

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1115

By: Nations

COMMITTEE SUBSTITUTE

An Act relating to state government; amending 74 O.S. 2001, Sections 588 and 589, which relate to the Oklahoma Privatization of State Functions Act; adding definitions; requiring cost/benefit analysis and report prior to a privatization; providing procedure for a cost/benefit analysis; adding requirements for privatization contracts; requiring certain certification when entering into a privatization contract; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 74 O.S. 2001, Section 588, is amended to read as follows:

Section 588. As used in ~~this act~~ the Oklahoma Privatization of State Functions Act:

1. "Agency" means an agency, board, commission or other entity of state government~~;~~;

2. "Cost/Benefit analysis" means a study that includes, but is not limited to:

- a. all direct personnel costs, including an analysis of how much employee time is spent directly on a particular project, materials and supplies, equipment, capital and equipment depreciation costs, rent, maintenance and repairs, utilities, insurance, travel, operations overhead, and general administrative overhead associated with privatization of a function, program, service, unit or division,

- b. a feasibility study determining whether other state agencies could perform the function, program, service, unit or division sought to be privatized detailed analysis of the cost savings and quality enhancements expected to be gained by privatizing, and
- c. any other provisions that may be required by rules adopted by the Department of Central Services related to privatization.

3. "Cost/Benefit analysis report" means a written report of the cost/benefit analysis; and

4. "Privatize" means to enter into contract for the performance of a duty or function which is currently being performed by a state employee.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 588.1 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. Before any agency contracts to privatize a function, program, service, unit or division, the agency must perform a cost/benefit analysis and provide a copy of the cost/benefit analysis report to the Department of Central Services.

B. The Department of Central Services shall review the cost/benefit analysis report and make a finding as to whether it fulfills the content requirements of the Oklahoma Privatization of State Functions Act and the rules of the Department. If the cost/benefit analysis report is found not to meet the requirements of the Oklahoma Privatization of State Functions Act and the rules of the Department, the Department shall return the cost/benefit analysis report to the agency with instructions.

C. Upon finding that the cost/benefit report meets the requirements of the Oklahoma Privatization of State Functions Act and the rules of the Department, the Department shall make a finding as to whether the proposed cost savings and quality enhancements

warrant privatizing the function, program, service, unit or division, and shall notify the agency of its findings.

D. The Director of the Department of Central Services shall promulgate rules necessary to implement the provisions of the Oklahoma Privatization of State Functions Act.

SECTION 3. AMENDATORY 74 O.S. 2001, Section 589, is amended to read as follows:

Section 589. A. ~~Before~~ Upon a finding by the Department of Central Services pursuant to Section 2 of this act that the proposed cost savings and quality enhancements warrant investigating the privatization of a function, program, service, unit or division and ~~before~~ any agency can contract to privatize a function, program, service, unit or division, the agency must allow its employees the opportunity to submit proposals for improving the operations, efficiency or organization of the entity being considered for privatization.

B. The privatization process shall begin with:

1. Notification to employees impacted by the proposed privatization by the agency of its intent to privatize a function, program, service, unit or division of the agency;

2. A specific statement that employees have an opportunity to submit proposals to the agency; and

3. Notification by the agency simultaneously with the notice required pursuant to paragraph 1 of this subsection, to the Director of the Office of State Finance and the Director of the Department of Central Services of the ~~agency's~~ intent of the agency to privatize a state function.

C. The agency shall provide information about the delivery of services to its employees as they develop proposals to be considered. This information shall include revenue expenditure data, wage and salary data, ~~and~~ an inventory of the supplies,

equipment, and facilities associated with the program being privatized, and the cost/benefit analysis performed by the agency.

D. ~~Proposals submitted by agency employees to the agency shall be considered when a determination is made on seeking nonemployee bids to privatize a function, program, service, unit or division of the agency~~ remain confidential and be considered simultaneously in the bid or proposal process with non-employee bids.

E. After an agency has decided to privatize a function, program, service, unit or division and has met the requirements of subsection D of this section, the agency shall notify the Director of State Finance of its intent to solicit bids by interested parties. Prior to solicitation of bids from other interested parties, the agency shall notify the Governor, President Pro Tempore of the Senate, and Speaker of the House of Representatives of the ~~agency's~~ intent of the agency to solicit bids and a statement that the agency has given the opportunity to its employees to submit proposals pursuant to this section prior to the decision to privatize. ~~The agency shall also certify that the provisions of this act and all other applicable laws regarding the privatization of the respective state functions have been complied with.~~

F. The agency shall require the following information prior to entering into a contract to privatize a function, program, service, unit or division:

1. Financial stability of the vendor, past and present litigation, and past government contract performance information;
and

2. Sufficient detail on how the vendor will perform the contract, including staffing and equipment information.

G. The agency shall establish a detailed plan on how to return the privatized function, program, service, unit or division to the state if there is a contract cancellation.

H. Any contract with a vendor to privatize a function, program, service, unit or division shall require that the payment to the contractor be linked to performance. The contract shall provide that the amount agreed upon in the contract may be reduced if the agency experiences a budget shortfall.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 589.1 of Title 74, unless there is created a duplication in numbering, reads as follows:

Each agency deciding to privatize an agency function shall certify in writing to the Governor, President Pro Tempore of the Senate, Speaker of the House of Representatives, and the Department of Central Services that:

1. The provisions of the Oklahoma Privatization of State Functions Act and all other applicable laws regarding the privatization of the respective state functions have been complied with;

2. The quality and cost of the services to be provided by the selected bidder are likely to exceed the quality and cost benefit standards for the state function as formerly delivered by agency employees; and

3. The proposed privatization contract is in the best interest of the public.

SECTION 5. This act shall become effective November 1, 2003.

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