

THE HOUSE OF REPRESENTATIVES
Monday, April 16, 2007

Committee Substitute for
ENGROSSED
Senate Bill No. 831

COMMITTEE SUBSTITUTE FOR ENGROSSED SENATE BILL NO. 831 - By: LASTER
of the Senate and TREBILCOCK of the House.

An Act relating to state government; amending 74 O.S. 2001, Sections 85.5, as last amended by Section 126, Chapter 1, O.S.L. 2005, Section 26, Chapter 467, O.S.L. 2005, and 85.7, as last amended by Section 2, Chapter 309, O.S.L. 2004 and 85.22 (74 O.S. Supp. 2006, Sections 85.5, 85.5a, and 85.7), which relate to the powers and duties of the State Purchasing Director, the state purchase card, and competitive bid or proposal procedures; modifying certain transaction amount; stating procedures; making split-purchasing on a purchase card a felony; modifying certified statement; repealing 74 O.S. 2001, Section 85.23, which relates to notarized sworn statement attached to contract; 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 85.5, as last amended by
2 Section 126, Chapter 1, O.S.L. 2005 (74 O.S. Supp. 2006, Section 85.5), is amended to
3 read as follows:

4 Section 85.5 A. Pursuant to the provisions of Section 85.4 of this title, the State
5 Purchasing Director, under the supervision of the Director of the Department of Central
6 Services, shall have sole and exclusive authority and responsibility for all acquisitions
7 used or consumed by state agencies.

1 B. The State Purchasing Director, after consultation with the requisitioning state
2 agency, shall have authority to determine the particular brand, model, or other specific
3 classification of each acquisition and to draft or invoke pursuant to the Oklahoma
4 Central Purchasing Act specifications establishing the requirements for all necessary
5 contracts or purchase orders.

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

10 1. The time, manner, authentication, and form of making requisitions for
11 acquisitions;

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

14 3. The form and manner of submission for bids or proposals a supplier submits and
15 the manner of accepting and opening bids or proposals;

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

19 5. Obtaining acquisitions produced by state institutions;

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

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

4 8. Storage and storage facilities necessary to accomplish responsibilities of the
5 Director of the Department of Central Services;

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

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

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

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

- 1 b. state agencies with certified procurement officers and internal
2 purchasing procedures found compliant by the Director of the
3 Department of Central Services pursuant to this section may make
4 acquisitions in excess of Two Thousand Five Hundred Dollars
5 (\$2,500.00) as provided below:
- 6 (1) acquisitions with a price exceeding Two Thousand Five Hundred
7 Dollars (\$2,500.00) and not exceeding Ten Thousand Dollars
8 (\$10,000.00), pursuant to rules authorized by this section, and
9 (2) acquisitions with a price exceeding Ten Thousand Dollars
10 (\$10,000.00) and not exceeding the amount requiring a
11 requisition to the State Purchasing Director, pursuant to Section
12 85.7 of this title, by telephone, facsimile, invitation to bid, or
13 solicitation by means of electronic commerce, receipt of bids and
14 bid award by the state agency;
- 15 12. Training by the State Purchasing Director of state agency procurement officers;
16 13. Review and audit by the State Purchasing Director of state agency acquisitions;
17 14. The conditions for increasing acquisition limits for state agencies which have
18 had a prior reduction in acquisition limit by the Director of the Department of Central
19 Services;
20 15. State agency use of a state purchase card to make acquisitions; and
21 16. Any other matter or practice which relates to the responsibilities of the Director
22 of the Department of Central Services.

1 D. The State Purchasing Director shall provide training for state agency
2 purchasing officials and other purchasing staff. The training shall include principles of
3 state procurement practices, basic contracting, provisions of the Oklahoma Central
4 Purchasing Act, rules promulgated pursuant to the Oklahoma Central Purchasing Act,
5 provisions of Section 3001 et seq. of this title, which relate to the State Use Committee,
6 and any other matters related to state procurement practices. State agency purchasing
7 officials that demonstrate proficiency shall be certified as "certified procurement officers"
8 by the State Purchasing Director and shall be authorized to make acquisitions pursuant
9 to provisions of the Oklahoma Central Purchasing Act and rules authorized by this
10 section. The State Purchasing Director shall assess a fee to state agencies for the
11 training that does not exceed each state agency's pro rata share of the costs the State
12 Purchasing Director incurs to provide the training.

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

15 1. Ensuring state agency compliance with provisions of the Oklahoma Central
16 Purchasing Act;

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

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

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

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

4 F. When recommended by the State Purchasing Director, based on written findings
5 by the State Purchasing Director, the Director of the Department of Central Services
6 may:

7 1. Require retraining of state agency procurement officials and other purchasing
8 staff found not to be in compliance with provisions of the Oklahoma Central Purchasing
9 Act, or rules promulgated pursuant to the Oklahoma Central Purchasing Act;

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

13 3. Transmit written findings by the State Purchasing Director to the State Auditor
14 and Inspector for further investigation, indicating purchasing procedures that do not
15 conform to provisions pursuant to the Oklahoma Central Purchasing Act or rules
16 promulgated pursuant to the Oklahoma Central Purchasing Act;

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

1 5. Increase the state agency acquisition purchase amount requiring competitive
2 bid, not to exceed the acquisition purchase amount requiring competitive bid, pursuant to
3 Section 85.7 of this title.

4 G. 1. Pursuant to the requirements of the Oklahoma Central Purchasing Act, the
5 State Purchasing Director shall have authority to enter into any statewide, multistate or
6 multigovernmental contract. The state entity designated by law, as specified in Section
7 1010.3 of Title 56 of the Oklahoma Statutes, shall participate in the purchase of
8 pharmaceuticals available through such multistate or multigovernmental contracts
9 entered into by the State Purchasing Director.

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

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

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

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

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

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

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

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

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

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

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

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

20 8. In cooperation with and upon approval of the Office of State Finance and the
21 State Treasurer, develop an electronic commercial card payment system for the
22 settlement of accounts payable invoices for state agencies to make payment for products

1 or services acquired in accordance with the Oklahoma Central Purchasing Act and any
2 rules promulgated thereto.

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

6 L. The State Purchasing Director may authorize state agencies to utilize a state
7 purchase card ~~for to make acquisitions on statewide contracts issued by the State~~
8 ~~Purchasing Director with~~ within the following parameters:

9 1. With no limit on the amount of the transaction for the following:

10 a. purchases from statewide contracts issued by the State Purchasing
11 Director,

12 b. regulated utilities,

13 c. lodging and registration in accordance with the State Travel
14 Reimbursement Act and any rules and procedures relating thereto,

15 and

16 d. electronic commercial card payments for accounts payable invoices;

17 and

18 2. For any other transaction with a state purchase card, the transaction shall not
19 exceed Two Thousand Five Hundred Dollars (\$2,500.00) subject to the cardholder
20 providing to the approving officer a receipt from the vendor, giving an itemized and
21 detailed description of the purchase.

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

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

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

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

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

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

4 S. The Office of State Finance along with the Department of Central Services,
5 Central Purchasing Division, shall promulgate payment procedure rules for agencies to
6 adhere to regarding statewide contracts issued by the Division.

7 SECTION 2. AMENDATORY Section 26, Chapter 467, O.S.L. 2005 (74 O.S.
8 Supp. 2006, Section 85.5a), is amended to read as follows:

9 Section 85.5a The State Purchasing Director may authorize personnel assigned to
10 the Office of Global Business Services of the Department of Commerce, upon a finding by
11 the Secretary of Commerce that such personnel have a legitimate need therefore, to
12 utilize a state purchase card for acquisitions for programs, functions or services essential
13 to the mission of the agency while traveling on Department of Commerce business in
14 foreign locations with transaction limits not to exceed ~~Thirty-five Thousand Dollars~~
15 ~~(\$35,000.00)~~ Five Thousand Dollars (\$5,000.00). The purchase cardholders are required
16 to sign a purchase card agreement prior to becoming a cardholder and to attend purchase
17 card procedure training. The Department of Commerce will conduct quarterly internal
18 auditing on all purchase card transactions associated with business and travel in foreign
19 locations.

20 SECTION 3. AMENDATORY 74 O.S. 2001, Section 85.7, as last amended by
21 Section 2, Chapter 309, O.S.L. 2004 (74 O.S. Supp. 2006, Section 85.7), is amended to
22 read as follows:

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

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

8 a. Split purchasing, including the use of a purchase card, for the purpose
9 of evading the requirement of competitive bidding shall be a felony.

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

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

1 (5) days following the acquisition together with a statement of the emergency. The State
2 Purchasing Director shall send the requisition and a written analysis to the Governor,
3 the President Pro Tempore of the Senate, and the Speaker of the House of
4 Representatives specifying the facts and circumstances giving rise to the emergency
5 requisition.

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

- 12 a. in which serious damage to the environment will quickly occur if
13 immediate action is not taken and the damage will be so significant
14 that the urgent need for action outweighs the need for competitive
15 bids, or
16 b. a situation in which human life or safety is in imminent danger or
17 significant property interests are threatened with imminent
18 destruction.

19 6. Acquisitions for repairs of equipment in emergencies, of livestock through a
20 market agency, dealer, commission house, or livestock auction market bonded or licensed
21 under federal or state law, the purchase or collection of semen or embryos, and the

1 placement of embryos into recipient livestock shall not require requisitions pursuant to
2 this section or any other provisions of the Oklahoma Central Purchasing Act.

3 7. The Board of Directors of the Oklahoma Historical Society shall select suppliers
4 for the restoration of historical sites and museums and shall not be subject to the
5 requisition requirements of this section or any other provision of the Oklahoma Central
6 Purchasing Act. The Board may send a requisition to the State Purchasing Director and
7 request supplier bid or proposal submission procedures, but supplier and bid selection
8 will be the prerogative of the Board and will be based on contractors' documented
9 qualifications and experience.

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

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

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

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

- 1 b. The Department of Central Services shall establish criteria and
2 guidelines for those services which may qualify for a fixed and uniform
3 rate.
- 4 c. Fixed and uniform rate contracts authorized by this paragraph shall be
5 limited to contracts for those services furnished to persons directly
6 benefiting from such services and shall not be used by a state agency to
7 employ consultants or to make other acquisitions.
- 8 d. Any state agency desiring to have a service qualified for a fixed and
9 uniform rate shall make a request for service qualification to the
10 Department of Central Services and submit documentation to support
11 the request. The Department of Central Services shall approve or
12 deny the request. If the Department of Central Services approves the
13 request, the state agency shall establish a fixed and uniform rate for
14 the service. No contracts shall be entered into by the state agency
15 until the rate has been approved by the state agency in a public
16 hearing. The proposed rate shall be clearly and separately identified
17 in the agenda of the state agency for the hearing and shall be openly
18 and separately discussed during such hearing. The state agency shall
19 notify the Director of the Department of Central Services of its pending
20 consideration of the proposed rate at least thirty (30) days before the
21 state agency is to meet on the proposed rate. The state agency shall
22 deliver to the Director of the Department of Central Services a copy of

1 the agenda items concerning the proposed rate with supporting
2 documentation. The Director of the Department of Central Services
3 shall communicate any observation, reservation, criticism, or
4 recommendation to the agency, either in person at the time of the
5 hearing or in writing delivered to the state agency before or at the time
6 of the hearing. The Director of the Department of Central Services
7 shall specifically note in the written communications whether the
8 Director of the Department of Central Services has determined the
9 rate to be excessive. Any written communication presented in the
10 absence of the Director of the Department of Central Services shall be
11 presented orally during the public hearing. Whether made in person
12 or in writing, any comment made by the Director of the Department of
13 Central Services shall be made a part of the minutes of the hearing in
14 full.

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

1 the Director of the Department of Central Services shall be specifically
2 identified in the list by the state agency.

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

8 12. Specifically prescribed nonmedical adaptive technology-related acquisitions for
9 individuals with disabilities who are clients of the State Department of Rehabilitation
10 Services and which are prescribed by a physician, rehabilitation engineer, qualified
11 rehabilitation technician, speech therapist, speech pathologist, occupational therapist,
12 physical therapist, or qualified sensory aids specialist, and other client acquisitions, shall
13 not be subject to the requisition requirements of this section. The Commission for
14 Rehabilitation Services shall develop standards for the purchase of such acquisitions and
15 may elect to utilize the Purchasing Division for an acquisition. The standards shall
16 foster economy, provide a short response time, include appropriate safeguards, require
17 written records, ensure appropriate competition for economical and efficient purchasing,
18 and shall be approved by the State Purchasing Director.

19 13. The Department of Human Services shall develop procedures for acquisitions of
20 specifically prescribed nonmedical assistive technology-related items not exceeding the
21 acquisition purchase amount requiring a requisition pursuant to this section for
22 individuals under sixteen (16) years of age who are recipients of Supplemental Security

1 Income which are prescribed by a physician, qualified sensory aids specialist or qualified
2 special education instructor. The procedures shall reflect standards for the acquisition of
3 such nonmedical assistive technology-related items, may provide for utilization of the
4 Purchasing Division when appropriate, shall foster economy, provide a short response
5 time, shall include appropriate safeguards and written records to ensure appropriate
6 competition and economical and efficient purchasing, and shall be approved by the State
7 Purchasing Director.

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

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

17 (2) the selection of a particular entity is made on the basis of the
18 response to the request which is the most economical and
19 provides the most competent service which furthers the best
20 interests of the state.

21 b. A list of any such structured settlement agreements entered into by
22 the Attorney General with summary thereon for the previous calendar

1 year shall be submitted to the Speaker of the House of Representatives
2 and the President Pro Tempore of the Senate on January 31 of each
3 year.

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

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

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

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

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

1 completed prior to the awarding of a professional service contract and such report shall
2 be a matter of public record.

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

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

14 SECTION 4. AMENDATORY 74 O.S. 2001, Section 85.22, is amended to read
15 as follows:

16 Section 85.22 ~~A notarized sworn statement shall be attached to any~~ Any
17 competitive bid submitted to the State of Oklahoma or contract executed by the State of
18 Oklahoma for goods or services; shall contain a certified statement which shall be in
19 substantially the following form:

20 ~~STATE OF OKLAHOMA~~)

21) ss

22 ~~COUNTY OF~~)

1 _____, of lawful age, being first duly sworn, on oath says:

2 I, the undersigned, upon my asservation and under penalty of perjury hereby certify
3 that:

4 1. ~~(s)he is~~ I am the duly authorized agent of _____, the bidder or contractor
5 submitting the competitive bid or contract which is attached to this statement, for the
6 purpose of certifying the facts pertaining to the existence of collusion among bidders and
7 between bidders and state officials or employees, as well as facts pertaining to the giving
8 or offering of things of value to government personnel in return for special consideration
9 in the letting of any contract pursuant to the bid to which this statement is attached;

10 2. ~~(s)he is~~ I am fully aware of the facts and circumstances surrounding the making
11 of the bid or procurement of the contract to which this statement is ~~attached~~ applicable
12 and ~~has~~ have been personally and directly involved in the proceedings leading to the
13 submission of such bid; ~~and~~

14 3. ~~neither~~ Neither the bidder, contractor nor anyone subject to the bidder's or
15 contractor's direction or control, including any subcontractor, has been a party:

16 a. to any collusion among ~~bidders~~ any bidder or contractor in restraint of
17 freedom of competition by agreement to bid at a fixed price or to
18 refrain from bidding,

19 b. to any collusion with any state official or employee as to quantity,
20 quality or price in the prospective contract, or as to any other terms of
21 such prospective contract, nor

1 c. in any discussions between bidders and any state official concerning
2 exchange of money or other thing of value for special consideration in
3 the letting of a contract;

4 4. Neither the bidder, contractor nor anyone subject to the contractor's or bidder's
5 direction or control, including any subcontractor, has paid, given, donated or agreed to
6 pay, give or donate to any officer or employee of the State of Oklahoma any money or
7 other thing of value, either directly or indirectly, in procuring the contract subject to this
8 statement;

9 5. If this contract is for professional services as defined in paragraph 25 of
10 subsection A of Section 85.2 of this title, and if the final product is a written proposal,
11 report, or study, the bidder or contractor further certifies that such person has not
12 previously provided the state agency or any other state agency with a final product that
13 is a substantial duplication of the final product of the proposed contract; and

14 6. No person who has been involved in the development of this contract in any
15 manner while employed by the State of Oklahoma shall be employed to fulfill any
16 requirement provided by such contract.

17 Averred to this _____ day of _____.

18 _____
19 ~~Subscribed and sworn to before me this _____ day of _____, 19__.~~

20 _____
21 ~~Notary Public (or Clerk or Judge)~~

22 SECTION 5. REPEALER 74 O.S. 2001, Section 85.23, is hereby repealed.

1 SECTION 6. This act shall become effective November 1, 2007.
2 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT AND
3 TRANSPORTATION, dated 04-12-07 - DO PASS, As Amended.
4