

STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

SENATE BILL NO. 36

BY: WRIGHT

AS INTRODUCED

AN ACT RELATING TO STATE GOVERNMENT; AMENDING 74 O.S. 1981, SECTION 85.12, AS LAST AMENDED BY SECTION 20, CHAPTER 337, O.S.L. 1990 AND SECTION 20, CHAPTER 207, O.S.L. 1986, AS RENUMBERED BY SECTION 122, CHAPTER 222, O.S.L. 1987 AND AS LAST AMENDED BY SECTION 57, CHAPTER 236, O.S.L. 1987 (74 O.S. SUPP. 1990, SECTIONS 85.12 AND 5003.7), WHICH RELATE TO THE OKLAHOMA CENTRAL PURCHASING ACT AND THE OKLAHOMA DEPARTMENT OF COMMERCE; EXEMPTING CERTAIN CONTRACTS FROM CENTRAL PURCHASING ACT; ADDING STATUTORY REFERENCE AND CLARIFYING LANGUAGE; PROVIDING FOR DEVELOPMENT OF THE ECONOMIC INNOVATION SYSTEM AND FOR CERTAIN PROGRAMS, CONTRACTS, CRITERIA, PROCEDURES, RULES AND DEFINITIONS RELATED THERETO; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. AMENDATORY 74 O.S. 1981, Section 85.12, as last amended by Section 20, Chapter 337, O.S.L. 1990 (74 O.S. Supp. 1990, Section 85.12), is amended to read as follows:

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

B. The following acquisitions shall not be included within the purview of the Oklahoma Central Purchasing Act:

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

2. Contracts for construction of new buildings and for the repair, maintenance or modernization of old buildings by state educational institutions included within The Oklahoma State System of Higher Education;

3. The printing or duplication of publications or forms of whatsoever kind or character by state agencies, which service is performed upon their own equipment, by their own employees;

4. Acquisitions by The Oklahoma State System of Higher Education on any institution or entity comprising the same insofar as such acquisitions relate to textbooks, laboratory supplies, instructional materials and specialized laboratory equipment;

5. Department of Transportation and Transportation Commission contractual services or right-of-way purchases. Contracts awarded pursuant to bids let by the Transportation Commission for the maintenance or construction of streets, roads, highways, bridges, or underpasses, or any other transportation facilities under the control of the Department of Transportation, the acquisitions of equipment or materials accruing to the Department of Transportation required in Federal-Aid contracts, and contracts for public service type announcements initiated by the Department of Transportation. Contractual services as used herein shall not include advertising or public relations services;

6. Utility services where rates therefor are regulated by a state or federal regulatory commission, or by city ordinance or by an Indian Tribal Council for use by the Department of Corrections only;

7. Purchases of products by Oklahoma Medical Center. The Commission for Human Services shall develop standards for the purchase of products and may elect to utilize Central Purchasing when appropriate. Such standards shall foster economy, short response time, and include appropriate safeguards to assure appropriate competition and economical and efficient purchasing;

8. Contracts for custom harvesting by the Department of Corrections for the Department or its institutions;

9. Contracts with private prison contractors which are subject to the contracting procedures of Section 561 of Title 57 of the Oklahoma Statutes;

10. Acquisitions of aircraft by agencies authorized by the Legislature to purchase aircraft;

11. Purchases by the Oklahoma Municipal Power Authority;

12. Grand River Dam Authority;

13. Purchases by the Oklahoma Ordnance Works Authority or Midwestern Oklahoma Development Authority, except that the Oklahoma Ordnance Works Authority and the Midwestern Oklahoma Development Authority shall remain subject to the provisions of Section 85.32 of this title;

14. Contracts entered into by the State Department of Education for the purpose of implementing the provisions of Section 6-156 of Title 70 of the Oklahoma Statutes;

15. Expenditure of monies appropriated to the State Board of Education for the purpose of Local, State-supported Programs and State-supported Programs except monies appropriated for the Administrative and Support Functions of the State Department of Education;

16. Contracts entered into by the State Department of Vocational and Technical Education for the development, revision or updating of vocational curriculum materials;

17. Contracts entered into by the Oklahoma Center for the Advancement of Science and Technology for professional services;

18. Contracts entered into by the Oklahoma Department of Commerce under the Economic Innovation System programs as provided for in Section 3 of this act;

~~18.~~ 19. Purchases made by the Oklahoma Historical Society from monies used to administer the White Hair Memorial;

~~19.~~ 20. Purchases of products available to an agency through a General Services Administration contract or other federal contract if the item is not on current state contract or the terms of such contract are more favorable to the agency than the terms of a state contract for the same products; and

~~20.~~ 21. Purchases amounting to less than that requiring competitive bid pursuant to Section 85.4 of this title.

C. Notwithstanding the exclusions provided herein, any agency or common schools of Oklahoma, any municipality of the state, any rural fire protection district and county officers may, unless the contract with the state specifies otherwise, avail themselves of the provisions of the Oklahoma Central Purchasing contracts and the services of the Purchasing Director. Provided further, however, that any subdivision of government and any rural fire protection district of the state may designate the office of Oklahoma Central Purchasing as its agent for the purchase or procurement of any item or service contracted or available to the state.

D. Further, notwithstanding the exclusions provided herein, the purchasing policies and procedures of the Oklahoma Ordnance Works Authority and the Midwestern Oklahoma Development Authority shall be subject to approval by the Director of the Office of Public Affairs, and said Director shall make periodic audits of the purchasing

policies and procedures of the Oklahoma Ordnance Works Authority and the Midwestern Oklahoma Development Authority to assure that said purchasing policies and procedures, as approved by him, are being followed.

SECTION 2. AMENDATORY Section 20, Chapter 207, O.S.L. 1986, as renumbered by Section 122, Chapter 222, O.S.L. 1987 and as last amended by Section 57, Chapter 236, O.S.L. 1987 (74 O.S. Supp. 1990, Section 5003.7), is amended to read as follows:

Section 5003.7 A. The Oklahoma Department of Commerce shall prepare, with the cooperation of the Oklahoma business community, agricultural community, financial community, universities, labor and the state executive and legislative branches, a five-year economic development plan and annual updates for the State of Oklahoma. The recurring five-year economic development plan and annual updates shall be subject to the approval of Oklahoma Futures.

1. The purpose of the plan shall be to identify significant economic, social, and demographic trends which may have both short-term and long-term impacts on the state and local economy and to present strategies and recommendations that the state and local political subdivisions might adopt to improve or stabilize the economy.

2. The goals of the plan shall include the development of a diversified state economy, increasing employment, the maximum use of federal, state and local funds to achieve the goals or recommendations included in the plan, the maximum investment of capital in the economy of the state, and the improvement of the quality of life in the state.

3. The plan wherever possible shall make recommendations to encourage intergovernmental cooperation and public and private cooperation.

4. Copies of the plan and the annual updates shall be submitted to the Oklahoma Advisory Committee on Intergovernmental Relations,

the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate and the chairmen of the standing committees on economic development of the Senate and of the House of Representatives in the annual report of Oklahoma Futures.

5. The Department shall develop and manage a complete economic information system which will support the five-year planning process, and which will make available complete and timely information on the state economy. The economic information system shall be operated by public or private Oklahoma universities or an Oklahoma enterprise capable of providing such services in a cost-effective manner.

B. ~~The~~ Pursuant to the provisions of Section 3 of this act, the Oklahoma Department of Commerce shall ~~have the power and duty to~~ develop and manage an Economic Innovation System, a decentralized statewide partnership, by responsively and innovatively coordinating technical assistance, grant and loan programs, with local, state, federal and private sector activities into a single statewide system.

C. The Oklahoma Department of Commerce shall have the power and duty to develop public works physical and financial planning capabilities to establish a statewide public works planning process that is accessible by local planners, that is objective, and that is managed by people highly skilled in all aspects of infrastructure planning.

D. The Department, in conjunction with the Oklahoma Development Finance Authority, is authorized to develop an infrastructure program which will enable political subdivisions of this state to finance public works projects in order to modify or improve existing public facilities for purposes of bringing said facilities, and the operation thereof, into compliance with and maintaining compliance with federal, state and local laws and regulations pertaining to the protection of the public health and the environment.

E. The Director shall develop an annual business plan for the Department. The business plan shall be submitted to Oklahoma Futures for its review and comment and shall be included in the annual report of Oklahoma Futures. The business plan shall include the need and mission of each division of the Department created by law or the Director and an analysis of past costs and benefits and future projected costs and benefits to the state of the programs of each division of the Department. The business plan shall be consistent with the goals of the recurring five-year plan specified in this section. Oklahoma Futures shall review and comment upon such plan before it is implemented. The Director shall distribute copies of the business plan by such means that will make it widely available to communities, firms and local economic development managers throughout this state.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5003.7a of Title 74, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Department of Commerce shall develop the Economic Innovation System by implementing programs which encourage economic development organizations to qualify for matching funds for providing economic development services. Under the programs the Department shall contract with qualified economic development organizations which demonstrate their ability to:

1. Stimulate economic development in multicounty or countywide areas of this state by effective strategic planning;

2. Create and operate job development programs in this state which are supported by multicounty or countywide public/private partnership efforts; and

3. Provide direct assistance to new or expanding businesses in this state in preparing business plans and securing financing.

B. The Department, by rule, shall establish criteria, priorities and documentation for qualifying economic development

organizations to contract and receive funds pursuant to this section. Such contracts shall be exempt from The Oklahoma Central Purchasing Act, Section 85.1 et seq. of Title 74 of the Oklahoma Statutes. Criteria established pursuant to this section shall include a minimum budget amount requirement and demonstration of business expertise and the ability to perform job development activities.

C. 1. The Department, by rule, shall establish procedures for determining and approving allowable expenditures which qualify for matching funds under a contract entered into pursuant to this section. Such procedures shall be consistent with the provisions of this subsection.

2. Matching funds allocated by the Department for contracts entered into pursuant to this section shall not be subject to any fiscal year limitation.

3. Each eligible organization shall prepare and submit annual plans as required by the Department, including the budget work program for the ensuing fiscal year. Expenditures for obligations incurred before the Department approves the organization's plans and budget work program and any changes thereto, and expenditures not in accordance with the organization's approved plans and approved budget work program, shall not be allowable expenditures.

4. Each eligible organization for which matching funds have been approved shall submit an annual independent and certified audit of the organization. The audit report shall include, in addition to any other information required by the Department, a statement showing sources of funds, the methods used to raise the funds and the disbursement of all allowable expenditures. Failure to submit an audit report, audit reports showing unallowable expenditures, or noncompliance with any other provisions of this act or any rules or procedures promulgated pursuant thereto or any contract provisions

shall be cause for withholding matching funds until such time as the action is corrected to the satisfaction of the Department.

D. As used in this section:

1. "Independent and certified audit" means an audit performed by a public accountant or certified public accountant registered with the Oklahoma State Board of Public Accountancy. The audit shall be in accordance with the standards established by the Board for audits and shall include the requirements set out in this section and in any rules promulgated thereto by the Department; and

2. "Economic development organization" means a public or private sector organization which has as its primary goal the creation of jobs and new capital in this state.

SECTION 4. This act shall become effective September 1, 1991.

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