

STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

SENATE BILL 447

By: Dickerson

AS INTRODUCED

An Act relating to The Oklahoma Central Purchasing Act; amending 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), which relates to requisitions for sole source or sole brand acquisitions; modifying procedural and record-keeping requirements; deleting upper dollar limit on sole source or sole brand contracts; and declaring an 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:

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:

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

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\_\_.

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Notary Public

My Commission expires:

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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.

4. Any chief administrative officer of a state agency affirming the affidavit required by this subsection who knows 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. Upon conviction or upon entering a plea of nolo contendere pursuant to this paragraph, the chief administrative officer shall immediately forfeit 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 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 send findings to the Attorney General that support the determination. The Attorney General shall review the findings and determine whether to investigate or prosecute the person.

6. ~~The~~ If the acquisition's purchase price is such that the state agency is required to submit a requisition to the State Purchasing Director, the State Purchasing Director shall approve or deny the ~~state agency's~~ requisition for a sole source or sole brand acquisition. Prior to approving a requisition ~~from a state agency~~

~~for a sole source or sole brand acquisition~~ pursuant to this ~~section~~ paragraph, the State Purchasing Director shall document reasons a sole source or sole brand purchase 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~~ made.

7. For ~~state agencies with authority to make~~ sole source or sole brand acquisitions exceeding Two Thousand Five Hundred Dollars (\$2,500.00) and not ~~exceeding Twenty-five Thousand Dollars (\$25,000.00)~~ requiring submission of a requisition to the State Purchasing Director, the state agency's certified procurement officer shall 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~~ made.

8. The chief administrative officer of each state agency shall submit to the State Purchasing Director a monthly listing of all sole source 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~~ indicate whether requisitions for sole source and sole brand acquisitions ~~that~~ were disapproved or modified by the State Purchasing Director and ~~such other~~ information 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 the form the Office of State Finance requires.

B. 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 Chair and Vice Chair of the Appropriations and Budget Committee of the House of Representatives and the Appropriations Committee of the Senate; and

4. Any member of the Legislature requesting the report.

The report shall detail all sole source 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 indicate the time period of the report. The report shall be provided in physical form unless the requesting person specifies the electronic version. The report shall be signed by the Director of State Finance or 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 supplier; supplier federal employer identification number; contact person; and the commodity classification listing at the appropriate level to distinguish between similar acquisitions. Information required by this subsection shall be reported and maintained on each report through the next reporting period after an acquisition is made. The applicable data in the fields of information specified in this subsection shall be listed even if the state agency requisition is disapproved.

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

D. By August 15 of each year, 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 suppliers who received sole source or sole brand awards during the previous fiscal year and if more than one such award, the number of awards so executed.

SECTION 2. 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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