ENGROSSED SENATE
BILL NO. 559

By: Shurden of the Senate

and

Liotta of the House

[state government - Oklahoma Central Purchasing Act - responsibilities - purchasing limits - effective date]

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

SECTION 1. AMENDATORY 74 O.S. 2001, Section 85.4, as amended by Section 1, Chapter 342, O.S.L. 2003 (74 O.S. Supp. 2004, Section 85.4), is amended to read as follows:

Section 85.4 A. Except as otherwise provided by the Oklahoma Central Purchasing Act, every state agency shall make all acquisitions used, consumed or spent by the state agency in the performance of its official functions by the presentation of requisitions to the Purchasing Division.

B. The provisions of the Oklahoma Central Purchasing Act shall not preclude a state agency from:

1. Accepting gifts or donations in any manner authorized by law; or

2. Making an acquisition for itself without presentation of a requisition when an acquisition without requisition is authorized in writing by the State Purchasing Director.

C. Subject to the provisions of this section, every state agency shall determine its own quantitative needs for acquisitions and the general class or nature of the acquisitions.

<u>1. Any contract for nonprofessional services or professional services whether or not such services are exempt from the competitive bidding requirements of this section or pursuant to</u>

Section 85.7 of this title shall be signed by the chief administrative officer of the state agency or the chief administrative officer of the requisitioning unit of the state agency, and shall include a statement certifying that:

a. no employee of the state agency is able and available to perform the services to be provided pursuant to the contract,

b. the state agency shall receive, review and accept a detailed work plan from the supplier for performance pursuant to the contract if requested by the State Purchasing Director,

c. the state agency has developed, and fully intends to implement, a written plan providing for the assignment of specific state agency personnel to:

(1) monitoring and auditing supplier performance,

(2) the periodic review of interim reports, or other indications of performance, and

(3) if requested by the State Purchasing Director, the ultimate utilization of the final product of the nonprofessional or professional services,

d. the work to be performed under the contract is necessary or incidental to the state agency's responsibilities, and there is statutory authority to enter into the contract,

e. the contract will not establish an employment relationship between the state or the state agency and any persons performing under the contract,

f. no current state employee will engage in the performance of the contract, unless specifically approved by the State Purchasing Director,

g. the purchase of the nonprofessional or professional services is justified, and

h. the contract contains provisions that are required by Section 85.41 of this title;

2. a. When a state agency requisition indicates that a supplier will provide acquisitions in components or phases, the requisition shall list each component or phase, and the State Purchasing Director shall include the list in the Invitation to Bid.

b. The determination of the lowest and best bid or best value bid, as required by the Oklahoma Central Purchasing Act, shall include all component or phase deliveries and shall not be based solely on the first component or phase delivery.

c. For a purchase order or contract that includes separate component deliveries, the State Purchasing Director or a state agency may issue change orders to increase a purchase order or contract for the acquisition that do not exceed an increase of ten percent (10%) of the original purchase order or contract total price.

D. The Director of Central Services shall prescribe standardized contract forms and all other forms requisite or deemed necessary by the Director of Central Services to effectuate the provisions of this section and the Oklahoma Central Purchasing Act.

E. ~~1. A contract that results from a requisition required by this section for nonprofessional services or professional services whether or not such services are exempt from the competitive bidding requirements of this section or pursuant to Section 85.7 of this title shall be signed by the chief administrative officer of the state agency or the chief administrative officer of the requisitioning unit of the state agency certifying that:~~

~~a. no employee of the state agency is able and available to perform the services to be provided pursuant to the contract,~~

~~b. the state agency shall receive, review and accept a detailed work plan from the supplier for performance pursuant to the contract if requested by the State Purchasing Director,~~

~~c. the state agency has developed, and fully intends to implement, a written plan providing for the assignment of specific state agency personnel to:~~

~~(1) monitoring and auditing supplier performance,~~

~~(2) the periodic review of interim reports, or other indications of performance, and~~

~~(3) if requested by the State Purchasing Director, the ultimate utilization of the final product of the nonprofessional or professional services,~~

~~d. the work to be performed under the contract is necessary to the state agency's responsibilities, and there is statutory authority to enter into the contract,~~

~~e. the contract will not establish an employment relationship between the state or the state agency and any persons performing under the contract,~~

~~f. no current state employee will engage in the performance of the contract, unless specifically approved by the State Purchasing Director,~~

~~g. the purchase of the nonprofessional or professional services is justified, and~~

~~h. the contract contains provisions that are required by Section 85.41 of this title.~~

~~2. a. When a state agency requisition indicates that a supplier will provide acquisitions in components or phases, the requisition shall list each component or phase, and the State Purchasing Director shall include the list in the Invitation to Bid.~~

~~b. The determination of the lowest and best bid or best value bid, as required by the Oklahoma Central Purchasing Act, shall include all component or phase deliveries and shall not be based solely on the first component or phase delivery.~~

~~c. For a purchase order or contract that includes separate component deliveries, the Purchasing Director or a state agency may issue change orders to increase a purchase order or contract for the acquisition that do not exceed an increase of ten percent (10%) of the original purchase order or contract total price.~~

~~F.~~ Any person certifying the information required by subsection ~~E~~ C of this section who knows such information to be false, shall upon conviction be guilty of a misdemeanor and shall be punished by fine or imprisonment or both fine and imprisonment pursuant to the provisions of Section 85.15 of this title and shall be civilly liable for the amount of the contract.

~~G.~~ F. The State Purchasing Director may request additional information necessary to adequately review the requisitions to ensure compliance with the Oklahoma Central Purchasing Act.

~~H.~~ G. If the State Purchasing Director determines that an acquisition is not necessary, excessive or not justified, the State Purchasing Director shall deny the requisition.

~~I.~~ H. 1. No state agency shall enter into a lease-purchase agreement if title is acquired to tangible property of any class or nature by making lease, rental, or any other type payments, except as specifically authorized by law and except insofar as

data processing equipment or other equipment is concerned; provided, however, the lease-purchase of data processing or other equipment by any state agency shall be processed by competitive bids through the Purchasing Division of the Department of Central Services.

2. The ~~Council of Legislative~~ Bond Oversight Commission shall have the authority to determine the most cost-effective method for obtaining financing for lease-purchase agreements, which may be financed by either negotiated sale or competitive bid. If the ~~Council of Legislative~~ Bond Oversight Commission determines that the lease-purchase of personal or real property should be financed through negotiated sale, the financing shall be subject to the provisions of the Oklahoma Bond Oversight and Reform Act. Unless the ~~Council~~ Commission determines that the sale should be executed on a negotiated basis, such financing shall be processed by competitive bids through the Purchasing Division of the Department of Central Services.

3. Regardless of the method of financing, the acquisition price of personal property subject to a lease-purchase agreement shall be processed by competitive bids through the Purchasing Division of the Department of Central Services.

4. The State Purchasing Director may permit lease-purchasing of equipment by the Oklahoma Tourism and Recreation Commission if such leasing is determined by the State Purchasing Director to be in the best interest of the state; provided, that such leasing must be processed by competitive bids through the State Purchasing Director except as to those acquisitions exempt under Section 85.12 of this title.

~~J.~~ I. No state agency shall enter into a lease-purchase contract between the state agency as lessee and a private party as lessor if the contract is not capable of complete performance within the current fiscal year in which the contract was entered

into unless a valid nonappropriation clause is included in the contract. Such contracts shall contain the following or substantially similar language:

Lessee shall have the right to terminate the lease, in whole but not in part, at the end of any fiscal year of lessee, if the Legislature fails to allocate sufficient funds to lessee for the rental payments required under the lease.

~~K.~~ J. 1. No change order or addendum shall be made to a lease-purchase agreement which extends the term or life of the original bid contract. Any lease-purchase agreement requiring such extensions or refinancing shall be readvertised and processed in accordance with the provisions of the Oklahoma Central Purchasing Act.

2. Every state agency, whether or not subject to the provisions of the Oklahoma Central Purchasing Act, shall maintain a list of all tangible personal property which it is acquiring by a lease-purchase method and, prior to the renewal of a lease-purchase agreement, shall evaluate the rate being paid under the current lease-purchase agreement against rates currently being received by the Purchasing Division of the Department of Central Services on a competitive bid basis to determine whether or not refinancing of the property will benefit the state. Any state agency which elects not to submit a requisition for a possible refinancing when the existing rates are at least one percent (1%) above rates being currently bid, and when the total sum to be paid for the property including principal and interest will be reduced, shall submit a written justification to the State Purchasing Director stating the reasons for not attempting to refinance the property. The State Purchasing Director shall forward all such justifications to the Chair of the Appropriations Committee of the Senate and the Chair of the Committee on Appropriations and Budget

of the House of Representatives no later than February 1 of each year.

3. Unless otherwise provided by law, no state agency shall enter into a lease-purchase agreement for real or personal property costing less than Fifty Thousand Dollars ($50,000.00).

4. a. Unless otherwise provided by law, the maximum term of a state agency lease-purchase agreement shall be the lesser of the useful life of real or personal property subject to a lease-purchase agreement as determined by the State Purchasing Director, or three (3) years for personal property and ten (10) years for real property, respectively.

b. The Council of Legislative Bond Oversight shall have the authority to extend the term of a lease-purchase agreement beyond three (3) years for personal property and ten (10) years for real property if the State Purchasing Director determines that the useful life of the property exceeds the terms and the Oklahoma State Bond Advisor recommends the extension as being in the best interests of this state.

5. Unless otherwise provided by law, state agency real property acquisitions subject to lease-purchase agreements shall be explicitly authorized by the Legislature. Acquisitions of real property authorized by the Legislature, unless otherwise exempted by the Legislature, shall be subject to the competitive bid provisions of the Oklahoma Central Purchasing Act. If a state agency is authorized to enter into a lease-purchase agreement for real property, the financing of the acquisition, including acquisitions deemed desirable for executing a lease-purchase, certificate of participation, or similar agreement or obligation, shall be obtained in accordance with the provisions of the Oklahoma Central Purchasing Act. The State Purchasing Director

shall consult with the Oklahoma State Bond Advisor on the preparation, evaluation, and negotiation of such financing. Legislative authorization shall constitute legal authorization for this state or state agencies to enter into such lease-purchase agreements.

~~L.~~ K. The State Purchasing Director may permit leasing of products by state agencies if such leasing is determined by the State Purchasing Director to be in the best interest of the state, provided that such leasing must be processed by competitive bids through the State Purchasing Director except as to those acquisitions exempt pursuant to Section 85.12 of this title.

~~M.~~ L. 1. Before reoffering or remarketing an obligation, a state agency shall obtain written approval from the Oklahoma State Bond Advisor. Should a remarketing of a lease-purchase agreement be proposed that includes the remarketing of securities or obligations to more than a single investor, any disclosure language prepared in connection with such remarketing that describes the state's liability under the lease-purchase agreement shall be approved in advance and in writing by the Oklahoma State Bond Advisor.

2. In no event shall a state agency enter into a lease-purchase agreement unless that agreement states that the State of Oklahoma reserves the right to approve any reoffering of this obligation to another investor either through private placement, issuance of certificates of participation, or any other mechanism.

~~N.~~ M. 1. Whenever it appears advantageous to the state or to any state agency to purchase or otherwise acquire any acquisition which may be offered for sale by the government of the United States of America or any agency thereof, the State Purchasing Director may execute a contract for the acquisition with the federal government or federal agency.

2. If the State Purchasing Director approves an acquisition from the federal government or agency and determines that the regulations of the federal government, or agency handling the disposition and sale require that partial or full payment be made at the time sale is effected and before the acquisition will be delivered, the State Purchasing Director, upon requisition by the requesting party, shall have a state warrant drawn against the funds of the acquiring state agency payable to the United States of America or its proper agency. The warrant shall be in such amount as may be necessary to meet the terms and conditions of sale without requiring a certificate showing that the acquisition has actually been delivered to the state agency in whose behalf the purchase is being negotiated.

SECTION 2. AMENDATORY 74 O.S. 2001, Section 85.5, as last amended by Section 2, Chapter 511, O.S.L. 2004 (74 O.S. Supp. 2004, 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~~ oversight 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)~~ Five Thousand Dollars ($5,000.00), 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)~~ Five Thousand Dollars ($5,000.00) as provided below:

(1) acquisitions with a price exceeding ~~Two Thousand Five Hundred Dollars ($2,500.00)~~ Five Thousand Dollars ($5,000.00) and not exceeding ~~Ten Thousand Dollars ($10,000.00)~~ Twenty-five Thousand Dollars ($25,000.00), pursuant to rules authorized by this section, and

(2) acquisitions with a price exceeding ~~Ten Thousand Dollars ($10,000.00)~~ Twenty-five Thousand Dollars ($25,000.00) 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; and

17. Procedures for negotiation of contracts or agreements, whenever negotiation for such contracts or agreements is authorized by law.

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 exceed ~~Two Thousand Five Hundred Dollars ($2,500.00)~~ Five Thousand Dollars ($5,000.00).

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)~~ One Hundred Thousand Dollars ($100,000.00) 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 in accordance with applicable rules 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~~ Director of the Department of Central Services or a designee, shall promulgate payment procedure rules for state agencies to adhere to regarding statewide contracts issued by the State Purchasing Director.

SECTION 3. AMENDATORY 74 O.S. 2001, Section 85.7, as last amended by Section 2, Chapter 309, O.S.L. 2004 (74 O.S. Supp. 2004, Section 85.7), is amended to read as follows:

Section 85.7 A. 1. Except as otherwise provided by the Oklahoma Central Purchasing Act, no state agency shall make an acquisition for an amount exceeding ~~Twenty-five Thousand Dollars ($25,000.00)~~ Fifty Thousand Dollars ($50,000.00) without submission of a requisition to the State Purchasing Director and submission of suppliers' competitive bids or proposals to the State Purchasing Director.

2. Any acquisition a state agency makes shall be made pursuant to the Oklahoma Central Purchasing Act and rules promulgated pursuant thereto.

a. Split purchasing for the purpose of evading the requirement of competitive bidding shall be a felony.

b. The State Purchasing Director may waive or increase the limit of ~~Twenty-five Thousand Dollars ($25,000.00)~~ Fifty Thousand Dollars ($50,000.00) for a state agency acquisition by not more than ten percent (10%) to perfect an otherwise valid acquisition inadvertently exceeding the limit due to administrative error by the state agency or unforeseeable circumstances. The state agency shall request a waiver upon the discovery of the error or circumstance to the State Purchasing Director on a form the Director requires.

c. The State Purchasing Director shall report all requests for waivers or increases, stating the amount and whether the request was granted or denied, monthly to the Governor, President Pro Tempore of the Senate, and Speaker of the House of Representatives.

3. a. Contracts for master custodian banks or trust companies, investment managers, investment consultants, and actuaries for the state retirement systems, CompSource Oklahoma, State and Education Employees Group Insurance Board, pension fund management consultants of the Oklahoma State Pension Commission and the Commissioners of the Land Office, and other professional services as defined in Section 803 of Title 18 of the Oklahoma Statutes shall be exempt from competitive bidding procedures of Section 85.4 of this title.

b. Contracts with financial institutions to act as depositories and managers of the Oklahoma College Savings Plan accounts shall be exempt from competitive bidding procedures.

c. A state agency that makes an acquisition pursuant to this paragraph shall notify the State Purchasing Director within fifteen (15) days following completion of the acquisition. The Department of Central Services shall compile a list of the exempt contracts and send the list to a member of the Appropriations and Budget Committee of the House of Representatives or Appropriations Committee of the Senate, if the member requests.

4. Requisitions pursuant to this section shall not be required prior to emergency acquisitions by a state agency not exceeding ~~Thirty-five Thousand Dollars ($35,000.00)~~ Seventy Thousand Dollars

($70,000.00). The state agency shall submit a requisition to the State Purchasing Director within five (5) days following the acquisition together with a statement of the emergency. The State Purchasing Director shall send the requisition and a written analysis to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives specifying the facts and circumstances giving rise to the emergency requisition.

5. Requisitions pursuant to this section for acquisitions to alleviate a serious environmental emergency shall not be required if, upon receiving a request from the Chair of the Corporation Commission and after having examined the facts and circumstances of the case, the Governor certifies in writing the existence of a serious environmental emergency. For the purposes of this section, "serious environmental emergency" means a situation within the jurisdiction of the Commission:

a. in which serious damage to the environment will quickly occur if immediate action is not taken and the damage will be so significant that the urgent need for action outweighs the need for competitive bids, or

b. a situation in which human life or safety is in imminent danger or significant property interests are threatened with imminent destruction.

6. Acquisitions for repairs of equipment in emergencies, of livestock through a market agency, dealer, commission house, or livestock auction market bonded or licensed under federal or state law, the purchase or collection of semen or embryos, and the placement of embryos into recipient livestock shall not require requisitions pursuant to this section or any other provisions of the Oklahoma Central Purchasing Act.

7. The Board of Directors of the Oklahoma Historical Society shall select suppliers for the restoration of historical sites and museums and shall not be subject to the requisition requirements of

this section or any other provision of the Oklahoma Central Purchasing Act. The Board may send a requisition to the State Purchasing Director and request supplier bid or proposal submission procedures, but supplier and bid selection will be the prerogative of the Board and will be based on contractors' documented qualifications and experience.

8. Purchases of postage by state agencies shall be made pursuant to Sections 90.1 through 90.4 of this title.

9. Sole source or sole brand acquisitions by a state agency or the State Purchasing Director shall comply with Section 85.45j of this title.

10. Acquisitions for the design, development, communication, or implementation of the state employees flexible benefits plan shall not be subject to the requirements of this section; provided, that the Flexible Benefits Advisory Council shall use procedures consistent with the competitive bid requirements of the Oklahoma Central Purchasing Act.

11. a. Any acquisition of a service which the Department of Central Services has approved as qualifying for a fixed and uniform rate shall be made pursuant to provisions of this paragraph.

b. The Department of Central Services shall establish criteria and guidelines for those services which may qualify for a fixed and uniform rate.

c. Fixed and uniform rate contracts authorized by this paragraph shall be limited to contracts for those services furnished to persons directly benefiting from such services and shall not be used by a state agency to employ consultants or to make other acquisitions.

d. Any state agency desiring to have a service qualified for a fixed and uniform rate shall make a request for service qualification to the Department of Central

Services and submit documentation to support the request. The Department of Central Services shall approve or deny the request. If the Department of Central Services approves the request, the state agency shall establish a fixed and uniform rate for the service. No contracts shall be entered into by the state agency until the rate has been approved by the state agency in a public hearing. The proposed rate shall be clearly and separately identified in the agenda of the state agency for the hearing and shall be openly and separately discussed during such hearing. The state agency shall notify the Director of the Department of Central Services of its pending consideration of the proposed rate at least thirty (30) days before the state agency is to meet on the proposed rate. The state agency shall deliver to the Director of the Department of Central Services a copy of the agenda items concerning the proposed rate with supporting documentation. The Director of the Department of Central Services shall communicate any observation, reservation, criticism, or recommendation to the agency, either in person at the time of the hearing or in writing delivered to the state agency before or at the time of the hearing. The Director of the Department of Central Services shall specifically note in the written communications whether the Director of the Department of Central Services has determined the rate to be excessive. Any written communication presented in the absence of the Director of the Department of Central Services shall be presented orally during the public hearing. Whether made in person or in writing, any comment made by the

Director of the Department of Central Services shall be made a part of the minutes of the hearing in full.

e. Within two (2) weeks after the convening of the Legislature, the administrative officer of the state agency shall furnish to the Speaker of the House of Representatives, the President Pro Tempore of the Senate and to any member of the House or Senate, if requested by the member, a complete list of all of the types of services paid for by uniform fixed rates, the amount of the rate last approved by the agency for the service, and the number of contracts then in existence for each type of service. Any rate which has been determined to be excessive by the Director of the Department of Central Services shall be specifically identified in the list by the state agency.

f. At any time, the Director of the Department of Central Services may review, suspend, or terminate a contract entered into pursuant to the provisions of this paragraph if the Director of the Department of Central Services determines the contract is not necessary, is excessive, or is not justified.

12. Specifically prescribed nonmedical adaptive technology-related acquisitions for individuals with disabilities who are clients of the State Department of Rehabilitation Services and which are prescribed by a physician, rehabilitation engineer, qualified rehabilitation technician, speech therapist, speech pathologist, occupational therapist, physical therapist, or qualified sensory aids specialist, and other client acquisitions, shall not be subject to the requisition requirements of this section. The Commission for Rehabilitation Services shall develop standards for the purchase of such acquisitions and may elect to utilize the Purchasing Division for an acquisition. The standards shall foster economy, provide a

short response time, include appropriate safeguards, require written records, ensure appropriate competition for economical and efficient purchasing, and shall be approved by the State Purchasing Director.

13. The Department of Human Services shall develop procedures for acquisitions of specifically prescribed nonmedical assistive technology-related items not exceeding the acquisition purchase amount requiring a requisition pursuant to this section for individuals under sixteen (16) years of age who are recipients of Supplemental Security Income which are prescribed by a physician, qualified sensory aids specialist or qualified special education instructor. The procedures shall reflect standards for the acquisition of such nonmedical assistive technology-related items, may provide for utilization of the Purchasing Division when appropriate, shall foster economy, provide a short response time, shall include appropriate safeguards and written records to ensure appropriate competition and economical and efficient purchasing, and shall be approved by the State Purchasing Director.

14. a. Structured settlement agreements entered into by the Attorney General's office in order to settle any lawsuit involving the state, the Legislature, any state agency or any employee or official of the state shall not be subject to the competitive bidding requirements of this section if:

(1) prior to entering into any contract for the services of an entity to administer a structured settlement agreement, the Attorney General receives proposals from at least three entities engaged in providing such services, and

(2) the selection of a particular entity is made on the basis of the response to the request which is the most economical and provides the most

competent service which furthers the best interests of the state.

b. A list of any such structured settlement agreements entered into by the Attorney General with summary thereon for the previous calendar year shall be submitted to the Speaker of the House of Representatives and the President Pro Tempore of the Senate on January 31 of each year.

15. Acquisitions a state agency makes pursuant to a contract the State Purchasing Director enters into or awards and designates for use by state agencies shall be exempt from competitive bidding procedures.

16. The Commission on Marginally Producing Oil and Gas Wells shall be exempt from the competitive bid requirements of this section for contracts with local vendors for the purpose of holding special events and exhibitions throughout the state.

17. Agreements entered into by any state agency with the United States Army Corp of Engineers in order to provide emergency response or to protect the public health, safety, or welfare shall not require requisitions and shall not be subject to competitive bidding requirements of this section.

B. Acquisitions shall be awarded to the lowest and best, or best value, bidder at a specified time and place, which shall be open to the public.

C. Bids for professional service contracts for an amount requiring submission of requisitions to the State Purchasing Director shall be evaluated by the State Purchasing Director and the state agency contracting for such service. Both cost and technical expertise shall be considered in determining the lowest and best, or best value, bid. Further, the state agency shall present its evaluation and recommendation to the State Purchasing Director. A documented evaluation report containing the evaluations of the State

Purchasing Director and the state agency contracting for such service shall be completed prior to the awarding of a professional service contract and such report shall be a matter of public record.

D. When requested by CompSource Oklahoma, the State and Education Employees Group Insurance Board, or the governing board of a state retirement system authorized to hire investment managers, the Department of Central Services shall assist the requesting body in the process of selecting investment managers. When requested by the Flexible Benefits Advisory Council, the Department of Central Services shall assist the Council in the process of selecting contracts for the design, development, communication, or implementation of the state employees flexible benefits plan.

E. Except as otherwise specifically provided by law, the acquisition of food items or food products by a state agency from a public trust created pursuant to Sections 176 through 180.56 of Title 60 of the Oklahoma Statutes shall comply with competitive bidding procedures pursuant to the provisions of this section.

SECTION 4. AMENDATORY 74 O.S. 2001, Section 85.12, as last amended by Section 90, Chapter 5, O.S.L. 2004 (74 O.S. Supp. 2004, Section 85.12), is amended to read as follows:

Section 85.12 A. The provisions of this section shall not be construed to affect any law relating to fiscal or accounting procedure except as they may be directly in conflict herewith; and all claims, warrants, and bonds shall be examined, inspected, and approved as now provided by law.

B. Except as otherwise provided by this section, the acquisitions specified in this subsection shall be made in compliance with Section 85.39 of this title but are not subject to other provisions of the Oklahoma Central Purchasing Act:

1. Food and other products produced by state institutions and agencies;

2. The printing or duplication of publications or forms of whatsoever kind or character by state agencies if the work is performed upon their own equipment by their own employees. Pursuant to this paragraph, the state agency may only use equipment owned or leased by the agency and may only utilize that equipment for printing services required by the agency in performing duties imposed upon the agency or functions authorized to be performed by the agency. Any use of the equipment by the agency pursuant to an agreement or contract with any other entity resulting in delivery of intermediate or finished products to the entity purchasing or using the products shall be subject to the provisions of the Oklahoma Central Purchasing Act;

3. Department of Transportation and Transportation Commission contractual services or right-of-way purchases; contracts awarded pursuant to bids let by the Transportation Commission for the maintenance or construction of streets, roads, highways, bridges, underpasses, or any other transportation facilities under the control of the Department of Transportation, the acquisitions of equipment or materials accruing to the Department of Transportation required in Federal-Aid contracts; and contracts for public service type announcements initiated by the Department of Transportation; but not contractual services for advertising or public relations or employment services;

4. Utility services where rates therefor are regulated by a state or federal regulatory commission, or by municipal ordinance, or by an Indian Tribal Council for use by the Department of Corrections only;

5. Acquisitions by the University Hospitals Authority. The Authority shall develop standards for the acquisition of products and services and may elect to utilize the Purchasing Division. The standards shall foster economy and short response time and shall include appropriate safeguards and record-keeping requirements to

ensure appropriate competition and economical and efficient purchasing;

6. Contracts for custom harvesting by the Department of Corrections for the Department or its institutions;

7. Contracts with private prison contractors which are subject to the contracting procedures of Section 561 of Title 57 of the Oklahoma Statutes;

8. Acquisitions by the Oklahoma Municipal Power Authority;

9. Acquisitions by the Grand River Dam Authority;

10. Acquisitions by rural water, sewer, gas, or solid waste management districts created pursuant to the Rural Water, Sewer, Gas and Solid Waste Management Districts Act;

11. Acquisitions by the Oklahoma Ordnance Works Authority, the Northeast Oklahoma Public Facilities Authority, or the Midwestern Oklahoma Development Authority;

12. Contracts entered into by the Oklahoma Industrial Finance Authority for the services of an appraiser or for acquisition of insurance when the Authority's Board of Directors determines that an emergency exists, and contracts for the services of legal counsel when approved by the Attorney General;

13. Expenditure of monies appropriated to the State Board of Education for Local and State Supported Financial Support of Public Schools, except monies allocated therefrom for the Administrative and Support Functions of the State Department of Education;

14. Expenditure of monies appropriated to the State Department of Rehabilitation Services for educational programs or educational materials for the Oklahoma School for the Blind and the Oklahoma School for the Deaf;

15. Contracts entered into by the Oklahoma Department of Career and Technology Education for the development, revision, or updating of vocational curriculum materials, and contracts entered into by the Oklahoma Department of Career and Technology Education for

training and supportive services that address the needs of new or expanding industries;

16. Contracts entered into by the Oklahoma Center for the Advancement of Science and Technology for professional services;

17. Contracts entered into by the Oklahoma Department of Commerce pursuant to the provisions of Section 5066.4 of this title;

18. Acquisitions made by the Oklahoma Historical Society from monies used to administer the White Hair Memorial;

19. Acquisitions available to an agency through a General Services Administration (GSA) contract or other federal contract if the acquisition is on current statewide contract and the terms of the GSA or other federal contract, as determined by the State Purchasing Director, are more favorable to the agency than the terms of a statewide contract for the same products;

20. Purchases of pharmaceuticals available through a multistate or multigovernmental contract if such pharmaceuticals are or have been on state contract within the last fiscal year, and the terms of such contract are more favorable to the state or agency than the terms of a state contract for the same products, as determined by the State Purchasing Director. 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 contracts;

21. Contracts for managed health care services entered into by the state entity designated by law or the Department of Human Services, as specified in paragraph 1 of subsection A of Section 1010.3 of Title 56 of the Oklahoma Statutes;

22. Acquisitions by the Forestry Service of the Oklahoma Department of Agriculture, Food, and Forestry as authorized by the federal General Services Administration through a General Services Administration contract or other federal contract if the acquisitions are not on current statewide contract or the terms of

the federal contract are more favorable to the agency than the terms of a statewide contract for the same products;

23. Acquisitions of clothing for clients of the Department of Human Services and acquisitions of food for group homes operated by the Department of Human Services;

24. Acquisitions by the Oklahoma Energy Resources Board;

25. Acquisitions of clothing for juveniles in the custody of the Office of Juvenile Affairs and acquisitions of food for group homes operated by the Office of Juvenile Affairs;

26. State contracts for flexible benefits plans pursuant to the Oklahoma State Employees Benefits Act, Section 1361 et seq. of this title;

27. Acquisitions by the Department of Securities to investigate, initiate, or pursue administrative, civil, or criminal proceedings involving potential violations of the acts under the Department's jurisdiction;

28. Acquisitions by the Native America Cultural and Educational Authority and acquisitions by the Oklahoma Department of Commerce to assist the Native American Cultural and Educational Authority pursuant to Section 5017 of this title;

29. Acquisitions for resale in and through canteens operated pursuant to Section 537 of Title 57 of the Oklahoma Statutes;

30. Acquisitions by the Oklahoma Boll Weevil Eradication Organization for employment and personnel services, and for acquiring sprayers, blowers, traps, and attractants related to the eradication of boll weevils in this state or as part of a national or regional boll weevil eradication program;

31. Contracts entered into by the Oklahoma Indigent Defense System for expert services pursuant to the provisions of subsection D of Section 1355.4 of Title 22 of the Oklahoma Statutes; and

32. Acquisitions by the Oklahoma Correctional Industries and the Agri-Services programs of the Oklahoma Department of Corrections

of raw materials, component parts and other products used to produce goods or services for resale and for the production of agricultural products.

C. Pursuant to the terms of a contract the State Purchasing Director enters into or awards, a state agency, common school, municipality, rural fire protection district, county officer, or any program contract, purchase, acquisition or expenditure that is not subject to the provisions of the Oklahoma Central Purchasing Act, may, unless acting pursuant to a contract with the state that specifies otherwise, make use of statewide contracts and the services of the Purchasing Division and the State Purchasing Director. Any political subdivision or rural fire protection district may designate the State Purchasing Director as its agent for any acquisition from a statewide contract or otherwise available to the state.

D. The ~~State Purchasing~~ Director of Central Services shall make periodic audits of the purchasing procedures of the Oklahoma Ordnance Works Authority, the Northeast Oklahoma Public Facilities Authority, the University Hospitals Authority, and the Midwestern Oklahoma Development Authority to ensure that the procedures are being followed.

SECTION 5. AMENDATORY 74 O.S. 2001, Section 85.39, is amended to read as follows:

Section 85.39 A. 1. Each state agency shall develop internal purchasing procedures for acquisitions by the state agency. Procedures shall, at a minimum, include provisions for the state agency's needs assessment, funding, routing, review, audits, monitoring, and evaluations. The Director of Central Services shall make available recommended standard purchasing procedures that state agencies may modify to suit the individual needs of each agency. Following development, the state agency shall submit the procedures to the State Purchasing Director.

2. The State Purchasing Director shall review the procedures submitted pursuant to paragraph 1 of this subsection to determine compliance with the Oklahoma Central Purchasing Act, and the rules promulgated pursuant thereto, Sections 3001 through 3010 of this title, and provisions of paragraph 1 of this subsection. The State Purchasing Director shall provide written findings, including details of noncompliance, if any, to the Director of the Department of Central Services.

3. The Director of the Department of Central Services shall, within fifteen (15) days after the procedures are submitted, notify the state agency that the procedures are in compliance or indicate revisions necessary to bring the procedures into compliance.

B. A state agency shall not make acquisitions exceeding ~~Two Thousand Five Hundred Dollars ($2,500.00)~~ Five Thousand Dollars ($5,000.00) pursuant to Section 85.5 of this title, unless the Director of the Department of Central Services provides notice of compliance.

C. Each state agency shall maintain a document file for each acquisition the state agency makes which shall include, at a minimum, justification for the acquisition, supporting documentation, copies of all contracts, if any, pertaining to the acquisition, evaluations, written reports if required by contract, and any other information the State Purchasing Director requires be kept.

SECTION 6. AMENDATORY 74 O.S. 2001, Section 85.43, is amended to read as follows:

Section 85.43 A. Each chief administrative officer of a state agency shall submit to the State Purchasing Director by November 1 of each year a report listing all acquisitions exceeding ~~Ten Thousand Dollars ($10,000.00)~~ Twenty-five Thousand Dollars ($25,000.00) but not exceeding ~~Twenty-five Thousand Dollars ($25,000.00)~~ One Hundred Thousand Dollars ($100,000.00) of the state

agency for the preceding fiscal year which will include the following information:

1. Professional services contracts;

2. Nonprofessional services contracts; and

3. Contracts for the leasing of property including real property contracts and any lease agreements for products or equipment.

B. The report shall contain:

1. The name of the supplier;

2. A description of each acquisition;

3. The purchase price of the acquisition; and

4. The total amount expended to date for the preceding fiscal year for the acquisition.

C. The report shall specifically identify sole source and sole brand acquisitions.

D. The state agency shall submit the report to the State Auditor and Inspector and to the Department of Central Services. The state agency shall submit the report to any member of the Appropriations and Budget Committee of the House of Representatives or Appropriations Committee of the Senate if a member so requests.

E. The State Auditor and Inspector shall review the report for compliance with statutes and rules or other provisions of law applicable to sole source and sole brand acquisitions.

SECTION 7. AMENDATORY 74 O.S. 2001, Section 85.45j, is amended to read as follows:

Section 85.45j A. 1. Pursuant to the provisions of this section, an acquisition may be exempt from competitive bidding procedures as a sole source or sole brand acquisition.

2. If a state agency desires to make a sole source or sole brand acquisition, 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 pursuant to the provisions of the attached requisition or contract that

(Name of Supplier)

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

_____

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.

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. 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 requisition for a sole source or sole brand acquisition. Prior to approving a requisition pursuant to this 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 made.

7. For sole source or sole brand acquisitions exceeding ~~Two Thousand Five Hundred Dollars ($2,500.00)~~ Five Thousand Dollars ($5,000.00) and not 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 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)~~ Five Thousand Dollars ($5,000.00) executed by the state agency in the preceding month. The report shall indicate whether requisitions for sole source and sole brand acquisitions were disapproved or modified by the State Purchasing Director and 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 8. AMENDATORY 74 O.S. 2001, Section 85.53, is amended to read as follows:

Section 85.53 A. It is the intent of the Legislature that all state public entities procure products or materials with the recycled content levels required or specified by rules promulgated pursuant to the provisions of this section when such products or materials are available.

B. By July 1, 1993, the Division when accepting bids for state purchases of supplies, equipment and materials shall give preference to the suppliers of paper products or products manufactured with recycled materials if:

1. The price for recycled products and materials is not substantially higher than the price for nonrecycled products and materials. The Department of Central Services shall establish by rule the annual percentage over and above the price of nonrecycled products and materials which will be allowed for the purchase of recycled products and materials; and

2. The quality and grade requirements are otherwise comparable.

C. By July 1, 1993, any state public entity not subject to the Central Purchasing Act when accepting bids for purchases of supplies, equipment and materials, shall give preference to the suppliers of recycled paper products and products manufactured from recycled materials if:

1. The price for recycled products and materials is not substantially higher than the price for nonrecycled products and

materials. The price paid for recycled products and materials shall not exceed the percentage over the price for nonrecycled products and materials established by the Department; and

2. The quality and grade requirements are otherwise comparable.

D. The Purchasing Division and any state public entity not subject to the Central Purchasing Act shall ensure, to the greatest extent economically practical and possible, that the recycled or recovered content of all paper purchased by the Division or agency, measured as a proportion, by weight, of paper products purchased in a calendar year, is not less than the following:

1. By 1995, ten percent (10%) of all purchased paper;

2. By 1997, twenty-five percent (25%) of all purchased paper; and

3. By 1999, forty percent (40%) of all purchased paper.

E. 1. By July 1, 1993, the ~~Division~~ Director of the Department of Central Services shall promulgate rules and implement a program for extending state procurement specifications to products manufactured with recycled materials and identifying recycled products.

2. By July 1, 1993, any state public entity not subject to the Central Purchasing Act shall implement a program for extending agency procurement specifications to products manufactured with recycled materials.

F. In writing specifications under this section, the Department and any other state public entity shall incorporate requirements relating to the recyclability and ultimate disposition of products and, wherever possible, shall write the specifications so as to minimize the amount of solid waste generated by the state. All specifications under this section shall discourage the purchase of single-use, disposable products and require, whenever practical, the purchase of multiple-use, durable products.

G. For materials that are not otherwise recycled, the Division and each state public entity not subject to the Central Purchasing Act shall, to the extent practicable, enter into agreements to purchase products made from recyclable materials from vendors who agree to purchase like materials separated from solid waste generated by the state for reuse or use as a raw material in manufacturing.

SECTION 9. AMENDATORY 74 O.S. 2001, Section 85.55, is amended to read as follows:

Section 85.55 A. Each state public entity whether or not subject to the Central Purchasing Act shall:

1. Be subject to the rules promulgated by the ~~Purchasing Division~~ Director of the Department of Central Services regarding the purchase of recycled products;

2. Establish management practices in accordance with the provisions of the Oklahoma State Recycling and Recycled Materials Procurement Act;

3. Report by November 1 of each year to the Director of Central Services the following:

a. the total amount of waste paper and other recyclable materials sold during the previous fiscal year,

b. the amount of procured recycled paper products and other products manufactured with recycled materials, and

c. the total amount of monies collected and expended to implement the Oklahoma State Recycling and Recycled Materials Procurement Act; and

4. The Director shall coordinate the information provided by state public entities and report and submit such information to the Governor, the President Pro Tempore of the Senate, and to the Speaker of the House of Representatives on or before January 15 of each year.

B. It is the intention of the Legislature that all state public entities and other governmental subdivisions of this state aggressively pursue procurement practices that encourage solid waste reduction and development of markets for recyclable materials and compost and shall, whenever practical, procure products containing recycled materials.

SECTION 10. This act shall become effective November 1, 2005.

Passed the Senate the 9th day of March, 2005.

_____
Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____, 2005.

_____
Presiding Officer of the House
of Representatives