviction shall be punished by fine or by imprisonment or both fine and imprisonment pursuant to law.

5. Upon a determination by the Director of Central Services that there are reasonable grounds to believe that a violation of this subsection has occurred, the Director shall request the Attorney General to initiate criminal proceedings in district court.

6. The State Purchasing Director shall either approve or deny any requisition for a sole source contract.

B. Until July 1, 1993:

1. The chief administrative officer of each state agency subject to the Central Purchasing Act shall submit to the Speaker of the House of Representatives, President Pro Tempore of the Senate and the Chairmen of the House and Senate Appropriations Committees a listing of all sole source contracts executed or disapproved in the preceding month. The report shall identify the vendor or service provider, description of service or products, the contract amount and whether the contract was approved or disapproved or modified.

2. The Department of Central Services shall send to all members of the House and Senate Appropriations Committees, a copy of each sole source contract approved or rejected by the Department within thirty (30) days of acceptance or rejection of such contract if requested by such member.

C. Until July 1, 1993, the chief administrative officer of each state agency not subject to the Central Purchasing Act shall initiate procedures for:

1. Differentiating sole source contracts from competitively bid contracts; and

2. Classifying purchases of services and products pursuant to commodity classification listing at item level based on the Integrated Central System Purchasing Module.

D. Effective July 1, 1993:

1. The chief administrative officer of each state agency subject to the Central Purchasing Act shall submit to the State Purchasing Director a monthly listing of all sole source contracts exceeding Two Thousand Five Hundred Dollars (\$2,500.00) executed by the state agency in the preceding month. The report shall also contain information regarding requisitions for sole source contracts that were disapproved or modified by the State Purchasing Director and such other information required by the State Purchasing Director.

2. The State Purchasing Director shall electronically provide to the Office of State Finance the information received pursuant to this subsection in machine-readable format and in such form as is required by the Office of State Finance.

E. Effective July 1, 1993, the chief administrative officer of each agency not subject to the Central Purchasing Act shall submit to the Office of State Finance a monthly listing of all sole source contracts exceeding Two Thousand Five Hundred Dollars (\$2,500.00) executed by the agency in the preceding month and such additional

information and in such form as is required by the Office of State Finance.

F. Effective July 1, 1993:

1. By the fifteenth day of each month, or the first working day thereafter, the Office of State Finance shall provide a report from the information received pursuant to this section to:

- a. the Speaker of the House of Representatives and the President Pro Tempore of the Senate,
- b. the Majority and Minority Leaders of both the House of Representatives and the Senate,
- c. the Chairmen and Vice Chairmen of the Appropriations Committees of both the House of Representatives and the Senate,
- d. the Chairmen and Vice Chairmen of each subcommittee for the Appropriations Committees in both the House of Representatives and the Senate, and
- e. any member of the Legislature requesting such report.

The report shall detail all sole source contracting activity by state agencies for the month prior to the month preceding the submission of the report. The report shall be titled "Monthly Sole Source Contracting Report of Oklahoma State Agencies" and reflect the period covered in the report. The report shall be signed by the Director of State Finance or his designee. The report shall be in columnar database format and shall include at least the following fields of information: agency number; agency name; date created by the Department of Central Services for the requisition; date of either approval or disapproval of the requisition; estimated amount of the requisition; purchase order amount; purchase order number; actual business name of vendor; vendor federal employer identification number; contact person; and the commodity classification listing at the item level. Information required by this subsection shall be reported and maintained on each report through the next reporting period after a contract is awarded. The applicable data in the fields of information specified in this subsection shall be required to be listed even if the agency requisition is disapproved.

2. The Office of State Finance shall maintain electronic historic data or any other said data received pursuant to this section for at least two (2) years.

3. By August 15 of each year from the data received pursuant to this section, the Office of State Finance shall complete and submit a report detailing the number of sole source contracts issued by each state agency and a list of the business names of the vendors who received sole source contracts during the previous fiscal year and if more than one such contract, the number of contracts so executed.

G. For purposes of this section:

1. "State agency" or "agency" includes any office, officer, department, bureau, board, authority, council, court, commission, institution, unit, or division of each branch of state government, whether elected or appointed, excluding only municipalities, counties, school districts and any other local governmental subdivision of the state; and

2. "Sole source contract" means:

- a. for state agencies subject to the Oklahoma Central Purchasing Act, a contract for a particular service or item which by the specifications for the item or qualifications needed by an agency restricts the bidders to one person, to one business entity or to one brand name, and
- b. for state agencies that are not subject to the Oklahoma Central Purchasing Act, a contract for which competitive bids are not or have not been taken.

SECTION 2. AMENDATORY 74 O.S. 1991, Section 85.41, is amended to read as follows:

Section 85.41 A. Any state agency contracting for professional services, whether or not such services are exempt from the Oklahoma Central Purchasing Act, shall comply with the provisions of this section.

B. 1. Each state agency shall be responsible for completing a performance evaluation of the services provided under a professional services contract and evaluating the utility of the final product. The evaluations shall be delivered to the State Purchasing Director, who shall retain the evaluations for future reference.

2. Each state agency shall be required to retain at the central office of the agency in a document file, a copy of the contract, a record of the payments made to the service provider, and a copy of the evaluations required pursuant to paragraph 1 of this subsection.

C. If the final product of the contract is a report, a copy shall be filed with the State Librarian and Archivist.

D. A state agency bears full responsibility for the diligent administration, monitoring and auditing of a professional services contract. The State Purchasing Director may require a state agency to report to the State Purchasing Director at any time on the status of any outstanding state contract to which the state agency is a party.

E. A contract entered into by a state agency or by or under the supervision of the State Purchasing Director shall include an audit clause which provides that books, records, documents, accounting procedures, practices or any other items of the service provider relevant to the contract are subject to examination by the state agency, and the State Auditor and Inspector.

F. 1. Any person prior to entering into a professional services contract with a state agency for which the final product is a written proposal or study shall sign a sworn statement certifying, to the best of his knowledge, that he has not previously entered into a contract with the state agency or any other state agency which would result in a substantial duplication of the final product required by the proposed contract.

2. Any person renewing his contract with the state agency shall not be required to sign the sworn statement specified by this subsection.

G. 1. Contracts for professional services shall provide for payment for such services at a uniform rate throughout the duration of the contract if the services to be provided throughout the duration of the contract are similar and consistent.

2. a. No state agency subject to the Oklahoma Central Purchasing Act shall execute a contract for professional services providing for nonuniform payments throughout the duration of the contract without specific authorization and written justification by the Director.

b. Any state agency not subject to the Oklahoma Central Purchasing Act executing a contract for professional services providing for nonuniform payments throughout the duration of the contract, as a part of the document files required to be maintained pursuant to this section shall provide written justification for such nonuniform payment which justification shall be signed by the administrative head of such agency.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 85.44A of Title 74, unless there is created a duplication in numbering, reads as follows:

A court order requiring the purchase of certain goods or services by a state agency, whether or not such state agency is subject to the Oklahoma Central Purchasing Act, shall not invalidate

competitive bidding procedures required pursuant to Section 85.7 of Title 74 of the Oklahoma Statutes if such court order does not specify specific vendors or providers. Any such purchase of goods or services shall comply with competitive bid procedures.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 85.44B of Title 74, unless there is created a duplication in numbering, reads as follows:

Payment for products or services pursuant to a contract executed by a state agency, whether or not such state agency is subject to the Oklahoma Central Purchasing Act, shall be made only after products have been provided or services rendered.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 85.44C of Title 74, unless there is created a duplication in numbering, reads as follows:

It shall be unlawful for any state agency, whether or not such state agency is subject to the Oklahoma Central Purchasing Act, to enter into any contract which provides for the state or state agency to furnish material or equipment to be used by the vendor or service provider contracting with the state in the performance of the contract if the contract allows the vendor or service provider to acquire ownership of the material or equipment during or after the term of the contract in any manner other than through competitive bidding or a public sale procedure.

SECTION 6. AMENDATORY 74 O.S. 1991, Section 85.2, is amended to read as follows:

Section 85.2 As used in the Oklahoma Central Purchasing Act the following terms, in addition to their usual definitions, shall have the meanings ascribed to them in this section unless context otherwise requires:

1. "State agency" or "agency" includes any office, officer, bureau, board, counsel, court, commission, institution, unit, division, body or house of the executive or judicial branches of the state government, whether elected or appointed, excluding only municipalities, counties and other governmental subdivisions of the state.

2. "Business entity" includes individuals, partnerships, business trusts, cooperatives, associates, corporations or any other firm, group or concern which functions as a separate entity for business purposes;

3. "Acquisition" includes all types of purchases and rentals, whether bought or leased by contract or otherwise, and includes every means by which a state agency obtains for its use any materials, supplies, service or equipment covered by this act, except those specifically excluded in this act;

4. "Materials" or "supplies" includes all property except real property acquired by a state agency for its use or consumption, except equipment;

5. "Equipment" means all personal property acquired by a state agency for its use which is in the nature of a tool, device or machine and shall be deemed to include all personal property used or consumed by a state agency and not included within the category of materials and supplies;

6. "Item" or "product" means some quantity or kind of such supplies, materials and equipment;

7. "Services" or "contractual services" includes any type of personal or professional service, employment or undertaking, including such services as utilities, pest control, maintenance and repairs, except the employment of regular officers and employees by a state agency or such extra seasonal help as is authorized by law and is regularly used;

8. "Purchasing director" includes any employee or agent of the State Purchasing Director, acting within the scope of his authority;

9. "Sole source contract" means a contract specified by the provisions of Section 89 of this title;

10. "Professional services" means services which are predominantly mental or intellectual in character, rather than physical or manual and which do not involve the supplying of products. Professional services include those services requiring special, usually advanced education and skill;

11. "Nonprofessional services" means services which are predominantly physical or manual in character and may involve the supplying of products;

12. "Open market contract" means a contract for the one-time acquisition of a particular item over Two Thousand Five Hundred Dollars (\$2,500.00); and

13. "Statewide contract" means a contract for the purchase of items used or needed on a continual or regular basis by state agencies.

SECTION 7. AMENDATORY 74 O.S. 1991, Section 97, is amended to read as follows:

Section 97. The Department of Central Services is hereby authorized to lease for drilling and development of oil or gas, or both, any of the lands belonging to the state, on which are located penal or eleemosynary institutions, or are connected with or a part of the lands of such institution. Such leasing to be made by public competition after not less than fifteen (15) days' notice by publication in two newspapers authorized by law to publish legal notices, one of which newspapers shall be published at the State Capital, and the other in the county where the land is situated, and in such manner as said Department of Central Services may by rule prescribe. All such leasing must be on sealed bids and awarded to the highest responsible bidder, and for a term of not to exceed five (5) years from date and as long thereafter as oil and gas, or either of them, is produced in paying quantities from said land by the lessee, provided said Department may reject any and all bids. The oil and gas interest in such land hereby authorized to be leased, is to the extent and in the manner that a private owner of lands in fee, may in his own right, execute such lease or grant. Such lease before becoming effective or having validity, shall be approved by the Governor of the state or his designee.

SECTION 8. AMENDATORY 74 O.S. 1991, Section 126.2, is amended to read as follows:

Section 126.2 The Director of Central Services is hereby authorized to lease for a temporary period of time the surface of any of the lands belonging to the state described in Section 126.1 of this title, which are not needed or required for the proper maintenance of the institutions or departments in possession thereof. Said leases shall be for a period of time not exceeding three (3) years and upon such other terms and conditions as said Director may determine to be in the best interests of the state. Said leases shall provide for a termination of the lease upon reasonable notice in writing whenever the needs of the state or the institution in possession thereof requires said land. Said lease contracts shall not become effective until they are submitted to and approved by the Governor of this state or his designee. Said Director may also execute lease contracts for said lands to any institution or agency or department, commission, or municipal subdivision that requires the need of said land in conjunction with cooperation or participation in any city or state project authorized by law, if said contracts or agreements will not interfere with or restrict in any manner, the proper use of said lands by the state institution in possession thereof, and shall not become effective until after approval by the Governor or his designee.

The Oklahoma Ordnance Works Authority and the Midwestern Oklahoma Development Authority and their lands shall be exempt from

the application of this section. Lands leased to private prison contractors pursuant to Section 561 of Title 57 of the Oklahoma Statutes shall be exempt from the application of this section.

SECTION 9. This act shall become effective July 1, 1992.

SECTION 10. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.