

SB 447

Senate Bill No. 447
As Amended

SENATE BILL NO. 447 - By: DICKERSON of the Senate and ASKINS of the House.

[The Oklahoma Central Purchasing Act - sole source - emergency]

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

SECTION 1. AMENDATORY 74 O.S. 1991, Section 89, as renumbered by Section 15, Chapter 371, O.S.L. 1998, and as last amended by Section 14, Chapter 289, O.S.L. 1999 (74 O.S. Supp. 2000, 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~~ an acquisition may be exempt from competitive bidding procedures as a requisition ~~for a sole source or sole brand acquisition requested by a state agency.~~

2. If a state agency 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 or not,~~ the state agency shall retain in the state agency's acquisition file or attach to the requisition an affidavit signed by the chief administrative officer of the state agency, in the following form:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

SOLE SOURCE OR SOLE BRAND ACQUISITION

AFFIDAVIT

STATE AGENCY _____
SUPPLIER NAME _____
SUPPLIER ADDRESS _____
SUPPLIER TELEPHONE _____

I hereby affirm that the acquisition pursuant to the provisions of the attached requisition or contract is very specialized or requires great expertise and to the best of my knowledge

(Name of Supplier)

is the only person or business entity which is singularly and peculiarly qualified to provide the acquisition, and if a product is the only brand 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 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:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

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 specific products or services but which does not specify a brand or supplier shall not substitute for the affidavit required by this subsection or otherwise invalidate the acquisition procedures required pursuant to the Oklahoma Central Purchasing Act.

1 4. Any chief administrative officer of a state agency affirming
2 the affidavit required by this subsection who knows the information
3 to be false shall be deemed guilty of perjury and upon conviction
4 shall be punished by fine or by imprisonment or both fine and
5 imprisonment pursuant to law. Upon conviction or upon entering a
6 plea of nolo contendere pursuant to this paragraph, the chief
7 administrative officer shall immediately forfeit his or her position
8 and shall be ineligible for appointment to or employment in the
9 state service for a period of five (5) years after entering a plea
10 of nolo contendere or being convicted.

11 5. Upon a determination by the Director of the Department of
12 Central Services that there are reasonable grounds to believe that a
13 violation of this subsection has occurred, the Director shall send
14 findings to the Attorney General that support the determination.
15 The Attorney General shall review the findings and determine whether
16 to investigate or prosecute the person.

17 6. ~~The~~ If the acquisition's purchase price is such that the
18 state agency is required to submit a requisition to the State
19 Purchasing Director, the State Purchasing Director shall approve or
20 deny the ~~state agency's~~ requisition for a sole source or sole brand
21 acquisition. Prior to approving a requisition ~~from a state agency~~
22 ~~for a sole source or sole brand acquisition~~ pursuant to this ~~section~~
23 paragraph, the State Purchasing Director shall document reasons a

1 sole source or sole brand purchase is necessary and shall retain a
2 written record for three (3) fiscal years following the end of the
3 fiscal year during which the sole source or sole brand acquisition
4 was ~~awarded~~ made.

5 7. For ~~state agencies with authority to make~~ sole source or
6 sole brand acquisitions exceeding Two Thousand Five Hundred Dollars
7 (\$2,500.00) and not ~~exceeding Twenty-five Thousand Dollars~~
8 ~~(\$25,000.00)~~ requiring submission of a requisition to the State
9 Purchasing Director, the state agency's certified procurement
10 officer shall document reasons a sole source or sole brand
11 acquisition is necessary and shall retain a written record for three
12 (3) fiscal years following the end of the fiscal year during which
13 the sole source or sole brand acquisition was ~~awarded~~ made.

14 8. The chief administrative officer of each state agency shall
15 submit to the State Purchasing Director a monthly listing of all
16 sole source and sole brand acquisitions exceeding Two Thousand Five
17 Hundred Dollars (\$2,500.00) executed by the state agency in the
18 preceding month. The report shall ~~also contain information~~
19 ~~regarding~~ indicate whether requisitions for sole source and sole
20 brand acquisitions ~~that~~ were disapproved or modified by the State
21 Purchasing Director and ~~such other~~ information the State Purchasing
22 Director requires.

1 9. The State Purchasing Director shall electronically provide
2 to the Office of State Finance the information received pursuant to
3 paragraph 8 of this subsection in machine-readable format and in the
4 form the Office of State Finance requires.

5 B. By the fifteenth day of each month, or the first working day
6 thereafter, the Office of State Finance shall provide a report from
7 the information received pursuant to this section to:

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

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

12 3. The Chair and Vice Chair of the Appropriations and Budget
13 Committee of the House of Representatives and the Appropriations
14 Committee of the Senate; and

15 4. Any member of the Legislature requesting the report.

16 The report shall detail all sole source and sole brand acquisitions
17 by state agencies for the month prior to the month preceding the
18 submission of the report. The report shall be titled "Monthly Sole
19 Source and Sole Brand Contracting Report of Oklahoma State Agencies"
20 and indicate the time period of the report. The report shall be
21 provided in physical form unless the requesting person specifies the
22 electronic version. The report shall be signed by the Director of
23 State Finance or the Director's designee. The report shall be in

1 columnar database format and shall include at least the following
2 fields of information: state agency number; state agency name; date
3 created by the Department of Central Services for the requisition;
4 date of either approval or disapproval of the requisition; if
5 disapproved, the reason why such contract was disapproved; estimated
6 amount of the requisition; purchase order amount; purchase order
7 number; actual business name of supplier; supplier federal employer
8 identification number; contact person; and the commodity
9 classification listing at the appropriate level to distinguish
10 between similar acquisitions. Information required by this
11 subsection shall be reported and maintained on each report through
12 the next reporting period after an acquisition is made. The
13 applicable data in the fields of information specified in this
14 subsection shall be listed even if the state agency requisition is
15 disapproved.

16 C. The Office of State Finance shall maintain electronic
17 historic data or any other data received pursuant to this section
18 for at least two (2) years.

19 D. By August 15 of each year, from the data received pursuant
20 to this section, the Office of State Finance shall complete and
21 submit a report detailing the number of sole source or sole brand
22 contracts issued by each state agency and a list of the business
23 names of the suppliers who received sole source or sole brand awards

1 during the previous fiscal year and if more than one such award, the
2 number of awards so executed.

3 SECTION 2. It being immediately necessary for the preservation
4 of the public peace, health and safety, an emergency is hereby
5 declared to exist, by reason whereof this act shall take effect and
6 be in full force from and after its passage and approval.

7 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 2-21-01 - DO
8 PASS, As Amended and Coauthored.