

**EHB 2277**

**THE STATE SENATE**  
**Wednesday, April 7, 2004**

**ENGROSSED**

**House Bill No. 2277**

**As Amended**

ENGROSSED HOUSE BILL NO. 2277 - By: RICE of the House and CORN of the Senate.

**[ Oklahoma Central Purchasing Act - State Purchasing Director - limits on transactions - effective date ]**

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

SECTION 1. AMENDATORY 74 O.S. 2001, Section 85.5, as last amended by Section 2, Chapter 342, O.S.L. 2003 (74 O.S. Supp. 2003, Section 85.5), is amended to read as follows:

Section 85.5 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.

1 C. The Director of the Department of Central Services shall  
2 have authority and responsibility to promulgate rules pursuant to  
3 provisions of the Oklahoma Central Purchasing Act governing,  
4 providing for, prescribing, or authorizing any act, practice, or  
5 requirement for which regulatory power is delegated for:

6 1. The time, manner, authentication, and form of making  
7 requisitions for acquisitions;

8 2. Inspection, analysis, and testing of acquisitions or samples  
9 suppliers submit prior to contract award;

10 3. The form and manner of submission for bids or proposals a  
11 supplier submits and the manner of accepting and opening bids or  
12 proposals;

13 4. The conditions under which the Department of Central  
14 Services shall require written contracts for acquisitions, the  
15 conditions under which acquisitions may be made on an open account  
16 basis, and the conditions and manner of negotiating such contracts;

17 5. Obtaining acquisitions produced by state institutions;

18 6. Conditions under which any of the rules herein authorized  
19 may be waived;

20 7. The amounts of and deposits on any bond required to be  
21 submitted with a bid or contract for the furnishing of acquisitions  
22 and the conditions under which such bond shall be required;

1           8. Storage and storage facilities necessary to accomplish  
2 responsibilities of the Director of the Department of Central  
3 Services;

4           9. The manner and conditions of delivery, which shall include  
5 the designation of the common carrier of property to be used to  
6 transport acquisitions whenever a common carrier is used, and the  
7 acceptance, or rejection, including check of quantities, of any  
8 acquisitions;

9           10. The form of any estimate, order, or other document the  
10 Director of the Department of Central Services requires;

11           11. State agency acquisitions not exceeding the acquisition  
12 purchase amount requiring competitive bid pursuant to Section 85.7  
13 of this title to ensure competitiveness, fairness, compliance with  
14 provisions of all sections of the Oklahoma Central Purchasing Act,  
15 and compliance with provisions of Section 3001 et seq. of this  
16 title, which relate to the State Use Committee. The rules shall  
17 include separate provisions based on acquisition purchase price as  
18 follows:

19           a. state agencies shall make acquisitions not exceeding  
20 Two Thousand Five Hundred Dollars (\$2,500.00),  
21 provided the acquisition process is fair and  
22 reasonable and is conducted pursuant to rules  
23 authorized pursuant to this section, and

1           b.   state agencies with certified procurement officers and  
2                   internal purchasing procedures found compliant by the  
3                   Director of the Department of Central Services  
4                   pursuant to this section may make acquisitions in  
5                   excess of Two Thousand Five Hundred Dollars  
6                   (\$2,500.00) as provided below:

7                   (1)   acquisitions with a price exceeding Two Thousand  
8                           Five Hundred Dollars (\$2,500.00) and not  
9                           exceeding Ten Thousand Dollars (\$10,000.00),  
10                           pursuant to rules authorized by this section, and

11                   (2)   acquisitions with a price exceeding Ten Thousand  
12                           Dollars (\$10,000.00) and not exceeding the amount  
13                           requiring a requisition to the State Purchasing  
14                           Director, pursuant to Section 85.7 of this title,  
15                           by telephone, facsimile, invitation to bid, or  
16                           solicitation by means of electronic commerce,  
17                           receipt of bids and bid award by the state  
18                           agency;

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

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

1        14. The conditions for increasing acquisition limits for state  
2 agencies which have had a prior reduction in acquisition limit by  
3 the Director of the Department of Central Services;

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

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

9        D. The State Purchasing Director shall provide training for  
10 state agency purchasing officials and other purchasing staff. The  
11 training shall include principles of state procurement practices,  
12 basic contracting, provisions of the Oklahoma Central Purchasing  
13 Act, rules promulgated pursuant to the Oklahoma Central Purchasing  
14 Act, provisions of Section 3001 et seq. of this title, which relate  
15 to the State Use Committee, and any other matters related to state  
16 procurement practices. State agency purchasing officials that  
17 demonstrate proficiency shall be certified as "certified procurement  
18 officers" by the State Purchasing Director and shall be authorized  
19 to make acquisitions pursuant to provisions of the Oklahoma Central  
20 Purchasing Act and rules authorized by this section. The State  
21 Purchasing Director shall assess a fee to state agencies for the  
22 training that does not exceed each state agency's pro rata share of

1 the costs the State Purchasing Director incurs to provide the  
2 training.

3 E. The State Purchasing Director shall review state agency  
4 acquisitions for the purposes of:

5 1. Ensuring state agency compliance with provisions of the  
6 Oklahoma Central Purchasing Act;

7 2. Ensuring state agency compliance with rules promulgated by  
8 the Department of Central Services pursuant to the Oklahoma Central  
9 Purchasing Act;

10 3. Ensuring state agency compliance with provisions of Section  
11 3001 et seq. of this title pertaining to the State Use Committee;

12 4. Reporting any acquisition by any state agency found not to  
13 be in compliance with those sections or rules to the Director of the  
14 Department of Central Services; and

15 5. Recommending that the Director of the Department of Central  
16 Services reduce the acquisition competitive bid limit amount for any  
17 state agency found not to be in compliance with the Oklahoma Central  
18 Purchasing Act or rules promulgated thereto.

19 F. When recommended by the State Purchasing Director, based on  
20 written findings by the State Purchasing Director, the Director of  
21 the Department of Central Services may:

22 1. Require retraining of state agency procurement officials and  
23 other purchasing staff found not to be in compliance with provisions

1 of the Oklahoma Central Purchasing Act, or rules promulgated  
2 pursuant to the Oklahoma Central Purchasing Act;

3 2. Reduce the acquisition competitive bid limit for any state  
4 agency found not to be in compliance with provisions of the Oklahoma  
5 Central Purchasing Act or rules promulgated pursuant to the Oklahoma  
6 Central Purchasing Act;

7 3. Transmit written findings by the State Purchasing Director  
8 to the State Auditor and Inspector for further investigation,  
9 indicating purchasing procedures that do not conform to provisions  
10 pursuant to the Oklahoma Central Purchasing Act or rules promulgated  
11 pursuant to the Oklahoma Central Purchasing Act;

12 4. Transmit to the Attorney General or the State Auditor and  
13 Inspector for further investigation a report made by the State  
14 Purchasing Director that the Director of the Department of Central  
15 Services reasonably believes indicates that an action that  
16 constitutes a criminal violation pursuant to the Oklahoma Central  
17 Purchasing Act or other laws has been taken by any state agency,  
18 state agency official, bidder, or supplier; or

19 5. Increase the state agency acquisition purchase amount  
20 requiring competitive bid, not to exceed the acquisition purchase  
21 amount requiring competitive bid, pursuant to Section 85.7 of this  
22 title.

1 G. 1. Pursuant to the requirements of the Oklahoma Central  
2 Purchasing Act, the State Purchasing Director shall have authority  
3 to enter into any statewide, multistate or multigovernmental  
4 contract.

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

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

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

13 I. The State Purchasing Director shall endeavor to satisfy state  
14 agencies in terms of cost, quality, and timeliness of the delivery  
15 of acquisitions by using bidders who have a record of successful  
16 past performance, promoting competition, minimizing administrative  
17 operating costs, and conducting business with integrity, fairness,  
18 and openness.

19 J. The State Purchasing Director shall undertake the following:

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

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

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

7           4. Development of criteria for the use of sealed bid  
8 contracting procedures, negotiated contracting procedures, selection  
9 of types of contracts, postaward administration of purchase orders  
10 and contracts, contract modifications, termination of contracts, and  
11 contract pricing;

12          5. Continual improvement in the quality of the performance of  
13 the Purchasing Division through training programs, management  
14 seminars, development of benchmarks and key management indicators,  
15 and development of standard provisions, clauses and forms;

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

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

22          K. The State Purchasing Director shall, in cooperation with the  
23 Oklahoma State Department of Agriculture, identify the needs of

1 state agencies and institutions for agricultural products grown and  
2 produced in Oklahoma.

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

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

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

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

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

5        SECTION 2. This act shall become effective November 1, 2004.

6        COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 3-31-04 - DO  
7        PASS, As Amended.