

3 Senate Bill No. 427
4 As Amended

5 SENATE BILL NO. 427 - By: EASON McINTYRE of the Senate and PETERS of
6 the House.

7 [state government - Oklahoma Central Purchasing Act -
8 exemption contracts - codification -
9 emergency]

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

11 SECTION 1. AMENDATORY 74 O.S. 2001, Section 85.12, as
12 last amended by Section 90, Chapter 5, O.S.L. 2004 (74 O.S. Supp.
13 2004, Section 85.12), is amended to read as follows:

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

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

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

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

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

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

5 5. Acquisitions by the University Hospitals Authority. The
6 Authority shall develop standards for the acquisition of products
7 and services and may elect to utilize the Purchasing Division. The
8 standards shall foster economy and short response time and shall
9 include appropriate safeguards and record-keeping requirements to
10 ensure appropriate competition and economical and efficient
11 purchasing;

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

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

17 8. Acquisitions by the Oklahoma Municipal Power Authority;

18 9. Acquisitions by the Grand River Dam Authority;

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

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

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

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

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

17 15. Contracts entered into by the Oklahoma Department of Career
18 and Technology Education for the development, revision, or updating
19 of vocational curriculum materials, and contracts entered into by
20 the Oklahoma Department of Career and Technology Education for
21 training and supportive services that address the needs of new or
22 expanding industries;

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

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

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

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

13 20. Purchases of pharmaceuticals available through a multistate
14 or multigovernmental contract if such pharmaceuticals are or have
15 been on state contract within the last fiscal year, and the terms of
16 such contract are more favorable to the state or agency than the
17 terms of a state contract for the same products, as determined by
18 the State Purchasing Director. The state entity designated by law,
19 as specified in Section 1010.3 of Title 56 of the Oklahoma Statutes,
20 shall participate in the purchase of pharmaceuticals available
21 through such contracts;

22 21. Contracts for managed health care services entered into by
23 the state entity designated by law or the Department of Human

1 Services, as specified in paragraph 1 of subsection A of Section
2 1010.3 of Title 56 of the Oklahoma Statutes;

3 22. Acquisitions by the Forestry Service of the Oklahoma
4 Department of Agriculture, Food, and Forestry as authorized by the
5 federal General Services Administration through a General Services
6 Administration contract or other federal contract if the
7 acquisitions are not on current statewide contract or the terms of
8 the federal contract are more favorable to the agency than the terms
9 of a statewide contract for the same products;

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

13 24. Acquisitions by the Oklahoma Energy Resources Board;

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

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

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

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

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

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

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

15 32. Acquisitions by the Oklahoma Correctional Industries and
16 the Agri-Services programs of the ~~Oklahoma~~ Department of Corrections
17 of raw materials, component parts and other products used to produce
18 goods or services for resale and for the production of agricultural
19 products; and

20 33. Contracts entered into by the State Department of Health to
21 purchase vaccines or other supplies with respect to a public health
22 emergency, subject to the provisions of Section 2 of this act.

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

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

18 SECTION 2. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 85.12d of Title 74, unless there
20 is created a duplication in numbering, reads as follows:

21 The State Department of Health is hereby authorized to purchase
22 vaccines and other supplies with respect to a public health
23 emergency pursuant to the provisions of this section. If the State

1 Commissioner of Health determines that a situation within the
2 jurisdiction of the Department is one in which human life, health or
3 safety is in imminent danger, the Commissioner shall immediately
4 request the Governor to declare a public health emergency. Upon
5 such declaration, the Department shall be authorized to:

6 1. Solicit primary and secondary bids to purchase vaccines and
7 other supplies with respect to such emergency and enter into
8 contracts pursuant to such solicitation. In the event that the
9 primary bidder is unable to fulfill the terms of any contract
10 entered into for such purchases, the purchases shall be made from
11 the secondary bidder pursuant to the terms of the contract; or

12 2. Purchase such vaccines or other supplies as a sole source or
13 sole brand acquisition pursuant to the provisions of Section 85.45j
14 of this title.

15 The Department shall promulgate rules to implement the
16 provisions of this section.

17 SECTION 3. It being immediately necessary for the preservation
18 of the public peace, health and safety, an emergency is hereby
19 declared to exist, by reason whereof this act shall take effect and
20 be in full force from and after its passage and approval.

21 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 2-16-05 - DO
22 PASS, As Amended and Coauthored.