

STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)

HOUSE BILL NO. 2977

By: Boyd (Laura)

AS INTRODUCED

An Act relating to state government; amending 74 O.S. 1991, Sections 85.5, as amended by Section 7, Chapter 342, O.S.L. 1995 and 85.12, as last amended by Section 28, Chapter 2, O.S.L. 1994 (74 O.S. Supp. 1995, Sections 85.5 and 85.12), which relate to the authority of the State Purchasing Director; authorizing State Purchasing Director to enter into certain contracts and multistate and multigovernmental contracts; exempting purchases of certain pharmaceuticals from Oklahoma Central Purchasing Act; specifying certain restrictions; authorizing certain entities to use Oklahoma Central Purchasing Act; and declaring an emergency.

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

SECTION 1. AMENDATORY 74 O.S. 1991, Section 85.5, as amended by Section 7, Chapter 342, O.S.L. 1995 (74 O.S. Supp. 1995, Section 85.5), is amended to read as follows:

Section 85.5 A. 1. Subject to the provisions of Section 85.4 of this title, the State Purchasing Director, under the supervision of the Director of the Department of Central Services, shall have

sole and exclusive authority and responsibility for the acquisition of all materials, supplies, equipment, and services acquired, used or consumed by agencies of the state government.

2. The State Purchasing Director, after consultation with the requesting or purchasing agency, shall have authority to determine the particular brand, model, or other specific classification of each item or group of materials, supplies, equipment, or services to be acquired for such use or consumption, and to draft specifications establishing the requirements for all such leases or purchases under the restrictions provided in the Oklahoma Central Purchasing Act.

B. The Director of the Department of Central Services shall have authority and responsibility to promulgate rules ~~and regulations~~ governing, providing for, and prescribing:

1. The time, manner, authentication, and form of making requisitions for supplies, materials, equipment, and services covered by the Oklahoma Central Purchasing Act; and

2. Inspection and testing of all supplies, materials, and equipment purchased or leased for use or consumption by state agencies and for analyzing and testing any samples or portions thereof, and the manner of such inspections, tests, and analyses; and

3. The form and the time and manner of submission of any bids submitted for contracts to furnish any of the items or services affected by this act and the manner of opening and accepting the same, subject to restrictions contained in the Oklahoma Central Purchasing Act; and

4. The conditions under which written contracts for such purchases or leases are to be required for the acquisitions affected by the Oklahoma Central Purchasing Act and the conditions under which such acquisitions may be made on an open account basis, subject to restrictions contained in the Oklahoma Central Purchasing

Act, and the conditions and manner of negotiating such contracts;
and

5. The conditions under which purchases or leases may be made by state agencies without use of the procedure required by the Oklahoma Central Purchasing Act, and the form and manner of requests for such authority from the State Purchasing Director; and

6. Any preference which may be found feasible to give to items and services produced by state institutions, or within this state, or the United States; and

7. Conditions under which any of the rules ~~and regulations~~ herein authorized may be waived, under the restrictions contained in the Oklahoma Central Purchasing Act; and

8. The amounts of and deposits on any bond required to be submitted with a bid or contract for the furnishing of items or services affected by the Oklahoma Central Purchasing Act, and the conditions under which such bond shall be required; and

9. Such storage and storage facilities as may be necessary to accomplish his responsibilities pursuant to the Oklahoma Central Purchasing Act; and

10. The manner and conditions of delivery, which shall include the designation of the common carrier of property to be used to transport any supplies, materials or equipment purchased pursuant to the Oklahoma Central Purchasing Act whenever a common carrier is used, and the acceptance, or rejection, including check of quantities, of any supplies, materials, service, or equipment affected by the Oklahoma Central Purchasing Act; and

11. The form of any estimate, order, or other document required to discharge the responsibilities fixed by the provisions of the Oklahoma Central Purchasing Act; and

12. Any other matter or practice which is directly related to his responsibilities within the scope of his authority as defined by the provisions of the Oklahoma Central Purchasing Act. The

authority delegated by this section to promulgate rules and regulations shall be construed to authorize any act, practice, or requirement for which such regulatory power is delegated, but which is not presently authorized by law.

C. Pursuant to the requirement of the Oklahoma Central Purchasing Act, the State Purchasing Director, subject to the Director of Central Services, shall have authority to enter into any sole source contract, open market contract, statewide contract, contract for professional services and nonprofessional services, multistate or multigovernmental contract or any other contract or agreement to implement the provisions of the Oklahoma Central Purchasing Act.

SECTION 2. AMENDATORY 74 O.S. 1991, Section 85.12, as last amended by Section 28, Chapter 2, O.S.L. 1994 (74 O.S. Supp. 1995, 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~~ Except as otherwise provided by this section, 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. Acquisition of products and services by the University Hospitals and the University Hospitals Authority. The Authority shall develop standards for the acquisition of products and services and may elect to utilize Central Purchasing when appropriate. Such standards shall foster economy, short response time, and shall include appropriate safeguards and written records to assure appropriate competition and economical and efficient purchasing and shall be approved by the Director of Central 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 rural water, sewer, gas or solid waste management districts created pursuant to Section 1324.1 et seq. of Title 82 of the Oklahoma Statutes;

14. 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;

15. Contracts entered into by the Oklahoma Industrial Finance Authority for the services of an appraiser or for acquisition of insurance when it is determined by its Board of Directors that an emergency exists and for the services of legal counsel when approved by the Attorney General;

16. 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;

17. 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;

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

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

20. Contracts entered into by the Oklahoma Department of Commerce pursuant to the provisions of Section 5009.1 et seq. of this title and Section 5066.4 of this title;

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

22. Purchases of products available to an agency through a General Services Administration contract or other federal contract if the item is on current state contract and the terms of such contract are more favorable to the agency than the terms of a state contract for the same products as determined by the State Purchasing Director;

23. Purchases of pharmaceuticals available through a multistate or multigovernmental contract if such pharmaceuticals are on or have been on state contract within the last fiscal year and the terms of such contract are more favorable to the state or agency than the terms of a state contract for the same products as determined by the State Purchasing Director;

24. Contracts for managed health care services entered into by the state entity designated by law or the Department of Human Services, as specified in paragraph 1 of subsection A of Section 3 of the Oklahoma Medicaid Healthcare Options Act;

~~24.~~ 25. Purchases of products by the Forestry Service of the State Department of Agriculture as authorized by the federal General Services Administration through a General Services Administration contract or other federal contract if the item is not on current state contract or the terms of such federal contract are more favorable to the agency than the terms of a state contract for the same products;

~~25.~~ 26. Purchases amounting to less than that requiring competitive bid pursuant to Section 85.7 of this title. The Director of Central Services shall promulgate rules related to such purchases in excess of Seven Hundred Fifty Dollars (\$750.00) and not

exceeding Two Thousand Five Hundred Dollars (\$2,500.00) to ensure competitiveness and fairness in such purchases; and

~~26.~~ 27. Purchases or acquisitions of clothing for clients of the Department of Human Services and purchases and acquisitions of food for group homes operated by the Department of Human Services.

C. ~~Notwithstanding the exclusions provided herein, any~~ Any agency or common schools of Oklahoma, any municipality of the state, any rural fire protection district and county officers, or any program contract, purchase, acquisition, expenditure, not subject to the Oklahoma Central Purchasing Act, 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~~ 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~~ The purchasing policies and procedures of the Oklahoma Ordnance Works Authority, the University Hospitals Authority and the Midwestern Oklahoma Development Authority shall be subject to approval by the Director of the Department of Central Services, and said Director shall make periodic audits of the purchasing policies and procedures of the Oklahoma Ordnance Works Authority, the University Hospitals Authority and the Midwestern Oklahoma Development Authority to ensure that said purchasing policies and procedures, as approved, are being followed.

SECTION 3. 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.

45-2-7835

KSM