

ENROLLED HOUSE
BILL NO. 2277

By: Rice, Eddins, Leist,
Peters, Tibbs and
Winchester of the House

and

Corn of the Senate

An Act relating to state government; amending 74 O.S. 2001, Section 78, which relates to the Fleet Management Division of the Department of Central Services; expanding duties of the Director of Central Services and the Fleet Manager; amending 74 O.S. 2001, Section 85.5, as last amended by Section 87 of Enrolled House Bill No. 2725 of the 2nd Session of the 49th Oklahoma Legislature, which relates to the Oklahoma Central Purchasing Act; modifying limits on certain transactions involving state purchase cards; authorizing the Department of Central Services to finance certain project; requiring promulgation of certain rules; authorizing the Department of Human Services to sell certain properties; making sale contingent upon certain sale to be deposited in certain fund; providing for noncodification; and providing an effective date.

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

SECTION 1. AMENDATORY 74 O.S. 2001, Section 78, is amended to read as follows:

Section 78. A. There is hereby created and established within the Department of Central Services, the Fleet Management Division. The Division shall provide oversight of and advice to state agencies that own, operate and utilize motor vehicles.

B. The Director of Central Services shall:

1. Appoint and fix duties and compensation for a Fleet Manager who shall serve as the administrative head of the division;

2. Hire personnel as necessary to provide fleet management services to state agencies;

3. Acquire facilities to maintain vehicles; ~~and~~

4. Promulgate rules for efficient and economical operations to provide fleet management services to state agencies; and

5. Report to the Governor, Speaker of the House of Representatives, and President Pro Tempore of the Senate those agencies that fail to comply with the provisions of law and the

rules of the Fleet Management Division regarding submission of reports, vehicle use, and vehicle maintenance.

C. The rules shall include provisions to:

1. Establish uniform written vehicle acquisition and disposal standards for use by all state agencies to justify actual need for vehicles;

2. Establish standards for routine vehicle inspection and maintenance;

3. Provide ~~minimum~~ standards and forms for recordkeeping of fleet operation, maintenance, and repair costs for mandatory use by all state agencies, ~~and~~ to report the data to the Fleet Management Division on a monthly basis;

4. Provide standards and utilize methods for disposal of vehicles pursuant to the Oklahoma Surplus Property Act and any other applicable state laws; and

5. Address any other matter or practice which relates to the responsibilities of the Director of Central Services.

D. The Fleet Manager shall:

1. Develop specifications for contracts for vehicle maintenance for state vehicles not serviced or maintained by state agencies;

2. Conduct on-site inspections to verify state agency or supplier compliance with Division standards for inspections, maintenance and recordkeeping;

3. Assess state agency needs for vehicles and types of vehicles;

4. Assign, transfer or lease vehicles to a state agency to meet the needs of the state agency;

5. Unless otherwise provided by law, determine whether a state agency may use or operate a vehicle without state identifying markings, bearing a license plate used by a privately owned vehicle to perform the duties of the state agency without hindrance; ~~and~~

6. Report to the Director of Central Services occurrences of agencies failing to comply with the provisions of law and the rules of the Fleet Management Division regarding submission of reports, vehicle use, and vehicle maintenance; and

7. Provide, upon the request of the Governor, the President Pro Tempore of the Senate or the Speaker of the House of Representatives, reports from data the Fleet Manager collects.

SECTION 2. AMENDATORY 74 O.S. 2001, Section 85.5, as last amended by Section 87 of Enrolled House Bill No. 2725 of the 2nd Session of the 49th Oklahoma Legislature, is amended to read as follows:

A. 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 state agency, shall have authority to determine the particular brand, model, or other specific classification of each acquisition and to draft or invoke pursuant to the Oklahoma Central Purchasing Act specifications establishing the requirements for all 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, 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;
2. Inspection, analysis, and testing of acquisitions or samples suppliers submit prior to contract award;
3. The form and manner of submission for bids or proposals a supplier submits and the manner of accepting and opening bids or proposals;
4. The conditions under which the Department of Central Services shall require written contracts for acquisitions, the conditions under which acquisitions may be made on an open account basis, and the conditions and manner of negotiating such contracts;
5. Obtaining acquisitions produced by state institutions;
6. Conditions under which any of the rules herein authorized may be waived;
7. The amounts of and deposits on any bond required to be submitted with a bid or contract for the furnishing of acquisitions and the conditions under which such bond shall be required;
8. Storage and storage facilities necessary to accomplish responsibilities of the Director of the Department of Central Services;
9. The manner and conditions of delivery, which shall include the designation of the common carrier of property to be used to transport acquisitions whenever a common carrier is used, and the acceptance, or rejection, including check of quantities, of any acquisitions;
10. The form of any estimate, order, or other document the Director of the Department of Central Services requires;
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 provisions of Section 3001 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 price exceeding Two Thousand Five Hundred Dollars (\$2,500.00) and not exceeding Ten Thousand Dollars (\$10,000.00), pursuant to rules authorized by this section, and
 - (2) acquisitions with a price exceeding Ten Thousand Dollars (\$10,000.00) and not exceeding the amount requiring a requisition to the State Purchasing Director, pursuant to Section 85.7 of this title, by telephone, facsimile, invitation to bid, or solicitation by means of electronic commerce, receipt of bids and bid award by the state agency;

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

13. Review and audit by the State Purchasing Director of state agency acquisitions;

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;

15. State agency use of a state purchase card to make acquisitions; and

16. Any other matter or practice which relates to the responsibilities of the Director of the Department of Central Services.

D. The State Purchasing Director shall provide training for state agency purchasing officials and other purchasing staff. 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 Section 3001 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 acquisitions pursuant to provisions of the Oklahoma Central Purchasing Act and rules authorized by this section. The State Purchasing Director shall assess a fee to state agencies for the

training that does not exceed each state agency's pro rata share of the costs the State Purchasing Director incurs to provide the training.

E. The State Purchasing Director shall review state agency acquisitions 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 Section 3001 et seq. of this title pertaining to the State Use Committee;

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 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. 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 believes indicates that an action that constitutes a criminal violation pursuant to the Oklahoma Central Purchasing Act or other laws has been taken by any state agency, state agency official, bidder, or supplier; 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. 1. 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. The state entity designated by law, as specified in Section 1010.3 of Title 56 of the Oklahoma Statutes, shall participate in the purchase of pharmaceuticals available through such multistate or multigovernmental contracts entered into by the State Purchasing Director.

2. The State Purchasing Director may utilize contracts awarded by other governmental agencies, including agencies of the United States of America.

3. The State Purchasing Director may designate contracts described in this subsection for use by state agencies.

H. The State Purchasing Director may develop and test new contracting policies and procedures that hold potential for making the Purchasing Division more effective and efficient.

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.

J. The State Purchasing Director shall undertake the following:

1. The use of electronic commerce pursuant to the Oklahoma Online Bidding Act for solicitation, notification, and other purchasing processes;

2. Monitoring rules promulgated pursuant to the Oklahoma Central Purchasing Act to ensure that the rules, satisfy the interests of the state, are clear and succinct, and encourage efficiency in purchasing processes;

3. A program to identify vendors with poor delivery and performance records;

4. Development of 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;

5. 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;

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

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

K. The State Purchasing Director shall, in cooperation with the Oklahoma Department of Agriculture, Food, and Forestry, identify the needs of state agencies and institutions for agricultural products grown and produced in Oklahoma.

L. The State Purchasing Director may authorize state agencies to utilize a state purchase card for acquisitions on statewide contracts issued by the State Purchasing Director with no limit on the amount of the transaction. For any other transaction with a state purchase card, the transaction shall not exceeding exceed Two Thousand Five Hundred Dollars (\$2,500.00) ~~per transaction.~~

M. The State Purchasing Director may utilize and authorize state agencies to utilize reverse auctions to obtain acquisitions.

N. Prior to the award of a contract to a supplier, the State Purchasing Director shall verify, pursuant to applicable provisions of law, that the supplier is eligible to do business in the State of Oklahoma by confirming registration with the Secretary of State and franchise tax payment status pursuant to Sections 1203 and 1204 of Title 68 of the Oklahoma Statutes. The provisions of this subsection shall be applicable only if the contract amount is Twenty-five Thousand Dollars (\$25,000.00) or greater.

O. As a condition of awarding a contract pursuant to the Oklahoma Central Purchasing Act, the State Purchasing Director shall verify with the Oklahoma Tax Commission that the business entity to which the state contract is to be awarded, whether subject to the procedures required by Section 85.7 of this title or not, has obtained a sales tax permit pursuant to the provisions of Section 1364 of Title 68 of the Oklahoma Statutes if such entity is required to do so.

P. The State Purchasing Director is hereby authorized to explore and investigate cost savings in energy, resource usage, and maintenance contracts and to identify and negotiate contract solutions including, but not limited to, pilot projects to achieve cost savings for the State of Oklahoma.

Q. The Department of Central Services may finance a new heat and air system for the State Capitol.

R. The Office of State Finance, with input from the State Purchasing Director, shall promulgate payment procedure rules for state agencies to adhere to regarding statewide contracts issued by the State Purchasing Director.

SECTION 3. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

A. On and after July 1, 2004, the Department of Human Services is authorized to sell the following described property in whole or in part:

TULSA COUNTY

Tract A:

A part of the SE/4 of the SE/4 of Section 13, Township 20 North, Range 12 East of the Indian base and Meridian, Tulsa

County, State of Oklahoma, being more particularly described as follows, to-wit: Commencing at the Southeast corner of said Section 13; thence due North along the East line of said Section 13, a distance of 450.00 feet to a point; thence South 89°50'09" West a distance of 65.0 feet to the Northeast corner of lot 1, block 1, market addition to the city of Tulsa (plat #2193) and the point of beginning; thence continuing South 89°50'09" West along the North line of said market addition, a distance of 596.73 feet to a point; thence North 0°0'47" East a distance of 282.38 feet to a point; thence North 89°50'47" East a distance of 596.67 feet; thence due South and parallel with the East line of said Section 12, a distance of 282.38 feet to the point of beginning.

GARFIELD COUNTY

Approximately 10 acres located in the E/2, W/2, SW/4, SE/4 of Section 28, Township 23 North, Range 6 West, Garfield County, Oklahoma.

Approximately 19.5 acres located in the S/2, NW/4, SW/4 of Section 34, Township 23 North, Range 6 West, Garfield County, Oklahoma.

Approximately 22.5 acres located in the NE/4, NE/4 of Section 4, Township 22 North, Range 6 West, Garfield County, Oklahoma.

Such sale shall be contingent upon submission of the sale of this property for public auction or by sealed bids by the Department of Central Services in compliance with Section 129.4 of Title 74 of the Oklahoma Statutes.

B. The Department of Central Services is directed to transfer any monies received from the sale of property described in subsection A of this section to the Department of Human Services.

SECTION 4. Sections 1 and 2 of this act shall become effective November 1, 2004.

Passed the House of Representatives the 27th day of May, 2004.

Presiding Officer of the House of
Representatives

Passed the Senate the 28th day of May, 2004.

Presiding Officer of the Senate