

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

CONFERENCE COMMITTEE SUBSTITUTE  
FOR ENGROSSED  
SENATE BILL 508

By: Dickerson of the Senate

and

Askins of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to state purchasing; amending 74 O.S. 1991, Sections 85.2, as last amended by Section 2, Chapter 371, O.S.L. 1998, 85.3, as last amended by Section 2, Chapter 214, O.S.L. 1996, 85.4, as last amended by Section 3, Chapter 371, O.S.L. 1998, 85.5, as last amended by Section 4, Chapter 371, O.S.L. 1998, 85.7, as last amended by Section 31 of Enrolled House Bill No. 1845 of the 1st Session of the 47th Oklahoma Legislature, Section 1, Chapter 291, O.S.L. 1995, as last amended by Section 5, Chapter 203, O.S.L. 1998, 85.12, as last amended by Section 32 of Enrolled House Bill No. 1845 of the 1st Session of the 47th Oklahoma Legislature, 85.33, as amended by Section 8, Chapter 371, O.S.L. 1998, 85.39, as amended by Section 9, Chapter 371, O.S.L. 1998, 85.40, 85.41, as last amended by Section 10, Chapter 371, O.S.L. 1998, 85.43, as amended by Section 11, Chapter 371, O.S.L. 1998, 89, as last amended by Section 13, Chapter 371, O.S.L. 1998, and as renumbered by Section 15, Chapter 371, O.S.L. 1998, and 500.2, as last amended by Section 33 of Enrolled House Bill No. 1845 of the 1st Session of the 47th Oklahoma Legislature (74 O.S. Supp. 1998, Sections 85.2, 85.3, 85.4, 85.5, 85.9D, 85.33, 85.39, 85.41, 85.43, and 85.45j), which relate to the Oklahoma Central Purchasing Act and the State Travel Reimbursement Act; distinguishing between sole source and sole brand acquisitions; modifying definitions; adding definitions; restating personnel authorizations, requirements, and restrictions; deleting and reestablishing exceptions to applicability of act; deleting requirement for requisition under certain circumstances; adding requirement to matters agency shall certify when requisitioning nonprofessional or professional services; specifying when change orders may be issued; removing redundant exemptions relating to The Oklahoma State System of Higher Education; expanding rulemaking authority of Director of Department of Central Services; adding compliance requirement for internal procedures; requiring submission of requisition for acquisitions over specified dollar amount; requiring certain notifications; requiring submission of requisitions and analysis after emergency acquisitions; requiring Attorney General to

review findings and make determinations; deleting postacquisition gubernatorial certification of emergency; requiring documentation supporting sole source and sole brand acquisitions; replacing fee limit with fixed fee; modifying affidavit; deleting certain reporting requirements; authorizing Native American Cultural and Educational Authority to make contracts or agreements for food, lodging, and facility and beverage expenses; allowing direct payment of expenses; requiring monthly report of expenditures; clarifying references; regularizing punctuation and usage; eliminating wordiness and redundancies; deleting obsolete provisions; providing for codification; providing for recodification; repealing 74 O.S. 1991, Section 85.17, which relates to purchase preferences; 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 2, Chapter 371, O.S.L. 1998 (74 O.S. Supp. 1998, Section 85.2), is amended to read as follows:

Section 85.2 As used in the Oklahoma Central Purchasing Act, unless the context otherwise requires:

1. "Acquisition" means all ~~types~~ methods of ~~purchases~~ purchase, ~~lease-purchases~~ lease-purchase, ~~lease-purchases~~ lease with option to purchase, and ~~rentals, whether bought or leased by contract or otherwise, and includes every means by which a state agency obtains for its use any~~ rental of items, products, materials, supplies, ~~consulting services, and all other services or equipment covered by a state agency acquires pursuant to the Oklahoma Central Purchasing Act, except those specifically excluded in~~ unless the items, products, supplies, services, or equipment are exempt pursuant to the Oklahoma Central Purchasing Act;

2. "Best value criteria" means ~~an acquisition based on~~ bid or proposal evaluation criteria which include, but are not limited to, the following:

- a. the acquisition's operational cost ~~that the~~ a state agency would incur ~~if the bid or proposal is accepted,~~

- b. the quality of the ~~product~~ acquisition, or its technical competency,
- c. the reliability of the bidder's delivery and implementation schedules,
- d. the ~~maximum~~ acquisition's facilitation of ~~information/data exchange~~ data transfer and systems integration,
- e. the acquisition's warranties, ~~and~~ guarantees, ~~and the bidder's~~ return policy,
- f. ~~bidder~~ the bidder's financial stability,
- g. ~~consistency of the proposed solution with the~~ acquisition's adherence to the state agency's planning documents and announced strategic program direction,
- h. ~~quality and effectiveness of the business solution approach,~~
- ~~i.~~ the bidder's industry and program experience,
- ~~j.~~ ~~prior~~ and record of ~~vendor~~ successful past performance,
- ~~k.~~ ~~bidder~~ ~~expertise with engagements~~ acquisitions of similar scope and complexity,
- ~~l.~~ ~~extent and quality of the proposed participation and~~
- ~~i.~~ the anticipated acceptance by ~~all~~ user groups, and
- ~~m.~~ ~~j.~~ the acquisition's use of proven development methodology ~~and tools~~, and
- ~~n.~~ innovative use of current technologies ~~and~~ that lead to quality results;

3. "Bid" or "proposal" means an offer ~~submitted by~~ a bidder submits in response to a ~~sealed bid~~ or an invitation to bid or request for proposal;

4. "Bidder" means an individual or ~~other~~ business entity that ~~has submitted~~ submits a bid or proposal in response to an invitation to bid or a request for proposal;

5. "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;

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

7. "Chief administrative officer" means ~~the~~ an individual ~~who has the responsibility to direct~~ responsible for directing the administration of a state agency. The term ~~shall~~ does not ~~be construed to mean either one or all of the individuals charged with the that make~~ policy making responsibilities of the for a state agency;

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

9. "Consolidation contract" means a contract for several state agencies for the purpose of purchasing computer software maintenance or hardware maintenance;

10. "Contract" means a mutually binding legal relationship obligating the seller to furnish ~~supplies or services~~ an acquisition and the buyer to pay for ~~them~~ it. It includes all types of commitments that obligate ~~the~~ a state agency to an expenditure of funds ~~and or action~~ that, ~~except as~~ unless otherwise authorized, ~~are~~ is 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;

~~10.~~ 11. "Contract modification" means any written change in the terms of the contract;

~~11.~~ 12. "Contracting" means purchasing, renting, leasing, or otherwise obtaining ~~supplies or services~~ acquisitions from private sources. Contracting includes description, but not determination, of ~~supplies and services~~ acquisitions required, selection and solicitation of sources, preparation and award of contracts, and ~~all phases of~~ contract administration;

~~12.~~ 13. "Electronic commerce" means the use of electronic ~~data interchange (EDI) techniques~~ methods 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~~ enable solicitation, supplier response, notice of contract award, state agency acquisition processes, or any other function to make an acquisition;

~~13.~~ 14. "Enterprise agreement" means an agreement for computer hardware, software, and service that a supplier manufactures, develops, and designs, and that one or more state agencies use;

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

~~14.~~ 16. "High technology system" means advanced technological equipment, software, communication lines, and services for the processing, storing, and retrieval of information, by a state agency;

~~15.~~ 17. "Item" or "product" means some quantity or kind of such supplies, materials ~~and~~ or equipment;

~~16.~~ 18. "Local governmental entity" means any unit of local government including, but not limited to, any school district, county, or municipality of this state;

~~17.~~ 19. "Lowest and best" means an acquisition based on criteria which include, but are not limited to, the following:

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

~~18.~~ 20. "Materials" or "supplies" includes all property except real property or equipment ~~acquired by that~~ a state agency acquires for its use or consumption;

~~19.~~ 21. "Multistate contract" or "multigovernmental contract" means an agreement entered into between two or more ~~jurisdictions,~~ such as states, entities of government for ~~purchases under the same~~ acquisitions pursuant to a single contract;

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

~~21.~~ 23. "Political subdivision" means local governmental entities and such other entities specified as political subdivisions pursuant to the Governmental Tort Claims Act;

~~22.~~ 24. "Open market contract" means a contract for ~~the~~ a one-time acquisition ~~of a particular item~~ not exceeding the acquisition ~~purchase~~ amount requiring competitive bid, pursuant to Section 85.7 of this title;

~~23.~~ 25. "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 state agency policy development, decision making, management, administration, or the operation of management systems;

~~24.~~ 26. "Purchase order" means an offer by ~~the~~ a state agency to buy supplies or services, upon specified terms and conditions, ~~using simplified~~ make an acquisition utilizing simplified procedures;

~~25.~~ 27. "Requisition" means a written request by a state agency for an acquisition;

~~26.~~ 28. "Services" or "contractual services" ~~refers to directly engaging~~ means direct engagement of 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;

~~27.~~ 29. "Sole brand acquisition" means an acquisition that by specification restricts the acquisition to one manufacturer or brand name;

30. "Sole source ~~contract~~ acquisition" means:

~~a. for state agencies subject to the Oklahoma Central Purchasing Act, a contract for a particular~~ an acquisition which, by ~~the contract specifications needed by an agency~~ specification, restricts the ~~contract~~ acquisition to one bidder or to one brand name, and

~~b. for state agencies that are not subject to the central purchasing provisions of the Oklahoma Central Purchasing Act, a contract for a particular~~ acquisition which, by ~~the contract specifications needed by an agency,~~ restricts the contract to one bidder or to one brand name supplier;

~~28.~~ 31. "Split purchase" means ~~a separate contract~~ dividing a known quantity or failing to consolidate a known quantity of an acquisition for the purpose of evading ~~the requirement of a~~ competitive bidding requirement;

~~29.~~ 32. "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;

~~30.~~ 33. "State purchase card" means ~~a purchase card, similar in nature to a commercial credit card,~~ an electronic transaction device issued to authorized state agency officials for their use in acquiring supplies and services estimated at less than Two Thousand Five Hundred Dollars (\$2,500.00) making acquisitions;

~~31.~~ 34. "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~~

~~32.~~ 35. "Statewide contract" means ~~an indefinite delivery-type a contract, written for a specified contract period,~~ for specific acquisitions, entered into by state agencies during a specified period with a provision allowing state the agencies to place orders as supplies and services the acquisitions are needed for delivery during the period specified; and

36. "Supplier" or "vendor" means an individual or business entity that sells or desires to sell acquisitions to state agencies.

SECTION 2. AMENDATORY 74 O.S. 1991, Section 85.3, as last amended by Section 2, Chapter 214, O.S.L. 1996 (74 O.S. Supp. 1998, Section 85.3), is amended to read as follows:

Section 85.3 A. There is hereby created and established in the Department of Central Services a Purchasing Division, the administrative head of which shall be the State Purchasing Director of Central Purchasing.

B. ~~Said The Director of the Department of Central Services shall be hired by hire~~ the State Purchasing Director of the Department of Central Services. The State Purchasing Director shall be:

1. Be at least twenty-eight (28) years of age, ~~have;~~

2. Have a thorough knowledge of office practices and buying procedures in volume purchasing, ~~and be~~

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

C. The Purchasing Division shall include the following employees, and employment of such employees is hereby authorized:  
~~one~~

1. One assistant director; ~~one~~

2. One qualified specifications engineer; ~~nineteen or less~~  
~~qualified buyers who shall be experienced for~~

3. Buyers who have at least three (3) years, respectively, one  
~~of the following commodities in~~ years' procurement experience for:

a. food,

b. hardware,

c. textiles,

d. petroleum,

e. office supplies,

f. building materials,

g. pharmaceutical supplies,

h. automotive equipment, parts, and accessories, and

i. any other commodity group found by the Director of the  
Department of Central Services to justify special  
purchasing attention, ~~and one of whom shall be~~  
~~responsible solely for purchases of;~~

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

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

6. Such other technical and clerical personnel as shall be employed assigned to the Purchasing Division by the Director of the Department of Central Services, ~~or hereafter provided by law.~~

D. All activities of any state agency, department, or institution relating to purchasing shall be under the direction of the Purchasing Division, ~~except such acquisitions as are excluded unless otherwise provided~~ by the Oklahoma Central Purchasing Act.

~~The provisions of the Oklahoma Central Purchasing Act shall not apply to county government nor to institutions of The Oklahoma State System of Higher Education, the Oklahoma State Regents for Higher Education, the University Centers subject to the State Regents, nor to the telecommunications network known as OneNet whether said network is governed or operated by the State Regents or any other state entity assigned responsibility for OneNet.~~

E. The Purchasing Division shall provide qualified personnel to ~~supervise~~ assist the purchasing activities of ~~the various state~~ agencies, departments, and institutions ~~of the state.~~

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

G. The Purchasing Division may, if the needs of ~~an~~ a state agency, department, or institution are such as to so require, employ, and establish a buyer within ~~such~~ a state agency, department, or institution.

H. No state agency, department, or institution ~~of this state~~ subject to the Oklahoma Central Purchasing Act shall have or maintain a purchasing section without the prior approval in writing of the Purchasing Division ~~except those agencies whose acquisitions are exempted in Section 85.12 of this title~~ unless otherwise provided in the Oklahoma Central Purchasing Act.

I. The Purchasing Division ~~is encouraged to~~ shall make ~~purchases~~ acquisitions from industries operated by the State Department of Corrections ~~of items manufactured or offered for sale by said Department of Corrections,~~ and to make all purchases from ~~industries operated and items manufactured and sold in this state,~~ whenever practicable pursuant to the provisions of Section 549.1 of Title 57 of the Oklahoma Statutes.

J. None of the personnel authorized by this section shall ~~furnish any of the services, materials, supplies, or equipment covered by:~~

1. Sell to or otherwise provide acquisitions to any state agency subject to the Oklahoma Central Purchasing Act, ~~nor shall such personnel be;~~

2. Be employees, partners, associates, officers, or stockholders in or with any business entity ~~which does, nor shall anyone be~~ that sells to or otherwise provides acquisitions to any agency subject to the Oklahoma Central Purchasing Act;

3. Be employed in any of the positions authorized by this section ~~whose~~ if a spouse or child owns any stock in any business entity which ~~furnishes any supplies, materials, services, or equipment covered by~~ sells to or otherwise provides acquisitions to any agency subject to the Oklahoma Central Purchasing Act, ~~nor shall anyone be; or~~

4. Be employed in any of the positions authorized by this section ~~whose brother, sister, father, mother, aunt, uncle, or other~~ if a relative within the third degree, ~~whether related by~~ of consanguinity or affinity, ~~is engaged in furnishing such supplies, materials, services, or equipment~~ sells to or otherwise provides acquisitions to any agency subject to the Oklahoma Central Purchasing Act or is interested in any business entity which does so, except that such relative, excluding a spouse or child, may own Five Thousand Dollars (\$5,000.00) worth or less, or one percent (1%)

or less, whichever amount is the lesser amount, of the stock of a corporation or any business entity which ~~furnishes such materials, supplies, equipment, and services~~ sells to or otherwise provides acquisitions to any state agency subject to the Oklahoma Central Purchasing Act.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 85.3A of Title 74, unless there is created a duplication in numbering, reads as follows:

Compliance with the provisions of the Oklahoma Central Purchasing Act shall not be required of:

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

SECTION 4. AMENDATORY 74 O.S. 1991, Section 85.4, as last amended by Section 3, Chapter 371, O.S.L. 1998 (74 O.S. Supp. 1998, Section 85.4), is amended to read as follows:

Section 85.4 A. Except as otherwise provided ~~in Section 85.12 of this title by the Oklahoma Central Purchasing Act,~~ every state agency shall make all acquisitions used, consumed or spent by the state agency in the performance of its official functions by the presentation of requisitions to the Purchasing Division ~~established in Section 85.3 of this title and no acquisitions shall be acquired by any state agency for such use or consumption except by the presentation of the requisition and receipt of the acquisitions requisitioned through the Purchasing Division.~~

B. The provisions of the Oklahoma Central Purchasing Act shall not preclude ~~the acceptance of~~ a state agency from:

1. Accepting gifts and or donations in the any manner now authorized by law; ~~or the purchase of any~~

2. Making an acquisition by any state agency acting for itself ~~and~~ without presentation of a requisition when ~~such~~ an acquisition without requisition is authorized in writing by the State Purchasing Director.

C. Subject to the provisions of this section, every state agency shall ~~have the authority to~~ determine its own quantitative needs for acquisitions, ~~insofar as it has such authority under existing law and shall have the authority to determine the general class or nature of acquisitions, subject to the provisions of Section 85.5 of this title~~ and the general class or nature of the acquisitions.

~~B.~~ D. The Director of the Department of Central Services shall prescribe standardized contract forms and all other forms requisite or deemed necessary by the Director of the Department of Central Services to effectuate the provisions of this section and the Oklahoma Central Purchasing Act.

~~C.~~ E. 1. Each requisition required by this section for ~~the~~ an acquisition of any product shall be accompanied by a statement signed by the chief administrative officer of the state agency or the chief administrative officer of the requisitioning unit of the state agency ~~certifying:~~

~~a. the product requested is necessary to the agency's responsibilities, and~~

~~b. the amount of the product requested is not excessive, and~~

~~c. the justification for the purchase of the product~~ justifying the acquisition and, where applicable, the quantity or volume to be acquired.

2. Each requisition required by this section for nonprofessional services or professional services whether or not such services are exempt from the competitive bidding requirements of this section or pursuant to Section 85.7 of this title shall be

accompanied by a statement signed by the chief administrative officer of the state agency or the chief administrative officer of the requisitioning unit of the state agency certifying that:

- a. no employee of the state agency is able and available to perform the services ~~called for by~~ to be provided pursuant to the contract,
- b. the state agency shall receive, review, and accept a detailed work plan from the ~~contractor~~ supplier for performance pursuant to the contract if requested by the State Purchasing Director,
- c. the state agency has developed, and fully intends to implement, a written plan providing for the assignment of specific state agency personnel to:
  - (1) a monitoring and auditing ~~function~~ supplier performance,
  - (2) the periodic review of interim reports, or other indications of past performance, and
  - (3) if requested by the State Purchasing Director, the ultimate utilization of the final product of the nonprofessional or professional services ~~if requested by the State Purchasing Director~~,
- d. the work to be performed under the contract is necessary to the state agency's responsibilities, and there is statutory authority to enter into the contract,
- e. the contract will not establish an employment relationship between the state or the state agency and any persons performing under the contract,
- f. no current state employee will engage in the performance of the contract, unless specifically approved by the State Purchasing Director; ~~and~~,

- g. the purchase of the nonprofessional or professional services is justified, and
  - h. the contract contains provisions that are required by Section 85.41 of this title.
3. a. When a state agency requisitions acquisitions that ~~are to be supplied~~ a supplier will provide in components or phases, the requisition shall list each component or phase, and the same State Purchasing Director shall be included on include the list in the Invitation to Bid.
- b. The determination of the lowest and best bid or best value bid, as required by the Oklahoma Central Purchasing Act, shall include all component or phase deliveries and shall not be based solely on the first component or phase delivery. ~~State agencies~~
- c. For a purchase order or contract that includes separate component deliveries, the Purchasing Director or a state agency may issue change orders to increase a purchase order or contract for an the acquisition that do not to exceed an increase of ten percent (10%) of the original purchase order or contract total price.

~~D.~~ F. Any person certifying the information required by subsection C of this section who knows such information to be false shall, upon conviction, ~~shall be deemed~~ guilty of a misdemeanor and shall be punished by fine or imprisonment or both fine and imprisonment pursuant to the provisions of Section 85.15 of this title and shall be civilly liable for the amount of the contract.

~~E.~~ G. The State Purchasing Director may request ~~any~~ additional information necessary to adequately review the requisitions and the statements required pursuant to subsection C of this section ~~and to~~ ensure compliance with the Oklahoma Central Purchasing Act.

~~F. H. Upon a determination~~ If the Purchasing Director  
determines that an acquisition is not necessary, is excessive, or is  
not justified, the State Purchasing Director shall deny the  
requisition.

~~G. I.~~ 1. No state agency shall enter into a lease-purchase  
agreement if title is acquired to tangible property of any class or  
nature by making lease, rental, or any other type payments, except  
as specifically authorized by law ~~or by a governing board of regents~~  
~~as to institutions of The Oklahoma State System of Higher Education~~  
and except insofar as data processing equipment or other equipment  
is concerned; provided, however, the lease-purchase of data  
processing or other equipment by any state agency, whether or not  
the state agency is subject to the provisions of the Oklahoma  
Central Purchasing Act, shall be processed by competitive bids  
through the Purchasing Division of the Department of Central  
Services.

2. The Executive Bond Oversight Commission and the Legislative  
Bond Oversight Commission shall have the authority to determine the  
most cost-effective method for obtaining financing for lease-  
purchase agreements, which may be financed by either negotiated sale  
or competitive bid. If the Executive Bond Oversight Commission and  
the Legislative Bond Oversight Commission determine that the lease-  
purchase of personal or real property should be financed through  
negotiated sale, the financing shall be subject to the provisions of  
the Oklahoma Bond Oversight and Reform Act, 62 O.S. 1991, Section  
695.1 et seq. Unless said Commissions determine that the sale  
should be executed on a negotiated basis, such financing shall be  
processed by competitive bids through the Purchasing Division of the  
Department of Central Services.

3. Regardless of the method of financing, the acquisition price  
of personal property subject to a lease-purchase agreement shall be

processed by competitive bids through the Purchasing Division of the Department of Central Services.

~~H.~~ J. No state agency shall enter into a lease-purchase contract between the state agency as lessee and a private party as lessor if the contract is not capable of complete performance within the current fiscal year in which the contract was entered into unless a valid nonappropriation clause is included in the contract. Such contracts shall contain the following or substantially similar language:

Lessee shall have the right to terminate ~~this~~ the lease, in whole but not in part, at the end of any fiscal year of lessee, if the Legislature fails to allocate sufficient funds to lessee for the rental payments required under ~~this~~ the lease.

~~I.~~ K. 1. No change order or addendum ~~can~~ shall be made to a lease-purchase agreement which extends the term or life of the original bid contract. Any lease-purchase agreement requiring such extensions or refinancing shall be readvertised and processed in accordance with the provisions of the Oklahoma Central Purchasing Act.

2. ~~All~~ Every state ~~agencies~~ agency, whether or not ~~the state agency is~~ subject to the provisions of the Oklahoma Central Purchasing Act, shall ~~prepare~~ maintain a list of all tangible personal property which it is acquiring by a lease-purchase method and, prior to the renewal of a lease-purchase agreement, shall evaluate the rate being paid under the current lease-purchase agreement against rates currently being received by the Purchasing Division of the Department of Central Services on a competitive bid basis to determine whether or not refinancing of the property will benefit the state. Any state agency which elects not to submit a requisition for a possible refinancing when the existing rates are at least one percent (1%) above rates being currently bid, and when the total sum to be paid for the property including principal and

interest will be reduced, ~~must~~ shall submit a written justification to the State Purchasing Director stating the reasons for not attempting to refinance the property. The State Purchasing Director shall forward all such justifications to the ~~Chairman~~ Chair of the Appropriations Committee of the Senate and the ~~Chairman~~ Chair of the Committee on Appropriations and Budget of the House of Representatives no later than February 1 of each year.

3. Unless otherwise provided by law, no state agency shall enter into a lease-purchase agreement for real or personal property costing less than Fifty Thousand Dollars (\$50,000.00). ~~Institutions of The Oklahoma State System of Higher Education shall be exempt from this provision.~~

4. a. Unless otherwise provided by law, the maximum term of a state agency lease-purchase agreement shall be the lesser of the useful life of real or personal property subject to a lease-purchase agreement as determined by the State Purchasing Director, or three (3) years for personal property and ten (10) years for real property, respectively. ~~Institutions of The Oklahoma State System of Higher Education shall be exempt from this provision.~~

b. The Executive Bond Oversight Commission and the Legislative Bond Oversight Commission shall have the authority to extend the term of a lease-purchase agreement beyond three (3) years for personal property and ten (10) years for real property if the State Purchasing Director determines that the useful life of the property exceeds ~~said~~ the terms and the Oklahoma State Bond Advisor recommends the extension as being in the best interests of ~~the State of Oklahoma~~ this state.

5. Unless otherwise provided by law, state agency real property acquisitions subject to lease-purchase agreements shall be explicitly authorized by the Legislature. Acquisitions of real property authorized by the Legislature, unless otherwise exempted by the Legislature, shall be subject to the competitive bid provisions of the Oklahoma Central Purchasing Act. If a state agency is authorized to enter into a lease-purchase agreement for real property, the financing of ~~such~~ the acquisition, including acquisitions deemed desirable for executing a lease-purchase, certificate of participation, or similar agreement or obligation, shall be obtained in accordance with the provisions of the Oklahoma Central Purchasing Act. The State Purchasing Director shall consult with the Oklahoma State Bond Advisor on the preparation, evaluation, and negotiation of such financing. Legislative authorization shall constitute legal authorization for this state or state agencies to enter into such lease-purchase agreements. ~~Institutions of The Oklahoma State System of Higher Education shall be exempt from this provision.~~

~~J.~~ L. The State Purchasing Director may permit leasing of products by state agencies if such leasing is determined by the State Purchasing Director to be in the best interest of the state, provided that such leasing must be processed by competitive bids through the State Purchasing Director except as to those acquisitions exempt ~~under~~ pursuant to Section 85.12 of this title.

~~K.~~ M. 1. Before reoffering or remarketing an obligation, a state agency shall obtain written approval from the Oklahoma State Bond Advisor. Should a remarketing of a lease-purchase agreement be proposed that includes the remarketing of securities or obligations to more than a single investor, any disclosure language prepared in connection with such remarketing that describes the state's liability under the lease-purchase agreement shall be approved in advance, in writing, by the Oklahoma State Bond Advisor.

2. In no event shall a state agency enter into a lease-purchase agreement unless that agreement ~~contains the following or similar language:—The~~ states that the State of Oklahoma reserves the right to approve any ~~reoffering~~ reoffering of ~~this~~ the obligation to another investor either through private placement, issuance of certificates of participation, or any other mechanism. ~~Such approval must be obtained in advance, in writing, from the Oklahoma State Bond Advisor prior to any remarketing.~~

~~2. In the event that a remarketing of a lease-purchase agreement is proposed that includes the remarketing of securities or obligations to more than a single investor, any disclosure language prepared in connection with such marketing that describes the state's liability under the lease-purchase agreement must be approved in advance, in writing, by the Oklahoma State Bond Advisor.~~

~~E. N.~~ 1. Whenever it appears advantageous to the state or to any state agency to purchase or otherwise acquire any acquisition which may be offered for sale by the government of the United States of America or any agency thereof, the State Purchasing Director may ~~enter into~~ execute a contract for the acquisition with the federal government or ~~with any federal agency charged with the sale or disposition of such equipment, supplies, material, or other property, and the State Purchasing Director shall be authorized to execute such contract.~~

2. ~~Should~~ If the State Purchasing Director approves an acquisition from the federal government or agency and determines that the regulations of the federal government, ~~or any agency thereof handling the disposition and sale of any equipment, supplies, materials, or other property which it would be advantageous to the state to purchase,~~ require that partial or full payment be made at the time sale is effected and before the ~~equipment, supplies, material, or other property~~ acquisition will be delivered, the State Purchasing Director, upon requisition by the

requesting party, shall ~~draw~~ have a state warrant drawn against the funds of the ~~department or~~ acquiring state agency payable to the United States of America or its proper agency. The warrant shall be in such amount as ~~may be~~ necessary to meet the terms and conditions of sale without requiring a certificate showing that the ~~equipment, supplies, material, or other property~~ acquisition has actually been delivered to the state ~~department or other~~ agency in whose behalf the purchase is being negotiated.

SECTION 5. AMENDATORY 74 O.S. 1991, Section 85.5, as last amended by Section 4, Chapter 371, O.S.L. 1998 (74 O.S. Supp. 1998, Section 85.5), is amended to read as follows:

Section 85.5 A. ~~Subject~~ Pursuant 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 all acquisitions used or consumed by state agencies.

B. The State Purchasing Director, after consultation with the requisitioning ~~or purchasing~~ state agency, shall have authority to determine the particular brand, model, or other specific classification of each acquisition ~~to be acquired for such use or consumption,~~ and to draft or invoke pursuant to the Oklahoma Central Purchasing Act specifications establishing the requirements for all ~~such leases or purchases pursuant to restrictions of the Oklahoma Central Purchasing Act~~ necessary contracts or purchase orders.

C. The Director of the Department of Central Services shall have authority and responsibility to promulgate rules pursuant to provisions of the Oklahoma Central Purchasing Act governing, providing for, ~~and~~ prescribing, or authorizing any act, practice, or requirement for which regulatory power is delegated for:

1. The time, manner, authentication, and form of making requisitions for acquisitions ~~pursuant to the Oklahoma Central Purchasing Act;~~

~~2. Inspection, analysis, and testing of all supplies, materials, and equipment purchased acquisitions 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 samples suppliers submit prior to contract award;~~

~~3. The form and ~~the time and~~ manner of submission of any for bids ~~submitted for contracts to furnish any acquisitions pursuant to the Oklahoma Central Purchasing Act~~ or proposals a supplier submits and the manner of ~~opening and~~ accepting and opening the same, subject to restrictions contained in the Oklahoma Central Purchasing Act bids or proposals;~~

~~4. The conditions under which The Department of Central Services shall require written contracts for ~~such purchases or leases are to be required for the acquisitions affected by the Oklahoma Central Purchasing Act and~~ acquisitions, 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;~~

~~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;~~

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

~~7. 6. Conditions under which any of the rules herein authorized may be waived, pursuant to restrictions contained in the Oklahoma Central Purchasing Act;~~

~~8. 7. The amounts of and deposits on any bond required to be submitted with a bid or contract for the furnishing of acquisitions~~

~~pursuant to the Oklahoma Central Purchasing Act,~~ and the conditions under which such bond shall be required;

~~9. 8.~~ Such storage Storage and storage facilities ~~as may be~~ necessary to accomplish responsibilities of the Director of the Department of Central Services ~~pursuant to the Oklahoma Central Purchasing Act;~~

~~10. 9.~~ The manner and conditions of delivery, which shall include the designation of the common carrier of property to be used to transport ~~any~~ acquisitions ~~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 acquisitions ~~pursuant to the Oklahoma Central Purchasing Act;~~

~~11. 10.~~ The form of any estimate, order, or other document ~~required to discharge the responsibilities fixed by the provisions of the Oklahoma Central Purchasing Act~~ the Director of the Department of Central Services requires;

~~12. 11.~~ State agency acquisitions not exceeding the acquisition purchase amount requiring competitive bid pursuant to Section 85.7 of this title to ensure competitiveness, fairness, compliance with provisions of all sections of the Oklahoma Central Purchasing Act, and compliance with ~~Sections~~ provisions of Section 3001 through 3010 et seq. of this title, which relate to the State Use Committee. The rules shall include separate provisions based on acquisition purchase price as follows:

- a. state agencies shall make acquisitions not exceeding Two Thousand Five Hundred Dollars (\$2,500.00), provided the acquisition process is fair and reasonable, ~~and~~ is conducted pursuant to rules authorized pursuant to this section, and
- b. state agencies with certified procurement officers and internal purchasing procedures found compliant by the Director of the Department of Central Services

pursuant to this section may make acquisitions in excess of Two Thousand Five Hundred Dollars (\$2,500.00) as provided below:

- (1) acquisitions with a ~~contract~~ price exceeding Two Thousand Five Hundred Dollars (\$2,500.00) and not exceeding Ten Thousand Dollars (\$10,000.00), pursuant to ~~administrative rules of the Department of Central Services~~ authorized by this section, and
- (2) acquisitions with a ~~contract~~ price exceeding Ten Thousand Dollars (\$10,000.00) and not exceeding a ~~purchase the~~ amount requiring ~~Central Purchasing bid~~ a requisition to the State Purchasing Director, pursuant to Section 85.7 of this title, by ~~competitive bidding by telephone solicitation and receipt of bids, or by facsimile transmission and,~~ invitation to bid, or solicitation by means of electronic commerce, receipt of bids and bid award by the state agency;

~~13.~~ 12. Training by the State Purchasing Director of state agency procurement officers;

~~14.~~ 13. Review by the State Purchasing Director of state agency acquisitions ~~not exceeding the acquisition purchase amount requiring competitive bid, pursuant to Section 85.7 of this title and pursuant to requirements of this section~~;

~~15.~~ 14. The conditions for increasing acquisition limits for state agencies which have had a prior reduction in acquisition limit by the Director of the Department of Central Services ~~pursuant to the Oklahoma Central Purchasing Act~~; and

~~16.~~ 15. Any other matter or practice which ~~is directly related~~ relates to the responsibilities of the Director of the Department of Central Services ~~within the scope of the authority of the Director~~

~~of the Department of Central Services as defined by the provisions of the Oklahoma Central Purchasing Act. The authority delegated by this section to promulgate rules 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.~~

D. The State Purchasing Director shall provide training for state agency purchasing officials and other purchasing staff. ~~Such~~ The training shall include principles of state procurement practices, basic contracting, provisions of the Oklahoma Central Purchasing Act, rules promulgated pursuant to the Oklahoma Central Purchasing Act, provisions of ~~Sections~~ Section 3001 ~~through 3010 et~~ seq. of this title, which relate to the State Use Committee, and any other matters related to state procurement practices. State agency purchasing officials that demonstrate proficiency shall be certified as "certified procurement officers" by the State Purchasing Director and shall be authorized to make ~~purchases~~ acquisitions pursuant to provisions of the Oklahoma Central Purchasing Act and rules authorized by this section.

E. The State Purchasing Director shall review state agency acquisitions ~~not exceeding the acquisition purchase amount requiring competitive bid, pursuant to Section 85.7 of this title~~ for the purposes of:

1. Ensuring state agency compliance with provisions of the Oklahoma Central Purchasing Act;
2. Ensuring state agency compliance with rules promulgated by the Department of Central Services pursuant to the Oklahoma Central Purchasing Act;
3. Ensuring state agency compliance with provisions of Sections 3001 through 3010 of this title;
4. Reporting any acquisition by any state agency found not to be in compliance with those sections or rules to the Director of the Department of Central Services; and

5. Recommending that the Director of the Department of Central Services reduce the acquisition competitive bid limit amount for any state agency ~~subject to the Oklahoma Central Purchasing Act~~ found not to be in compliance with the Oklahoma Central Purchasing Act or rules promulgated thereto.

F. When recommended by the State Purchasing Director, based on written findings by the State Purchasing Director, the Director of the Department of Central Services may:

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

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

3. Transmit written findings by the State Purchasing Director to the State Auditor and Inspector for further investigation, indicating purchasing procedures that do not conform to provisions pursuant to the Oklahoma Central Purchasing Act or rules promulgated pursuant to the Oklahoma Central Purchasing Act;

4. ~~Should~~ Transmit to the Attorney General or the State Auditor and Inspector for further investigation a report made by the State Purchasing Director that the Director of the Department of Central Services reasonably believe any acquisition reported by the State Purchasing Director believes indicates that an action that constitutes a criminal violation pursuant to the Oklahoma Central Purchasing Act has been taken by any state agency, state agency purchasing official, bidder, or vendor, ~~transmit such report to the Attorney General for further investigation;~~ or

5. Increase the state agency acquisition purchase amount requiring competitive bid, not to exceed the acquisition purchase

amount requiring competitive bid, pursuant to Section 85.7 of this title.

G. Pursuant to the requirements of the Oklahoma Central Purchasing Act, the State Purchasing Director shall have authority to enter into any statewide, multistate or multigovernmental contract.

H. The State Purchasing Director ~~is empowered to~~ may develop and test new contracting policies and procedures that hold potential for making the Purchasing Division more effective and efficient. ~~The State Purchasing Director shall work toward implementing commercial practices that focus more on results and less on process.~~

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

~~I.~~ J. The State Purchasing Director shall undertake the following initiatives:

1. The use of ~~Electronic Commerce and Electronic Data Interchange in accomplishing the~~ electronic commerce for solicitation, notification, and other purchasing function and in providing purchasing information to the vendor community suppliers and to state agencies processes;

2. A pilot project to allow selected state agencies to use State Purchase Cards for purchases ~~less than~~ not exceeding Two Thousand Five Hundred Dollars (\$2,500.00);

3. ~~A complete review and rewrite~~ Monitoring of rules promulgated pursuant to the Oklahoma Central Purchasing Act, ~~endeavoring~~ to ensure that the rules ~~serve their intended purpose,~~ satisfy the ~~overall~~ interests of the state, are clear and succinct, and encourage efficiency in ~~contracting~~ purchasing processes;

4. A ~~past performance~~ program to identify vendors with poor delivery and performance records ~~from the master vendor file~~;

5. Development of ~~guidance and definitive~~ criteria for the use of sealed bid contracting procedures, negotiated contracting procedures, selection of types of contracts, postaward administration of purchase orders and contracts, contract modifications, termination of contracts, and contract pricing;

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

7. Development of electronic means of making state agencies aware of office furniture, equipment, machinery, tools, and hardware available for purchase from the surplus property ~~program~~ programs; and

8. Development of programs to improve customer relations through training, improved communications, and appointment of technical representatives; and

~~9. Development of a pilot program authorizing certain acquisitions using best value acquisition. The pilot program shall be completed and permanent rules governing best value acquisitions shall be promulgated by the Director of the Department of Central Services by June 30, 1999.~~

~~J. K. The State Purchasing Director shall, in cooperation with the Oklahoma State Department of Agriculture, expand and develop new markets and identify the needs of state agencies and institutions, colleges and universities and other entities of this state, municipalities, counties and other political subdivisions of this state and federal agencies and institutions for agricultural products grown and produced in Oklahoma.~~

SECTION 6. AMENDATORY 74 O.S. 1991, Section 85.7, as last amended by Section 31 of Enrolled House Bill No. 1845 of the

1st Session of the 47th Oklahoma Legislature, is amended to read as follows:

Section 85.7 A. 1. Except as otherwise provided by the Oklahoma Central Purchasing Act, no state agency shall make an acquisition ~~or contract shall be made~~ for an amount exceeding Twenty-five Thousand Dollars (\$25,000.00) without submission of a requisition to the State Purchasing Director and submission of suppliers' competitive bids or proposals to the State Purchasing Director.

~~1. 2.~~ Any acquisition ~~or contract for an amount of Twenty-five Thousand Dollars (\$25,000.00) or less~~ a state agency makes shall be ~~exempted from processing by the Purchasing Division, but subject~~ made pursuant to the Oklahoma Central Purchasing Act and rules promulgated pursuant thereto. ~~Separate contracts or acquisitions for the individual components of a total project or service or split~~

a. Split purchasing for the purpose of evading the requirement of competitive bidding shall be ~~deemed a~~ felony.

b. The State Purchasing Director may waive or increase the ~~twenty-five-thousand-dollar~~ limit ~~up to, but of~~ Twenty-five Thousand Dollars (\$25,000.00) for a state agency acquisition by not to exceed, a contract or purchase price of more than ten percent (10%) ~~above the open market limit~~ to perfect an otherwise valid acquisition ~~or contract~~ inadvertently exceeding the ~~twenty-five-thousand-dollar~~ limit due to administrative error by the state agency or unforeseeable circumstances. ~~Requests for such~~ The state agency shall request a waiver or increase shall be promptly submitted upon the discovery of ~~such~~ the error or circumstance to the State Purchasing Director ~~in~~ on a form ~~prescribed by said~~ the Director ~~setting~~

~~forth the facts~~ requires. All

c. The State Purchasing Director shall report all requests for ~~such waiver~~ waivers or ~~increase in increases,~~ stating the amount, and whether the request was granted or denied, ~~shall be reported~~ monthly to the ~~offices of the~~ Governor, President Pro Tempore of the Senate, and Speaker of the House of Representatives.

~~2.~~ 3. Contracts for master custodian banks or trust companies, investment managers ~~and,~~ investment consultants, and actuaries for the state retirement systems, ~~the~~ State Insurance Fund, ~~and the~~ State and Education Employees Group Insurance Board, ~~the~~ pension fund management consultants of the Oklahoma State Pension Commission, and the Commissioners of the Land Office, and ~~actuarial,~~ ~~architectural,~~ ~~engineering,~~ ~~legal,~~ or other professional services as ~~such term is~~ defined in Section 803 of Title 18 of the Oklahoma Statutes shall be exempt from competitive bidding procedures of Section 85.4 of this title. A state agency that makes an acquisition pursuant to this paragraph shall notify the State Purchasing Director within fifteen (15) days following completion of the acquisition. The Department of Central Services shall ~~send~~ compile a ~~copy of such contracts or a~~ list of the exempt contracts and send the list to ~~any~~ a member of the Appropriations and Budget Committee of the House of Representatives or ~~of the~~ Appropriations Committee of the Senate, if ~~requested by~~ the member requests.

~~3.~~ 4. ~~Competitive bids~~ Requisitions pursuant to this section shall not be required for any prior to emergency acquisitions or contracts involving by a state agency not exceeding Thirty-five Thousand Dollars (\$35,000.00) or less, when, upon written request of. The state agency shall submit a requisition to the State Purchasing Director within five (5) days following the acquisition together with a statement of the emergency. The State Purchasing

Director shall send the requisition and a written analysis to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives specifying the facts and circumstances giving rise thereto, ~~the Governor certifies in writing the existence of an emergency authorizing the acquisition or contract~~ to the emergency requisition.

~~4. 5. Competitive bids~~ Requisitions pursuant to this section for ~~services~~ acquisitions to alleviate a serious environmental emergency shall not be required if, upon ~~the~~ receiving a request of from the Chair of the Corporation Commission and after having examined the facts and circumstances of the case, the Governor certifies in writing the existence of a serious environmental emergency. ~~A serious environmental emergency for~~ For the ~~purpose~~ purposes of this section, "serious environmental emergency" means a situation within the jurisdiction of the Commission:

- a. in which serious damage to the environment will quickly occur if immediate action is not taken, and the damage will be so significant that the urgent need for action outweighs the ~~public policy strongly favoring~~ need for competitive bids, or
- b. a situation in which human life or safety is in imminent danger or significant property interests are threatened with imminent destruction.

~~5. 6. Purchases or acquisitions~~ Acquisitions for repairs of equipment ~~and machinery~~ in emergencies, ~~or~~ of livestock through a market agency, dealer, commission house, or livestock auction market bonded or licensed under federal or state law, ~~or~~ the purchase or collection of semen or embryos, and the placement of embryos into recipient livestock shall not ~~be subject to the competitive bid requirements of~~ require requisitions pursuant to this section or any other provisions of the Oklahoma Central Purchasing Act.

~~6. Purchases or acquisitions of human organs and internal~~

~~prostheses for the Oklahoma Medical Center, shall not be subject to the competitive bid requirements of this section or any other provisions of the Oklahoma Central Purchasing Act.~~

7. ~~Any contract~~ The Board of Directors of the Oklahoma Historical Society shall select suppliers for the restoration of historical sites and museums and shall not be subject to the ~~competitive bid~~ requisition requirements of this section or any other provision of the Oklahoma Central Purchasing Act. The Board may send a requisition to the State Purchasing Director and request supplier bid or proposal submission procedures ~~will be followed except contractor,~~ but supplier and bid selection will be the prerogative of the ~~Oklahoma Historical Society~~ Board and ~~selection~~ will be based on contractors' documented qualifications and experience.

8. Purchases of postage by state agencies shall be made ~~in accordance with the provisions of~~ pursuant to Sections 90.1 through 90.4 of this title.

9. ~~Any sole~~ Sole source ~~contract for~~ or sole brand acquisitions requested by a state agency or the State Purchasing Director shall comply with Section ~~89~~ 85.45j of this title.

10. ~~Contracts~~ Acquisitions for the design, development, communication, or implementation of the state employees flexible benefits plan shall not be subject to the requirements of this section; provided, that the Flexible Benefits Advisory Council shall use procedures consistent with the competitive bid requirements of the Oklahoma Central Purchasing Act.

11. a. Any ~~contract for~~ acquisition of a service ~~for~~ which the Department of Central Services has approved as qualifying for a fixed and uniform rate shall ~~not~~ be ~~subject to competitive bid procedures~~ made pursuant to provisions of this paragraph.

b. The Department of Central Services shall establish

criteria and guidelines for those services which may ~~be qualified~~ qualify for a fixed and uniform rate.

- c. ~~The exception to competitive bid procedures~~ Fixed and uniform rate contracts authorized by this paragraph shall be limited to contracts for those services furnished to persons directly benefiting from such services and shall not be used by ~~any~~ a state agency to employ consultants or to ~~purchase products~~ make other acquisitions.
- d. Any state agency desiring to have a service qualified for a fixed and uniform rate shall make a request for ~~such~~ service qualification to the Department of Central Services and ~~shall~~ submit ~~any~~ documentation ~~necessary~~ to support ~~such~~ the request. The Department of Central Services shall ~~either~~ approve or deny the request. If the Department of Central Services ~~qualifies such services for a fixed and uniform rate~~ approves the request, the state agency ~~requesting such qualification~~ shall establish a fixed and uniform rate for ~~such~~ the service, ~~provided no.~~ No contracts shall be entered into by the state agency until ~~such~~ the rate has been approved by the state agency in a public hearing. ~~Prior to approval, the~~ The proposed rate shall be clearly and separately identified in the agenda of the state agency for the hearing and shall be openly and separately discussed during such hearing. ~~In addition, the~~ The state agency shall notify the Director of the Department of Central Services of its pending consideration of the proposed rate at least thirty (30) days before the state agency is to meet on the proposed rate. ~~Along with such notice, the~~ The state agency shall deliver to the

Director of the Department of Central Services a copy of the agenda items concerning the proposed rate with ~~all~~ supporting documentation ~~and materials~~. The Director of the Department of Central Services shall communicate any observation, reservation, criticism, or recommendation to the agency, either in person at the time of the hearing or in writing delivered to the state agency before or at the time of the hearing. The Director of the Department of Central Services shall specifically note in ~~such~~ the written communications ~~if~~ whether the Director of the Department of Central Services has determined the rate to be excessive. Any ~~such~~ written communication presented in the absence of the Director of the Department of Central Services shall be presented orally during the public hearing. Whether made in person or in writing, any comment made by the Director of the Department of Central Services shall be made a part of the minutes of the hearing in full.

- e. Within two (2) weeks after the convening of the Legislature, the administrative officer of the state agency shall furnish to the Speaker of the House of Representatives, the President Pro Tempore of the Senate and to any member of the House or Senate, if requested by ~~such~~ the member, a complete list of all of the types of services paid for by uniform fixed rates, the amount of the rate last approved by the agency for the service, and the number of contracts then in existence for each type of service. Any rate which has been determined to be excessive by the Director of the Department of Central Services shall be specifically identified in ~~such~~ the list by the

state agency.

f. At any time, the Director of the Department of Central Services ~~is authorized to~~ may review, suspend, or terminate a contract entered into pursuant to the provisions of this paragraph if the Director of the Department of Central Services determines the contract is not necessary, is excessive, or is not justified.

12. ~~Purchases of or contracts for specifically~~ Specifically prescribed nonmedical adaptive technology-related acquisitions for individuals with disabilities who are clients of the State Department of Rehabilitation Services and which are prescribed by a physician, rehabilitation engineer, qualified rehabilitation technician, speech therapist, speech pathologist, occupational therapist, physical therapist, or qualified sensory aids specialist, and other client acquisitions, shall not be subject to the ~~competitive bid~~ requisition requirements of this section. The Commission for Rehabilitation Services shall develop standards for the purchase of such acquisitions and may elect to utilize the Purchasing Division ~~when appropriate~~ for an acquisition. The standards shall foster economy, provide a short response time, ~~and shall~~ include appropriate safeguards ~~and,~~ require written records ~~to,~~ ensure appropriate competition ~~and for~~ economical and efficient purchasing, and shall be approved by the ~~Director of Central State~~ Purchasing Director.

13. ~~Purchases~~ The Department of Human Services shall develop procedures for acquisitions of ~~or contracts for~~ specifically prescribed nonmedical assistive technology-related items not exceeding the acquisition purchase amount requiring ~~competitive bid~~ a requisition pursuant to this section for individuals under sixteen (16) years of age who are recipients of Supplemental Security Income ~~and~~ which are prescribed by a physician, qualified sensory aids ~~specialists~~ specialist or qualified special education ~~instructors~~

~~shall not be subject to the competitive bid requirements instructor.~~  
The ~~Department of Human Services~~ procedures shall ~~develop~~ reflect standards for the acquisition of such nonmedical assistive technology-related items ~~and,~~ may elect to utilize provide for utilization of the Purchasing Division when appropriate. ~~Such standards,~~ shall foster economy, provide a short response time, and shall include appropriate safeguards and written records to ~~assure~~ ensure appropriate competition and economical and efficient purchasing, and shall be approved by the ~~Director of the Department of Central State~~ Purchasing Director.

14. a. Structured settlement agreements entered into by the Attorney General's office in order to settle any lawsuit involving the state, the Legislature, any state ~~board,~~ agency, ~~commission,~~ or any employee or official of the state shall not be subject to the competitive bidding requirements of this section if:
  - (1) prior to entering into any contract for the services of an entity to administer a structured settlement agreement, the Attorney General receives proposals from at least three entities engaged in providing such services, and
  - (2) the selection of a particular entity is made on the basis of the response to the request which is the most economical and provides the most competent service which furthers the best interests of the state.
- b. A list of any such structured settlement agreements entered into by the Attorney General with summary thereon for the previous calendar year shall be submitted to the Speaker of the House of Representatives and the President Pro Tempore of the Senate on January 31 of each year.

15. Purchases available pursuant to a multistate or multigovernmental contract through the Purchasing Division, if the terms of the contract are more favorable to or will result in more favorable terms, conditions, accessibility, prices, control, or efficiency for the state than purchasing from a company distributing to state agencies through a statewide contract or other contract shall be exempt from competitive bidding procedures.

16. The Commission on Marginally Producing Oil and Gas Wells shall be exempt from the competitive bid requirements of this section for contracts with local vendors for the purpose of holding special events and exhibitions throughout the state.

~~17. Until June 30, 1999, contracts for the provision of substance abuse services; mental health services; community-based treatment, education, or prevention services; and domestic violence and sexual assault services to clients of the Department of Mental Health and Substance Abuse Services shall be exempt from the competitive bidding requirements of this act.~~

B. Acquisitions ~~or contracts~~ shall be awarded to the lowest and best, or best value, bidder ~~therefor~~ at a specified time and place, which shall be open to the public, ~~with such preference between bidders offering substantially the same products or services at substantially the same prices, as may be set under the authority of Section 85.5 of this title.~~

C. Bids for professional service contracts for an amount requiring submission of requisitions to the State Purchasing Director shall be evaluated by the State Purchasing Director and the state agency contracting for such service. Both cost and technical expertise shall be considered in determining the lowest and best, or best value, bid. Further, the state agency shall present its evaluation and recommendation to the State Purchasing Director. A documented evaluation report containing the evaluations of the State Purchasing Director and the state agency contracting for such

service shall be completed prior to the awarding of a professional service contract and such report shall be a matter of public record.

D. When requested by the ~~governing body of a state retirement system, the State Insurance Fund or, the State and Education Employees Group Insurance Board,~~ which are or the governing board of a state retirement system authorized to hire investment managers, the Department of Central Services shall assist the ~~governing requesting body of a state retirement system, the Fund or the Board~~ in the process of selecting investment managers. When requested by the Flexible Benefits Advisory Council, the Department of Central Services shall assist the Council in the process of selecting contracts for the design, development, communication, or implementation of the state employees flexible benefits plan.

E. Except as otherwise specifically provided by law, the acquisition of food items or food products by a state ~~public~~ agency from a public trust created pursuant to Sections 176 through 180.56 of Title 60 of the Oklahoma Statutes shall comply with competitive bidding procedures pursuant to the provisions of this section.

SECTION 7. AMENDATORY Section 1, Chapter 291, O.S.L. 1995, as last amended by Section 5, Chapter 203, O.S.L. 1998 (74 O.S. Supp. 1998, Section 85.9D), is amended to read as follows:

Section 85.9D A. ~~As used in this section:~~

~~1. "Consolidation contracts" shall mean contracts for several state entities, entered into for the purposes of purchasing computer software maintenance and hardware maintenance contracts in quantity; and~~

~~2. "Enterprise contracts" shall mean agreements which would include all products used by this state that are manufactured, developed and designed by an individual vendor.~~

~~B.~~ Except as otherwise provided in subsection ~~C~~ B of this section, agencies within the executive branch shall coordinate ~~any purchases~~ acquisition of computer software maintenance and hardware

maintenance contracts through the Purchasing Division of the  
Department of Central Services. ~~The Department of Central Services~~  
~~is authorized to~~ Purchasing Division may establish ~~consolidated~~  
consolidation contracts and enterprise agreements for ~~the purpose of~~  
~~purchasing computer software maintenance and hardware maintenance~~  
~~contracts~~ state agencies. ~~The Department of Central Services is~~  
~~authorized to employ negotiations~~ State Purchasing Director may  
negotiate consolidation contracts and enterprise agreements in lieu  
of or in conjunction with bidding procedures ~~in the purchase of the~~  
~~maintenance contracts only if the negotiations to~~ reduce the state's  
acquisition cost.

~~C. Purchases of computer software maintenance and hardware~~  
~~maintenance contracts for the telecommunications network known as~~  
~~OneNet and such purchases by agencies of the executive branch for~~  
~~maintenance of software or hardware used in connection with OneNet~~  
~~or for applications for which compliance with standards or protocols~~  
~~established for OneNet users is required, shall be coordinated with~~  
~~the Information Services Division of the Office of State Finance.~~

~~D. B.~~ The provisions of this section shall not apply to the  
Northeast Oklahoma Public Facilities Authority.

SECTION 8. AMENDATORY 74 O.S. 1991, Section 85.12, as  
last amended by Section 32 of Enrolled House Bill No. 1845 of the  
1st Session of the 47th Oklahoma Legislature, 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 they may be directly in conflict herewith;  
and all claims, warrants, and bonds shall be examined, inspected,  
and approved as now provided by law.

B. Except as otherwise provided by this section, the ~~following~~  
acquisitions specified in this subsection shall ~~not~~ be ~~included~~  
~~within the purview~~ made in compliance with Section 85.39 of this

title but are not subject to other provisions of the Oklahoma Central Purchasing Act, except for Section 85.39 of this title:

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 institutions of 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 if the work is performed upon their own equipment, by their own employees. In order to be exempt from Purchasing Division processing pursuant~~ Pursuant to this paragraph, the state agency may only use equipment owned or leased by the agency and may only utilize that equipment for printing services required by the agency in performing duties imposed upon the agency or functions authorized to be performed by the agency. Any use of the equipment by the agency pursuant to an agreement or contract with any other entity resulting in delivery of intermediate or finished products to the entity purchasing or using the products shall be subject to the provisions of the Oklahoma Central Purchasing Act;

~~4. Acquisitions by institutions of The Oklahoma State System of Higher Education, the Oklahoma State Regents for Higher Education, or the University Centers subject to the State Regents insofar as such acquisitions relate to textbooks, laboratory supplies, instructional materials, and specialized laboratory equipment, or to acquisitions for the telecommunications network known as OneNet, whether said network is governed or operated by the State Regents or any other state entity assigned responsibility for OneNet;~~

~~5.~~ 3. Department of Transportation and Transportation Commission contractual services or right-of-way purchases. ~~Contracts;~~ 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;~~ but not contractual services ~~as used herein shall not include~~ for advertising or public relations or employment services;

~~6.~~ 4. Utility services where rates therefor are regulated by a state or federal regulatory commission, or by ~~city~~ municipal ordinance~~,~~, or by an Indian Tribal Council for use by the Department of Corrections only;

~~7.~~ 5. Acquisitions 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~~ the Purchasing ~~when appropriate~~ Division. ~~Such~~ The standards shall foster economy~~,~~ and short response time~~,~~ and shall include appropriate safeguards and ~~written records~~ record-keeping requirements to ensure appropriate competition and economical and efficient purchasing~~,~~ and shall be approved by the ~~Director of Central Purchasing;~~

~~8.~~ 6. Contracts for custom harvesting by the Department of Corrections for the Department or its institutions;

~~9.~~ 7. Contracts with private prison contractors which are subject to the contracting procedures of Section 561 of Title 57 of the Oklahoma Statutes;

~~10.~~ 8. ~~Purchases~~ Acquisitions by the Oklahoma Municipal Power Authority;

~~11.~~ 9. Acquisitions by the Grand River Dam Authority;

~~12.~~ 10. ~~Purchases~~ Acquisitions by rural water, sewer, gas~~,~~ or solid waste management districts created pursuant to the Rural Water, Sewer, Gas and Solid Waste Management Districts Act;

~~13.~~ 11. ~~Purchases~~ Acquisitions by the Oklahoma Ordnance Works Authority, the Northeast Oklahoma Public Facilities Authority, or the Midwestern Oklahoma Development Authority;

~~14.~~ 12. Contracts entered into by the Oklahoma Industrial Finance Authority for the services of an appraiser or for acquisition of insurance when the Authority's Board of Directors determines that an emergency exists, and contracts for the services of legal counsel when approved by the Attorney General;

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

~~16.~~ 14. Expenditure of monies appropriated to the State Department of Rehabilitation Services for educational programs or educational materials for the Oklahoma School for the Blind and the Oklahoma School for the Deaf;

~~17.~~ 15. Contracts entered into by the Oklahoma Department of Vocational and Technical Education for the development, revision, or updating of vocational curriculum materials, and contracts entered into by the Oklahoma Department of Vocational and Technical Education for training and supportive services that ~~meet~~ address the needs of new or expanding industries;

~~18.~~ 16. Contracts entered into by the Oklahoma Center for the Advancement of Science and Technology for professional services;

~~19.~~ 17. Contracts entered into by the Oklahoma Department of Commerce pursuant to the provisions of Section 5066.4 of this title;

~~20.~~ 18. ~~Purchases~~ Acquisitions made by the Oklahoma Historical Society from monies used to administer the White Hair Memorial;

~~21.~~ 19. ~~Purchases of products~~ Acquisitions available to an agency through a General Services Administration (GSA) contract or

other federal contract if the ~~item~~ acquisition is on current statewide contract and the terms of ~~such~~ the GSA or other federal contract, as determined by the State Purchasing Director, are more favorable to the agency than the terms of a statewide contract for the same products ~~as determined by the Director of Central Purchasing~~;

~~22.~~ 20. 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 1010.3 of Title 56 of the Oklahoma Statutes;

~~23.~~ 21. ~~Purchases of products~~ Acquisitions 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~~ acquisitions are not on current statewide contract or the terms of ~~such~~ the federal contract are more favorable to the agency than the terms of a statewide contract for the same products;

~~24.~~ 22. ~~Purchases or acquisitions~~ 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;

~~25.~~ 23. ~~Purchases made or contracts entered into~~ Acquisitions by the Oklahoma Energy Resources Board;

~~26.~~ 24. ~~Purchases or acquisitions~~ Acquisitions of clothing for juveniles in the custody of the Office of Juvenile Affairs and ~~purchases and~~ acquisitions of food for group homes operated by the Office of Juvenile Affairs;

~~27.~~ 25. State contracts for flexible benefits plans pursuant to the Oklahoma State Employees Benefits Act, Section 1361 et seq. of this title;

~~28.~~ 26. ~~Expenditures incurred~~ Acquisitions by the Department of Securities to investigate, initiate, or pursue administrative,

civil, or criminal proceedings involving potential violations of the acts under the Department's jurisdiction;

~~29.~~ 27. Acquisitions by the Native America Cultural and Educational Authority and acquisitions by the Oklahoma Department of Commerce to assist the Native American Cultural and Educational Authority pursuant to Section 5017 of this title;

~~30.~~ 28. Acquisitions for resale in and through canteens operated pursuant to Section 537 of Title 57 of the Oklahoma Statutes; and

~~31.~~ 29. ~~Expenditures of money or contracts entered into~~ Acquisitions by the Oklahoma Boll Weevil Eradication Organization for employment and personnel services, and for ~~the purchase or leasing of~~ acquiring sprayers, blowers, traps, and attractants, related to the eradication of boll weevils in this state, or as part of a national or regional boll weevil eradication program.

C. Any state agency ~~or~~, common school ~~of Oklahoma~~, any municipality ~~of the state~~, any rural fire protection district, and or county ~~officers~~ officer may, unless ~~the~~ acting pursuant to a contract with the state that specifies otherwise, ~~avail themselves~~ make use of ~~the Purchasing Division~~ statewide contracts and the services of the Purchasing Division and the State Purchasing Director. ~~Provided, that any~~ Any political subdivision ~~of government and any~~ or rural fire protection district ~~of the state~~ may designate the State Purchasing Director as its agent for ~~the purchase or procurement of~~ any acquisition from a statewide contract or otherwise available to the state.

D. ~~The purchasing policies and procedures of the Oklahoma Ordnance Works Authority, the Northeast Oklahoma Public Facilities 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 the State Purchasing Director shall make periodic audits of the purchasing~~

~~policies and~~ procedures of the Oklahoma Ordnance Works Authority, the Northeast Oklahoma Public Facilities Authority, the University Hospitals Authority, and the Midwestern Oklahoma Development Authority to ensure that ~~said purchasing policies and~~ the procedures, ~~as approved,~~ are being followed.

SECTION 9. AMENDATORY 74 O.S. 1991, Section 85.33, as amended by Section 8, Chapter 371, O.S.L. 1998 (74 O.S. Supp. 1998, Section 85.33), is amended to read as follows:

Section 85.33 A. There is hereby created in the State Treasury a revolving fund for the Department of Central Services to be designated the "Registration of State Vendors Revolving Fund". The fund shall consist of any monies received from fees collected in accordance with subsection B of this section. The revolving fund shall be a continuing fund, without legislative appropriation, not subject to fiscal year limitations, and shall be under the control and management of the Department of Central Services. Expenditures from the Registration of State Vendors Revolving Fund shall be budgeted and expended pursuant to the laws of the state and the statutes relating to public finance. The fund shall be used to defray the costs of the Purchasing Division for commodity research, classification, and analysis. Warrants for expenditures from said fund shall be drawn by the State Treasurer, based on claims signed by an authorized employee or employees of the Department, and approved for payment by the Director of State Finance.

B. The Department of Central Services ~~may designate the amount of and~~ shall collect a fee, ~~not to exceed Ten Dollars (\$10.00), of~~ Twenty-five Dollars (\$25.00) to register ~~vendors~~ suppliers that desire to do business with ~~the State of Oklahoma~~ this state through the Purchasing Division ~~of the Department~~. The ~~vendors must~~ suppliers shall register separately for each commodity list. Each ~~designated fee entitles~~ registration shall entitle the ~~vendor~~ supplier to be on that list for one (1) year, to receive all bid

notices in that classification for that period, and to receive one copy of the State's Commodity Classification Manual when published. All fees collected in accordance with this section shall be deposited in the revolving fund created in subsection A of this section.

SECTION 10. AMENDATORY 74 O.S. 1991, Section 85.39, as amended by Section 9, Chapter 371, O.S.L. 1998 (74 O.S. Supp. 1998, Section 85.39), is amended to read as follows:

Section 85.39 A. 1. Each state agency shall develop internal purchasing procedures for ~~all~~ acquisitions ~~including, but not limited to,~~ by the state agency. Procedures shall, at a minimum, include provisions for the state agency's needs assessment, funding, routing, review, audits, monitoring, and evaluations and. Following development, the state agency shall submit the procedures to the State Purchasing Director.

2. ~~For acquisition procedures subject to the Oklahoma Central Purchasing Act, state agencies shall submit a copy of the procedures within ten (10) days of development.~~

~~3.~~ The State Purchasing Director shall review the procedures submitted pursuant to paragraph ~~2~~ 1 of this subsection to determine ~~whether they comply~~ compliance with the Oklahoma Central Purchasing Act, rules promulgated pursuant thereto, ~~and~~ Sections 3001 through 3010 of this title, and provisions of paragraph 1 of this subsection. The State Purchasing Director shall provide written findings, including details of noncompliance, if any, to the Director of the Department of Central Services, ~~who.~~

3. The Director of the Department of Central Services shall ~~notify the state agency,~~ within fifteen (15) days after the procedures are submitted ~~and,~~ notify the state agency that the procedures are in compliance or indicate revisions necessary to bring the procedures into compliance.

B. ~~Prior to a~~ A state agency making shall not make acquisitions ~~over the twenty-five-hundred-dollar limit~~ exceeding Two Thousand Five Hundred Dollars (\$2,500.00) pursuant to Section 4 85.5 of this act title, unless the state agency shall ~~comply with this section~~ Director of the Department of Central Services provides notice of compliance.

C. Each state agency shall maintain a document file for each ~~contract~~ acquisition the state agency makes which shall include, at a minimum, justification for the ~~contract~~ acquisition, supporting documentation ~~and related information~~, copies of ~~the contract~~ all contracts, if any, pertaining to the acquisition, evaluations, written reports if required by ~~the~~ contract, and any other such information ~~as is required by~~ the State Purchasing Director requires be kept.

SECTION 11. AMENDATORY 74 O.S. 1991, Section 85.40, is amended to read as follows:

Section 85.40 ~~The~~ Suppliers that may incur travel expenses ~~to be incurred by a vendor or service provider pursuant to a contract with a state agency for the purchase of products or services, whether or not such purchase is exempt from the Oklahoma Central Purchasing Act,~~ an acquisition by a state agency from the supplier shall be included include travel expenses in the total amount of acquisition price in the contract award supplier's bid, proposal, or quotation. ~~An~~ A state agency shall not pay any supplier travel expenses ~~not specified in addition to the total amount price of the contract awarded~~ acquisition.

~~The provisions of this section shall also apply to any acquisition or contract for an amount of Two Thousand Five Hundred Dollars (\$2,500.00) or less. If the total contract amount including travel expenses exceed Two Thousand Five Hundred Dollars (\$2,500.00), the contract shall be processed by competitive bid~~

~~unless specifically exempted pursuant to Section 85.7 or 85.12 of Title 74 of the Oklahoma Statutes.~~

SECTION 12. AMENDATORY 74 O.S. 1991, Section 85.41, as last amended by Section 10, Chapter 371, O.S.L. 1998 (74 O.S. Supp. 1998, Section 85.41), is amended to read as follows:

Section 85.41 A. ~~Any~~ A state agency ~~contracting for that~~ acquires professional services shall comply with the provisions of this section.

B. ~~1. Each~~ The state agency shall ~~be responsible for~~ evaluate the performance of the professional services provided ~~under~~ pursuant to a professional services contract ~~and for~~ completing a. ~~The performance evaluation of the services provided under the contract only when the~~ shall indicate the quality of service ~~was unsatisfactory or problems were encountered with the contractor or work product of the supplier.~~ The ~~evaluations shall be delivered~~ state agency shall send a copy of the evaluation to the State Purchasing Director, ~~who shall~~ and retain the evaluations ~~for future reference~~ evaluation in the document file the state agency maintains for the acquisition pursuant to Section 85.39 of this title.

~~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~~ work product of the contract is a report, ~~a copy~~ the state agency shall be filed file the report with the State Librarian and Archivist.

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

~~state an unfinished professional services contract to which the state agency is a party.~~

E. A professional services contract ~~entered into by a state agency or by or pursuant to the supervision of the State Purchasing Director~~ shall include an audit clause which provides that ~~books, records, documents, accounting procedures, practices or any other~~ all items of the ~~service provider relevant~~ supplier that relate to the ~~contract~~ professional services 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~~ If the final product of the professional services contract is a written proposal, report, or study, the professional services contract shall require the supplier to sign a sworn statement certifying, ~~to the best of the person's knowledge,~~ that the ~~person~~ supplier has not previously ~~entered into a contract with~~ provided the state agency or any other state agency ~~which would result in~~ with a final product that is a substantial duplication of the final product ~~required by~~ of the proposed contract.

2. Any ~~person~~ state agency renewing ~~the person's~~ a contract with ~~the state agency~~ a supplier shall not be ~~required to sign the sworn statement specified by~~ subject to the provisions of paragraph 1 of 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~~ of the State Purchasing 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 13. AMENDATORY 74 O.S. 1991, Section 85.43, as amended by Section 11, Chapter 371, O.S.L. 1998 (74 O.S. Supp. 1998, Section 85.43), is amended to read as follows:

Section 85.43 A. Each chief administrative officer of ~~an a~~ a state agency, ~~whether or not the agency is subject to the Oklahoma Central Purchasing Act,~~ shall be required to submit to the State Purchasing Director by November 1 of each ~~calendar~~ year a report listing all ~~contracts equal to or greater than Two Thousand Five Hundred Dollars (\$2,500.00)~~ acquisitions exceeding Ten Thousand Dollars (\$10,000.00) but not ~~in excess of Twenty-five Thousand Dollars (\$25,000.00)~~ entered into by exceeding Twenty-five Thousand Dollars (\$25,000.00) of the state agency for the preceding fiscal year which will include the following information:

1. ~~Open market contracts;~~
2. ~~Professional services contracts;~~
3. 2. Nonprofessional services contracts; and
4. 3. Contracts for the leasing of property including real property contracts and any lease agreements for products or equipment.

B. The report shall contain:

1. The name of the ~~vendor or service provider~~ supplier;
2. A description of ~~service or item~~ each acquisition;

3. The ~~total amount~~ purchase price of the ~~contract~~ acquisition;  
and

4. The total amount expended to date for the preceding fiscal year for the acquisition.

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

D. ~~This report~~ The state agency shall ~~be submitted~~ submit the report to the State Auditor and Inspector and ~~the report shall be submitted~~ to the Department of Central Services. ~~In addition, the report~~ The state agency shall ~~be submitted~~ submit the report to any member of the Appropriations and Budget Committee of the House of Representatives or ~~Senate Appropriation~~ Appropriations Committee of the Senate if ~~requested by such a member~~ so requests.

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

SECTION 14. AMENDATORY 74 O.S. 1991, Section 89, as last amended by Section 13, Chapter 371, O.S.L. 1998, and as renumbered by Section 15, Chapter 371, O.S.L. 1998 (74 O.S. Supp. 1998, Section 85.45j), is amended to read as follows:

Section 85.45j A. 1. Pursuant to the provisions of this section, the State Purchasing Director may exempt from competitive bidding procedures a requisition for a sole source ~~contract~~ requested by or sole brand acquisition requested by a state agency ~~subject to the Oklahoma Central Purchasing Act only if the provisions of paragraph 7 of this subsection have been followed.~~

2. ~~Whenever any~~ If a state agency subject to the Oklahoma Central Purchasing Act requisitions desires to make a sole source or sole brand acquisition, whether the acquisition purchase price exceeds the state agency's authorized dollar amount requiring a requisition to the Purchasing Director ~~for any particular product or service by sole source contract~~ or not, the chief administrative

~~officer of such~~ state agency shall retain in the state agency's  
acquisition file or attach to the requisition an affidavit signed by  
~~such~~ the chief administrative officer of the state agency, in the  
following form:

SOLE SOURCE OR SOLE BRAND ACQUISITION

AFFIDAVIT

STATE AGENCY \_\_\_\_\_

~~SERVICE PROVIDER/VENDOR~~ SUPPLIER NAME \_\_\_\_\_

SUPPLIER ADDRESS \_\_\_\_\_

~~PHONE~~ SUPPLIER TELEPHONE \_\_\_\_\_

I hereby affirm that the ~~services or products to be purchased~~  
acquisition pursuant to the provisions of the attached requisition  
or contract ~~are~~ is very specialized or ~~for which great~~ acquired  
requires great expertise ~~is needed~~ and to the best of my knowledge

(Name of ~~Service Provider/Vendor~~ Supplier)

is the only person or business entity which is singularly and  
peculiarly qualified to provide ~~such services or products~~ the  
acquisition, and if a product is the only brand ~~name~~ or product  
which is singularly and peculiarly unique, for the following  
reasons:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The following is a brief description of all efforts which were  
made to ~~solicit bids for~~ verify that the services or products to be  
purchased pursuant to the provisions of the attached requisition or  
contract qualify as a sole source or sole brand acquisition:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

I understand that the signing of this affidavit knowing such information to be false may subject me to punishment for perjury.

\_\_\_\_\_  
(Chief administrative officer)

STATE OF OKLAHOMA )

) ss.

COUNTY OF OKLAHOMA)

Subscribed and sworn to before me this \_\_ day of \_\_\_\_\_, 19\_\_ or 20\_\_.

\_\_\_\_\_  
Notary Public

My Commission expires:

\_\_\_\_\_

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

4. Any chief administrative officer of a state agency affirming the affidavit required by this subsection who knows ~~such~~ the 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. ~~Any person found guilty or pleading~~ Upon conviction or upon entering a plea of nolo contendere pursuant to this paragraph, the chief administrative officer shall immediately forfeit ~~the person's~~ his or her position and shall be ineligible for appointment to or employment in the state service for

a period of five (5) years after ~~being found guilty or pleading~~  
entering a plea of nolo contendere or being convicted.

5. Upon a determination by the Director of the Department of Central Services that there are reasonable grounds to believe that a violation of this subsection has occurred, the Director shall ~~request~~ send findings to the Attorney General to initiate criminal proceedings in district court that support the determination. The Attorney General shall review the findings and determine whether to investigate or prosecute the person.

6. The State Purchasing Director shall ~~either~~ approve or deny ~~any~~ the state agency's requisition for a sole source ~~contract or~~ sole brand acquisition.

~~7.~~ Prior to ~~the~~ approving a requisition from a state agency for a sole source or sole brand acquisition pursuant to this section, the State Purchasing Director ~~approving a sole source purchase pursuant to this section,~~ ~~no less than three suppliers shall be solicited to submit written or oral quotations in order to determine if~~ document reasons a sole source or sole brand purchase is in order necessary and shall retain a written record ~~shall be maintained~~ for three (3) fiscal years following the end of the fiscal year during which the sole source ~~contract or~~ sole brand acquisition was awarded ~~for audit or other appropriate purposes.~~

7. For state agencies with authority to make acquisitions between exceeding Two Thousand Five Hundred Dollars (\$2,500.00) and not exceeding Twenty-five Thousand Dollars (\$25,000.00), the certified procurement ~~office~~ officer shall ~~solicit the quotations required~~ document reasons a sole source or sole brand acquisition is necessary and shall retain a written record for three (3) fiscal years following the end of the fiscal year during which the sole source or sole brand acquisition was awarded. ~~For acquisitions of Twenty-five Thousand Dollars (\$25,000.00) or more, the State Purchasing Director shall solicit the quotations required.~~

8. 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~~ and sole brand acquisitions 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~~ and sole brand acquisitions that were disapproved or modified by the State Purchasing Director and such other information ~~required by~~ the State Purchasing Director requires.

9. The State Purchasing Director shall electronically provide to the Office of State Finance the information received pursuant to paragraph 8 of this subsection in machine-readable format and in ~~such the form as is required by~~ the Office of State Finance requires.

~~B. The chief administrative officer of each state 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 state agency in the preceding month and such additional information and in such form as is required by the Office of State Finance.~~

~~C.~~ 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:

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

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

3. The ~~Chairmen~~ Chair and ~~Vice Chairmen~~ Vice Chair of the Appropriations ~~Committees of both~~ and Budget Committee of the House

of Representatives and the Appropriations Committee of the Senate;  
and

4. ~~The Chairmen and Vice Chairmen of each subcommittee for the Appropriations Committees in both the House of Representatives and the Senate; and~~

5. Any member of the Legislature requesting ~~such~~ the report. The report shall detail all sole source ~~contracting activity~~ and sole brand acquisitions by state agencies for the month prior to the month preceding the submission of the report. The report shall be titled "Monthly Sole Source and Sole Brand Contracting Report of Oklahoma State Agencies" and ~~reflect~~ indicate the time period ~~covered in~~ of the report. The report shall be provided in physical form unless the requesting person specifies the electronic ~~versions~~ are specifically requested by the recipients listed in this section version. The report shall be signed by the Director of State Finance or ~~his~~ the Director's designee. The report shall be in columnar database format and shall include at least the following fields of information: state agency number; state agency name; date created by the Department of Central Services for the requisition; date of either approval or disapproval of the requisition; if disapproved, the reason why such contract was disapproved; estimated amount of the requisition; purchase order amount; purchase order number; actual business name of ~~vendor~~ supplier; ~~vendor~~ supplier federal employer identification number; contact person; and the commodity classification listing at the appropriate level to distinguish between similar ~~items~~ acquisitions. Information required by this subsection shall be reported and maintained on each report through the next reporting period after ~~a contract is awarded~~ an acquisition is made. The applicable data in the fields of information specified in this subsection shall be ~~required to be~~ listed even if the state agency requisition is disapproved.

~~D. C.~~ 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.

~~E. D.~~ By August 15 of each year, l 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 or sole brand contracts issued by each state agency and a list of the business names of the ~~vendors~~ suppliers who received sole source ~~contracts~~ or sole brand awards during the previous fiscal year and if more than one such ~~contract~~ award, the number of ~~contracts~~ awards so executed.

~~F. For purposes of this section, "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.~~

SECTION 15. AMENDATORY 74 O.S. 1991, Section 500.2, as last amended by Section 33 of Enrolled House Bill No. 1845 of the 1st Session of the 47th Oklahoma Legislature, is amended to read as follows:

Section 500.2 A. Officials and employees of the state, traveling on authorized state business, may be reimbursed for expenses incurred in such travel in accordance with the provisions of the State Travel Reimbursement Act and existing statutes relating to state travel. Persons who are not state employees, but who are performing substantial and necessary services to the state which have been directed or approved by the appropriate department official shall enjoy the protection of the sovereign immunity of the state to the same extent as a paid employee. Such persons may be reimbursed for expenses incurred during authorized official travel under these same statutory provisions, provided it is indicated on

the claim the person is not a state employee, a description of services performed is entered, and the agency head by his approval of the claim certifies such services were substantial and necessary, and germane to the duties and functions of the reimbursing agency. Travel expenses incurred by a person during the course of seeking employment with a state agency, unless such travel is performed at the request of the employing agency, shall not be considered expenses incurred in performing substantial and necessary services to the state and shall not be reimbursed under the provisions of the State Travel Reimbursement Act.

B. The chief administrative officer of the Department of Public Safety, the Oklahoma State Bureau of Investigation, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Oklahoma Military Department, the Department of Corrections, the Department of Central Services, the Alcoholic Beverage Laws Enforcement Commission, the State Department of Agriculture, the Department of Civil Emergency Management, and the State Fire Marshal may arrange for and charge meals and lodging for a contingent of state personnel moved into an area for the purpose of preserving the public health, safety, or welfare or for the protection of life or property. The cost for meals or lodging so charged shall not exceed the amount authorized in the State Travel Reimbursement Act. The chief administrative officer of each agency involved in such an operation shall require the vendor furnishing meals, lodging, or both meals and lodging to submit an itemized statement for payment. When a claim for lodging is made for a contingent of state personnel, individual members of the contingent may not submit a claim for lodging. When a claim for meals is made for a contingent of state personnel, individual members of the contingent may not submit a claim for meals.

C. The Oklahoma Department of Commerce and the Oklahoma Center for the Advancement of Science and Technology are hereby authorized

to enter into contracts and agreements for the payment of food, lodging, meeting facility and beverage expenses as may be necessary for sponsoring seminars and receptions relating to economic development and science and technology issues. Such expenses may be paid directly to the contracting agency or business establishment. The Director of the Oklahoma Department of Commerce and the President of the Oklahoma Center for the Advancement of Science and Technology shall each provide a quarterly report of such expenditures to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

D. The Native American Cultural and Educational Authority is hereby authorized to enter into contracts and agreements for the payment of food, lodging, and meeting facility as may be necessary to pursue the promotion of fund raising, marketing, and development of Native American educational programs and cultural projects, or to sponsor luncheons, seminars, and receptions relating to Native American educational, cultural, museum, and economic development issues. Such expenses may be paid directly to the contracting agency or business establishment. The Executive Director shall provide a monthly report of expenditures to the Board.

E. For purposes of this section:

1. "State agency" means any constitutionally or statutorily created state board, commission, or department, including the Legislature and the Courts; and

2. State agencies are authorized to enter into contracts and agreements for the payment of food and lodging expenses as may be necessary for employees or other persons who are performing substantial and necessary services to the state attending official conferences, meetings, seminars, workshops, or training sessions or in the performance of their duties. Such expenses may be paid directly to the contracting agency or business establishment, provided the meeting qualifies for overnight travel for the

employees and the cost for food and lodging for each employee shall not exceed the total daily rate as provided in the State Travel Reimbursement Act, Section 500.1 et seq. of this title.

3. State agencies are authorized to enter into contracts and agreements for the payment of conference registration expenses as may be necessary for employees or other persons who are performing substantial and necessary services to the state attending official conferences, meetings, seminars, workshops, or training sessions. Such expenses may be paid directly to the contracting agency or business establishment.

~~F.~~ F. State agencies are authorized to make direct purchases of commercial airline tickets for use by employees in approved out-of-state travel. Each claim or invoice submitted to the Director of State Finance for the payment of ~~such~~ the purchase shall bear the airline identifying ticket number, the name of the airline, total cost of each ticket purchased, class of accommodation, social security number, and name of the employee for whom the ticket was purchased, and shall be filed on claim forms as prescribed by the Director of State Finance. ~~An~~ The employee shall sign an affidavit ~~shall state~~ stating that ~~said~~ the employee did use any direct purchase commercial airline ticket received for his or her approved out-of-state travel.

~~F.~~ G. 1. The Administrator of the Office of Personnel Management is hereby authorized to enter into contracts and agreements for the payment of food, lodging, and other authorized expenses as may be necessary to host, conduct, sponsor, or participate in conferences, meetings, or training sessions. The Administrator may establish accounts as necessary for the collection and distribution of funds, including funds of sponsors and registration fees, related to such conferences, meetings, and training sessions. Any expenses incurred may be paid directly to the contracting agency or business establishment.

2. The cost of food for persons attending any conferences, meetings, and training sessions that do not require overnight travel shall not exceed the total daily rate as provided in the State Travel Reimbursement Act.

~~G.~~ H. 1. The Commissioner of the Department of Mental Health and Substance Abuse Services is hereby authorized to enter into contracts and agreements for the payment of food, lodging, and other authorized expenses as may be necessary to host, conduct, sponsor, or participate in conferences, meetings, or training sessions. The Commissioner may establish accounts as necessary for the collection and distribution of funds, including funds of sponsors and registration fees, related to such conferences, meetings, and training sessions. Any expenses incurred may be paid directly to the contracting agency or business establishment.

2. The cost of food for persons attending any conferences, meetings, and training sessions that do not require overnight travel shall not exceed the total daily rate as provided in the State Travel Reimbursement Act.

~~H.~~ I. The Oklahoma Indigent Defense System is hereby authorized to enter into contracts and agreements for the payment of lodging as necessary for employees to carry out their duties in representing any client whom the System has been properly appointed to represent. Such expenses may be paid directly to the contracting agency or business establishment. The cost for lodging for each employee shall not exceed the daily rate as provided in the State Travel Reimbursement Act.

SECTION 16. RECODIFICATION Section 1, Chapter 29, O.S.L. 1992 (74 O.S. Supp. 1998, Section 85.9C), shall be recodified as Section 62.7 of Title 74 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 17. RECODIFICATION Section 2, Chapter 296, O.S.L. 1997 (74 O.S. Supp. 1998, Section 85.9F), shall be recodified

as Section 62.8 of Title 74 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 18. RECODIFICATION 74 O.S. 1991, Section 85.24 shall be recodified as Section 138 of Title 61 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 19. REPEALER 74 O.S. 1991, Section 85.17, is hereby repealed.

SECTION 20. This act shall become effective July 1, 1999.

SECTION 21. 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.

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