

SHORT TITLE: State government; central purchasing; clarifying reference; effective date; emergency.

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

SENATE BILL NO. 37

By: Dickerson

AS INTRODUCED

An Act relating to state government; amending 74 O.S. 1991, Section 85.2, as last amended by Section 1, Chapter 316, O.S.L. 1996 (74 O.S. Supp. 1996, Section 85.2), which relates to the Oklahoma Central Purchasing Act; clarifying reference; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 74 O.S. 1991, Section 85.2, as last amended by Section 1, Chapter 316, O.S.L. 1996 (74 O.S. Supp. 1996, Section 85.2), is amended to read as follows:

Section 85.2 As used in the Oklahoma Central Purchasing Act, Section 85.1 et seq. of this title, unless the context otherwise requires:

1. "Acquisition" means 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;

2. "Bid" means an offer submitted by an offeror in response to a sealed bid or an invitation to bid;

3. "Bidder" means an individual or other business entity that has submitted a bid in response to an invitation to bid;

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

5. "Change order" means a unilateral written order, signed by the State Purchasing Director or designee, directing the contractor to make a change;

6. "Chief administrative officer" means the individual who has the responsibility to direct the administration of an agency. The term shall not be construed to mean either one or all of the individuals charged with the policy making responsibilities of the agency;

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

8. "Contract" means a mutually binding legal relationship obligating the seller to furnish supplies or services and the buyer to pay for them. It includes all types of commitments that obligate the state to an expenditure of funds and that, except as otherwise authorized, are in writing. In addition to bilateral instruments, contracts include, but are not limited to:

- a. awards and notices of awards,
- b. orders issued under basic ordering agreements,
- c. letter contracts,
- d. orders, such as purchase orders, under which the contract becomes effective by written acceptance or performance, and
- e. bilateral contract modifications;

9. "Contract modification" means any written change in the terms of the contract;

10. "Contracting" means purchasing, renting, leasing, or otherwise obtaining supplies or services from private sources. Contracting includes description, but not determination, of supplies and services required, selection and solicitation of sources, preparation and award of contracts, and all phases of contract administration;

11. "Electronic commerce" means the use of electronic data interchange (EDI) techniques to both describe state requirements to offerors using a paper-free electronic medium and to enable offerors to respond to these requirements in a similar fashion, including the transmission of purchase orders and contracts to contractors, shipment receipt, and payment;

12. "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;

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

14. "Local governmental entity" means any unit of local government including, but not limited to, any school district, county, or municipality of this state;

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

16. "Multistate contract" or "multigovernmental contract" means an agreement entered into between two or more jurisdictions, such as states, for purchases under the same contract;

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

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

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

20. "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 services to support or improve agency policy development, decision making, management, administration, or the operation of management systems;

21. "Purchase order" means an offer by the state to buy supplies or services, upon specified terms and conditions, using simplified acquisition procedures;

22. "Services" or "contractual services" refers to directly engaging the time and effort of a contractor for the primary purpose of performing an identifiable task rather than for the furnishing of an end item of supply;

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

24. "State 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 political subdivisions of the state;

25. "State purchase card" means a purchase card, similar in nature to a commercial credit card, issued to authorized agency officials for their use in acquiring supplies and services estimated at less than Two Thousand Five Hundred Dollars (\$2,500.00);

26. "State purchasing director" or "Director of Central Purchasing" includes any employee or agent of the State Purchasing Director, acting within the scope of delegated authority; and

27. "Statewide contract" means an indefinite delivery-type contract, written for a specified contract period, for specific supplies or services, with a provision allowing state agencies to place orders as supplies and services are needed.

SECTION 2. This act shall become effective July 1, 1997.

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.

46-1-0371

WHT