ENGROSSED SENATE
BILL NO. 183

By: Haney and Hobson of the Senate

and

Settle and Begley of the House

[ central purchasing - 74 O.S. - Section 85.2. -

Central Purchasing Act - definitions -

effective date ]

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 of purchases, lease-purchases, lease-purchases 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 items, products, materials, supplies, consulting services, and all other services or equipment covered by the Oklahoma Central Purchasing Act, except those specifically excluded in the Oklahoma Central Purchasing Act;

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

a. the operational cost that the state agency would incur if the bid or proposal is accepted,

b. quality of the product, or its technical competency,

c. reliability of delivery and implementation schedules,

d. the maximum facilitation of information/data exchange and systems integration,

e. warranties, guarantees, return policy,

f. bidder financial stability,

g. consistency of the proposed solution with the state agency's planning documents and announced strategic program direction,

h. quality and effectiveness of the business solution approach,

i. industry and program experience,

j. prior record of vendor performance,

k. bidder expertise with engagements of similar scope and complexity,

l. extent and quality of the proposed participation and acceptance by all user groups,

m. proven development methodology and tools, and

n. innovative use of current technologies and quality results;

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

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

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 to make a change;

7. "Chief administrative officer" means the individual who has the responsibility to direct the administration of a state agency. The term shall not be construed to mean either one or all of the

individuals charged with the policy making responsibilities of the state agency;

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

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

a. awards and notices of awards,

b. orders issued under basic ordering agreements,

c. letter contracts,

d. orders, such as purchase orders, under which the contract becomes effective by written acceptance or performance, and

e. bilateral contract modifications;

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

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

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

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

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

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

17. "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. consistency of the proposed solution with the state agency's planning documents and announced strategic program direction;

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

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

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

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

22. "Open market contract" means a contract for the 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. "Professional services" means services which are predominantly mental or intellectual in character, rather than physical or manual and which do not involve the supplying of products. Professional services include services to support or improve agency policy development, decision making, management, administration, or the operation of management systems;

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

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

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

27. "Sole source contract" means:

a. for state agencies subject to 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, 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;

28. "Split purchase" means a separate contract or acquisition for the purpose of evading the requirement of competitive bidding;

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

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

SECTION 2. This act shall become effective November 1, 1999.

Passed the Senate the 22nd day of February, 1999.

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President of the Senate

Passed the House of Representatives the ____ day of _____ , 1999.

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Speaker of the House of Representatives