

THE HOUSE OF REPRESENTATIVES  
Wednesday, February 27, 2008

House Bill No. 2663

HOUSE BILL NO. 2663 - By: MCDANIEL (RANDY) of the House and \_\_\_\_ of the Senate.

An Act relating to state government; amending 74 O.S. 2001, Section 85.12, as last amended by Section 77, Chapter 1, O.S.L. 2007 (74 O.S. Supp. 2007, Section 85.12), which relates to The Oklahoma Central Purchasing Act; expanding list of acquisitions to include certain pharmaceuticals; and providing an effective date.

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

1 SECTION 1. AMENDATORY 74 O.S. 2001, Section 85.12, as last amended by  
2 Section 77, Chapter 1, O.S.L. 2007 (74 O.S. Supp. 2007, Section 85.12), is amended to  
3 read as follows:

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

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

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

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

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

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

21           5. Acquisitions by the University Hospitals Authority. The Authority shall develop  
22 standards for the acquisition of products and services and may elect to utilize the

1 Purchasing Division. The standards shall foster economy and short response time and  
2 shall include appropriate safeguards and record-keeping requirements to ensure  
3 appropriate competition and economical and efficient purchasing;

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

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

8 8. Acquisitions by the Oklahoma Municipal Power Authority;

9 9. Acquisitions by the Grand River Dam Authority;

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

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

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

20 13. Expenditure of monies appropriated to the State Board of Education for Local  
21 and State Supported Financial Support of Public Schools, except monies allocated

1 therefrom for the Administrative and Support Functions of the State Department of  
2 Education;

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

6 15. Contracts entered into by the Oklahoma Department of Career and Technology  
7 Education for the development, revision, or updating of vocational curriculum materials,  
8 and contracts entered into by the Oklahoma Department of Career and Technology  
9 Education for training and supportive services that address the needs of new or  
10 expanding industries;

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

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

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

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

1           20. Purchases of pharmaceuticals available through a multistate or  
2 multigovernmental contract if such pharmaceuticals are or have been on state contract  
3 within the last fiscal year, and the terms of such contract are more favorable to the state  
4 or agency than the terms of a state contract for the same products, as determined by the  
5 State Purchasing Director. The state entity designated by law, as specified in Section  
6 1010.3 of Title 56 of the Oklahoma Statutes, shall participate in the purchase of  
7 pharmaceuticals available through such contracts;

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

11           22. Acquisitions by the Forestry Service of the Oklahoma Department of  
12 Agriculture, Food, and Forestry as authorized by the federal General Services  
13 Administration through a General Services Administration contract or other federal  
14 contract if the acquisitions are not on current statewide contract or the terms of the  
15 federal contract are more favorable to the agency than the terms of a statewide contract  
16 for the same products;

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

19           24. Acquisitions by the Oklahoma Energy Resources Board;

20           25. Acquisitions of clothing for juveniles in the custody of the Office of Juvenile  
21 Affairs, acquisitions of pharmaceuticals not covered by Medicaid for juveniles in the

1 custody of the Office of Juvenile Affairs, and acquisitions of food for group homes  
2 operated by the Office of Juvenile Affairs;

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

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

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

11 29. Acquisitions for resale in and through canteens operated pursuant to Section  
12 537 of Title 57 of the Oklahoma Statutes;

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

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

20 32. Acquisitions by the Oklahoma Correctional Industries and the Agri-Services  
21 programs of the Department of Corrections of raw materials, component parts and other  
22 products, any equipment excluding vehicles, and any services excluding computer

1 consultant services used to produce goods or services for resale and for the production of  
2 agricultural products;

3 33. Contracts entered into by the Department of Human Services for provision of  
4 supported living services to members of the plaintiff class in Homeward Bound, Inc., et.  
5 al., v. The Hissom Memorial Center, et. al., Case Number 85-C-437-E, United States  
6 District Court for the Northern District of Oklahoma; and

7 34. Contracts negotiated by the Office of Juvenile Affairs with designated Youth  
8 Services Agencies and the Oklahoma Association of Youth Services, or another  
9 Oklahoma nonprofit corporation whose membership consists solely of Youth Services  
10 Agencies and of whom at least a majority of Youth Services Agencies are members,  
11 pursuant to the provisions of Section 7302-3.6a of Title 10 of the Oklahoma Statutes.

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

21 D. The State Purchasing Director shall make periodic audits of the purchasing  
22 procedures of the Oklahoma Ordnance Works Authority, the Northeast Oklahoma Public

1 Facilities Authority, the University Hospitals Authority, and the Midwestern Oklahoma  
2 Development Authority to ensure that the procedures are being followed.

3 SECTION 2. This act shall become effective November 1, 2008.

4 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT AND  
5 TRANSPORTATION, dated 02-26-08 - DO PASS.