

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 HOUSE BILL 3325

By: Miller

4
5
6 AS INTRODUCED

7 An Act relating to state government; amending 74 O.S.
8 2001, Sections 85.2, 85.3, 85.5, as last amended by
9 Section 126, Chapter 1, O.S.L. 2005, 85.7, as last
10 amended by Section 2, Chapter 309, O.S.L. 2004,
11 85.12, as last amended by Section 77, Chapter 1,
12 O.S.L. 2007, 85.13 and Section 85.22 (74 O.S. Supp.
13 2007, Sections 85.5, 85.7 and 85.12), which relate to
14 The Oklahoma Central Purchasing Act; modifying
15 definitions; modifying employment of the purchasing
16 division; modifying powers and duties of the state
17 purchasing director; modifying competitive bidding
18 procedures; excluding certain acquisitions; modifying
19 the accepting or giving of gratuities; providing for
20 certified statement; repealing 74 O.S. 2001, Section
21 85.23, which relates to the notarized sworn statement
22 attached to contract; and providing an effective
23 date.

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

SECTION 1. AMENDATORY 74 O.S. 2001, Section 85.2, is
amended to read as follows:

Section 85.2 As used in The Oklahoma Central Purchasing Act,
unless the context otherwise requires:

1. "Acquisition" means items, products, materials, supplies,
services, and equipment a state agency acquires by purchase, lease-

1 purchase, lease with option to purchase, or rental pursuant to The
2 Oklahoma Central Purchasing Act unless the items, products,
3 supplies, services, or equipment are exempt pursuant to The Oklahoma
4 Central Purchasing Act;

5 2. "Best value criteria" means ~~bid or proposal~~ evaluation
6 criteria which may include, but ~~are~~ is not limited to, the
7 following:

- 8 a. the acquisition's operational cost a state agency
9 would incur,
- 10 b. the quality of the acquisition, or its technical
11 competency,
- 12 c. the reliability of the bidder's delivery and
13 implementation schedules,
- 14 d. the acquisition's facilitation of data transfer and
15 systems integration,
- 16 e. the acquisition's warranties and guarantees and the
17 bidder's return policy,
- 18 f. the bidder's financial stability,
- 19 g. the acquisition's adherence to the state agency's
20 planning documents and announced strategic program
21 direction,
- 22 h. the bidder's industry and program experience and
23 record of successful past performance with
24 acquisitions of similar scope and complexity,

1 i. the anticipated acceptance by user groups, and

2 j. the acquisition's use of proven development
3 methodology, and innovative use of current
4 technologies that lead to quality results;

5 3. "Bid" or "proposal" means an offer a bidder submits in
6 response to an invitation to bid or request for proposal;

7 4. "Bidder" means an individual or business entity that submits
8 a bid or proposal in response to an invitation to bid or a request
9 for proposal;

10 5. "Business entity" means individuals, partnerships, business
11 trusts, cooperatives, associates, corporations or any other firm,
12 group or concern which functions as a separate entity for business
13 purposes;

14 6. "Change order" means a unilateral written order directing a
15 supplier to make a change;

16 7. "Chief administrative officer" means an individual
17 responsible for directing the administration of a state agency. The
18 term does not mean one or all of the individuals that make policy
19 for a state agency;

20 8. "Component" means any item supplied as part of an end item
21 or of another component;

22 9. "Consolidation contract" means a contract for several state
23 agencies for the purpose of purchasing computer software maintenance
24 or hardware maintenance;

1 10. "Contract" means a mutually binding legal relationship
2 obligating the seller to furnish an acquisition and the buyer to pay
3 for it. It includes all types of commitments that obligate a state
4 agency to an expenditure of funds or action that, unless otherwise
5 authorized, is in writing. In addition to bilateral instruments,
6 contracts include, but are not limited to:

- 7 a. awards and notices of awards,
- 8 b. orders issued under basic ordering agreements,
- 9 c. letter contracts,
- 10 d. orders under which the contract becomes effective by
11 written acceptance or performance, and
- 12 e. bilateral contract modifications;

13 11. "Contract modification" means any written change in the
14 terms of the contract;

15 12. "Contracting" means purchasing, renting, leasing, or
16 otherwise obtaining acquisitions from private sources. Contracting
17 includes description, but not determination, of acquisitions
18 required, selection and solicitation of sources, preparation and
19 award of contracts, and contract administration;

20 13. "Contractor" means an individual or business entity
21 entering into a contract for goods and/or services with the state as
22 a result of a solicitation;

23 14. "Electronic commerce" means the use of electronic methods
24 to enable solicitation, supplier response, notice of contract award,

1 state agency acquisition processes, or any other function to make an
2 acquisition;

3 15. "Electronic payment mechanism" means a method of electronic
4 payment for authorized acquisitions;

5 ~~14.~~ 16. "Enterprise agreement" means an agreement for computer
6 hardware, software, and service that a supplier manufactures,
7 develops, and designs, and that one or more state agencies use;

8 17. "Environmentally preferable products and services (EPPS)"
9 means acquisitions that best meet the requirements as defined in the
10 solicitation for human health and the environment;

11 ~~15.~~ 18. "Equipment" means personal property a state agency
12 acquires for its use which is an item or product and shall include
13 all personal property used or consumed by a state agency that is not
14 included within the category of materials and supplies;

15 ~~16.~~ 19. "High technology system" means advanced technological
16 equipment, software, communication lines, and services for the
17 processing, storing, and retrieval of information by a state agency;

18 ~~17.~~ 20. "Item" or "product" means some quantity or kind of such
19 supplies, materials or equipment;

20 ~~18.~~ 21. "Local governmental entity" means any unit of local
21 government including, but not limited to, any school district,
22 county, or municipality of this state;

23 ~~19.~~ 22. "Lowest and best" means an acquisition based on
24 criteria which include, but are not limited to, the following:

- 1 a. the lowest total purchase price,
2 b. the quality and reliability of the product, and
3 c. the consistency of the proposed acquisition with the
4 state agency's planning documents and announced
5 strategic program direction;

6 ~~20.~~ 23. "Materials" or "supplies" includes all property except
7 real property or equipment that a state agency acquires for its use
8 or consumption;

9 ~~21.~~ 24. "Multistate contract" or "multigovernmental contract"
10 means an agreement entered into between two or more entities of
11 government for acquisitions pursuant to a single contract;

12 ~~22.~~ 25. "Nonprofessional services" means services which are
13 predominantly physical or manual in character and may involve the
14 supplying of products;

15 ~~23.~~ 26. "Political subdivision" means local governmental
16 entities and such other entities specified as political subdivisions
17 pursuant to The Governmental Tort Claims Act;

18 ~~24.~~ 27. "Open market contract" means a contract for a one-time
19 acquisition not exceeding the acquisition amount requiring
20 competitive bid pursuant to Section 85.7 of this title;

21 ~~25.~~ 28. "Professional services" means services which are
22 predominantly mental or intellectual in character rather than
23 physical or manual and which do not involve the supplying of
24 products. Professional services include services to support or

1 improve state agency policy development, decision making,
2 management, administration, or the operation of management systems;

3 ~~26.~~ 29. "Purchase order" means an offer by a state agency to
4 make an acquisition utilizing simplified procedures;

5 ~~27.~~ 30. "Requisition" means a written request by a state agency
6 for an acquisition;

7 ~~28.~~ 31. "Services" or "contractual services" means direct
8 engagement of the time and effort of a contractor for the primary
9 purpose of performing an identifiable task rather than for the
10 furnishing of an end item of supply;

11 ~~29.~~ 32. "Sole brand acquisition" means an acquisition that by
12 specification restricts the acquisition to one manufacturer or brand
13 name;

14 ~~30.~~ 33. "Sole source acquisition" means an acquisition which,
15 by specification, restricts the acquisition to one supplier;

16 34. "Solicitation" means a request or invitation by the State
17 Purchasing Director or a state agency for a supplier to submit a
18 priced offer to sell acquisitions to the state. A solicitation may
19 be an invitation to bid, request for proposal, or a request for
20 quotation;

21 ~~31.~~ 35. "Split purchase" means dividing a known quantity or
22 failing to consolidate a known quantity of an acquisition for the
23 purpose of evading a competitive bidding requirement;

24

1 ~~32.~~ 36. "State agency" includes any office, officer, bureau,
2 board, counsel, court, commission, institution, unit, division, body
3 or house of the executive or judicial branches of the state
4 government, whether elected or appointed, excluding only political
5 subdivisions of the state;

6 ~~33.~~ 37. "State purchase card" means an electronic transaction
7 device ~~issued to state agency officials~~ used for making
8 acquisitions;

9 ~~34.~~ 38. "State Purchasing Director" or "Director of Central
10 Purchasing" includes any employee or agent of the State Purchasing
11 Director, acting within the scope of delegated authority;

12 ~~35.~~ 39. "Statewide contract" means a contract for specific
13 acquisitions ~~entered into by state agencies during~~ for a specified
14 period with a provision allowing the agencies and local governmental
15 entities to place orders as the acquisitions are needed for delivery
16 during the period specified; and

17 ~~36.~~ 40. "Supplier" or "vendor" means an individual or business
18 entity that sells or desires to sell acquisitions to state agencies.

19 SECTION 2. AMENDATORY 74 O.S. 2001, Section 85.3, is
20 amended to read as follows:

21 Section 85.3 A. There is hereby created and established in the
22 Department of Central Services a Purchasing Division, the
23 administrative head of which shall be the State Purchasing Director.

24

1 B. The Director of the Department of Central Services shall
2 hire the State Purchasing Director. The State Purchasing Director
3 shall:

4 1. Be at least twenty-eight (28) years of age;

5 2. Have a thorough knowledge of office practices and buying
6 procedures in volume purchasing; and

7 3. Be a graduate of an accredited college or university with at
8 least five (5) years' experience in commercial or governmental
9 purchasing, or, in lieu of such education, have at least ten (10)
10 years' experience in commercial or governmental purchasing.

11 C. The Purchasing Division ~~shall~~ may include the following
12 employees, and employment of such employees is hereby authorized:

13 1. One assistant director;

14 2. One qualified specifications engineer;

15 3. Buyers who have at least three (3) years' procurement
16 experience for:

17 a. food,

18 b. hardware,

19 c. textiles,

20 d. petroleum,

21 e. office supplies,

22 f. building materials,

23 g. pharmaceutical supplies,

24 h. automotive equipment, parts, and accessories, and

1 i. any other commodity group found by the Director of the
2 Department of Central Services to justify special
3 purchasing attention;

4 4. One buyer for products and services of the severely disabled
5 as provided in Section 3001 et seq. of this title;

6 5. One dietitian, who shall have the qualifications required by
7 the State Department of Health; and

8 6. Such other technical and clerical personnel as shall be
9 assigned to the Purchasing Division by the Director of the
10 Department of Central Services.

11 D. All activities of any state agency, department, or
12 institution relating to purchasing shall be under the direction of
13 the Purchasing Division unless otherwise provided by The Oklahoma
14 Central Purchasing Act.

15 E. The Purchasing Division shall provide qualified personnel to
16 assist the purchasing activities of state agencies, departments, and
17 institutions.

18 F. Each state agency, department, and institution shall
19 designate personnel to coordinate its purchasing functions with the
20 Purchasing Division.

21 G. The Purchasing Division may, if the needs of a state agency,
22 department, or institution are such as to so require, employ, and
23 establish a buyer within a state agency, department, or institution.

1 H. No state agency, department, or institution subject to The
2 Oklahoma Central Purchasing Act shall have or maintain a purchasing
3 section without the prior approval in writing of the Purchasing
4 Division unless otherwise provided in The Oklahoma Central
5 Purchasing Act.

6 I. The Purchasing Division shall make acquisitions from
7 industries operated by the State Department of Corrections pursuant
8 to the provisions of Section 549.1 of Title 57 of the Oklahoma
9 Statutes.

10 J. None of the personnel authorized by this section shall:

11 1. Sell to or otherwise provide acquisitions to any state
12 agency subject to The Oklahoma Central Purchasing Act;

13 2. Be employees, partners, associates, officers, or
14 stockholders in or with any business entity that sells to or
15 otherwise provides acquisitions to any agency subject to The
16 Oklahoma Central Purchasing Act;

17 3. Be employed in any of the positions authorized by this
18 section if a spouse or child owns any stock in any business entity
19 which sells to or otherwise provides acquisitions to any agency
20 subject to the Oklahoma Central Purchasing Act; or

21 4. Be employed in any of the positions authorized by this
22 section if a relative within the third degree of consanguinity or
23 affinity sells to or otherwise provides acquisitions to any agency
24 subject to the Oklahoma Central Purchasing Act or is interested in

1 any business entity which does so, except that such relative,
2 excluding a spouse or child, may own Five Thousand Dollars
3 (\$5,000.00) worth or less, or one percent (1%) or less, whichever
4 amount is the lesser amount, of the stock of a corporation or any
5 business entity which sells to or otherwise provides acquisitions to
6 any state agency subject to The Oklahoma Central Purchasing Act.

7 SECTION 3. AMENDATORY 74 O.S. 2001, Section 85.5, as
8 last amended by Section 126, Chapter 1, O.S.L. 2005 (74 O.S. Supp.
9 2007, Section 85.5), is amended to read as follows:

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

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

21 C. The Director of the Department of Central Services shall
22 have authority and responsibility to promulgate rules pursuant to
23 provisions of The Oklahoma Central Purchasing Act governing,
24

1 providing for, prescribing, or authorizing any act, practice, or
2 requirement for which regulatory power is delegated for:

3 1. The time, manner, authentication, and form of making
4 requisitions for acquisitions;

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

7 3. The form and manner of submission for bids or proposals a
8 supplier submits and the manner of accepting and opening bids or
9 proposals;

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

14 5. Obtaining acquisitions produced by state institutions;

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

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

21 8. Storage and storage facilities necessary to accomplish
22 responsibilities of the Director of the Department of Central
23 Services;

24

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

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

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

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

21 b. state agencies with certified procurement officers and
22 internal purchasing procedures found compliant by the
23 Director of the Department of Central Services
24 pursuant to this section may make acquisitions in

1 excess of Two Thousand Five Hundred Dollars

2 (\$2,500.00) as provided below:

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

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

15 12. Training by the State Purchasing Director of state agency
16 procurement officers;

17 13. Review and audit by the State Purchasing Director of state
18 agency acquisitions;

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

22 15. ~~State agency use~~ Use of a state purchase card to make
23 acquisitions; and

1 16. Any other matter or practice which relates to the
2 responsibilities of the Director of the Department of Central
3 Services.

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

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

22 1. Ensuring state agency compliance with provisions of The
23 Oklahoma Central Purchasing Act;

24

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

4 3. Ensuring state agency compliance with provisions of Section
5 3001 et seq. of this title pertaining to the State Use Committee;

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

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

13 F. When recommended by the State Purchasing Director, based on
14 written findings by the State Purchasing Director, the Director of
15 the Department of Central Services may:

16 1. Require retraining of state agency procurement officials and
17 other purchasing staff found not to be in compliance with provisions
18 of The Oklahoma Central Purchasing Act, or rules promulgated
19 pursuant to The Oklahoma Central Purchasing Act;

20 2. Reduce the acquisition competitive bid limit for any state
21 agency found not to be in compliance with provisions of The Oklahoma
22 Central Purchasing Act or rules promulgated pursuant to The Oklahoma
23 Central Purchasing Act;

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1 3. Transmit written findings by the State Purchasing Director
2 to the State Auditor and Inspector for further investigation,
3 indicating purchasing procedures that do not conform to provisions
4 pursuant to The Oklahoma Central Purchasing Act or rules promulgated
5 pursuant to The Oklahoma Central Purchasing Act;

6 4. Transmit to the Attorney General or the State Auditor and
7 Inspector for further investigation a report made by the State
8 Purchasing Director that the Director of the Department of Central
9 Services reasonably believes indicates that an action that
10 constitutes a criminal violation pursuant to The Oklahoma Central
11 Purchasing Act or other laws has been taken by any state agency,
12 state agency official, bidder, or supplier; or

13 5. Increase the state agency acquisition purchase amount
14 requiring competitive bid, not to exceed the acquisition purchase
15 amount requiring competitive bid, pursuant to Section 85.7 of this
16 title.

17 G. 1. Pursuant to the requirements of The Oklahoma Central
18 Purchasing Act, the State Purchasing Director shall have authority
19 to enter into any statewide, multistate or multigovernmental
20 contract. The state entity designated by law, as specified in
21 Section 1010.3 of Title 56 of the Oklahoma Statutes, shall
22 participate in the purchase of pharmaceuticals available through
23 such multistate or multigovernmental contracts entered into by the
24 State Purchasing Director.

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

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

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

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

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

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

19 2. Monitoring rules promulgated pursuant to The Oklahoma
20 Central Purchasing Act to ensure that the rules, satisfy the
21 interests of the state, are clear and succinct, and encourage
22 efficiency in purchasing processes;

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

1 4. Development of criteria for the use of sealed bid
2 contracting procedures, negotiated contracting procedures, selection
3 of types of contracts, postaward administration of purchase orders
4 and contracts, contract modifications, termination of contracts, and
5 contract pricing;

6 5. Continual improvement in the quality of the performance of
7 the Purchasing Division through training programs, management
8 seminars, development of benchmarks and key management indicators,
9 and development of standard provisions, clauses and forms;

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

13 7. Development of programs to improve customer relations
14 through training, improved communications, and appointment of
15 technical representatives; and

16 8. In cooperation with the Office of State Finance and the State
17 Treasurer, develop an electronic payment mechanism for use in the
18 settlement of accounts payable invoices to make payment for products
19 or services acquired in accordance with The Oklahoma Central
20 Purchasing Act and any rules promulgated thereto.

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

1 L. The State Purchasing Director may authorize ~~state agencies~~
2 ~~to utilize~~ the use of a state purchase card for acquisitions ~~on~~
3 ~~statewide contracts issued by the State Purchasing Director with no~~
4 within the following parameters:

5 1. No limit on the amount of the transaction- for the
6 following:

7 a. purchases from statewide contracts issued by the State
8 Purchasing Director,

9 b. regulated utilities,

10 c. lodging made in compliance with the State Travel
11 Reimbursement Act, and any rules and procedures
12 relating thereto, and

13 d. registration for work-related conferences, seminars,
14 and allowable membership dues; and

15 2. For any other transaction with a state purchase card, the
16 transaction shall not exceed Two Thousand Five Hundred Dollars
17 (\$2,500.00).

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

20 N. Prior to the award of a contract to a supplier, the State
21 Purchasing Director shall verify, pursuant to applicable provisions
22 of law, that the supplier is eligible to do business in the State of
23 Oklahoma by confirming registration with the Secretary of State and
24 franchise tax payment status pursuant to Sections 1203 and 1204 of

1 Title 68 of the Oklahoma Statutes. The provisions of this
2 subsection shall be applicable only if the contract amount is
3 Twenty-five Thousand Dollars (\$25,000.00) or greater.

4 O. As a condition of awarding a contract pursuant to The
5 Oklahoma Central Purchasing Act, the State Purchasing Director shall
6 verify with the Oklahoma Tax Commission that the business entity to
7 which the state contract is to be awarded, whether subject to the
8 procedures required by Section 85.7 of this title or not, has
9 obtained a sales tax permit pursuant to the provisions of Section
10 1364 of Title 68 of the Oklahoma Statutes if such entity is required
11 to do so. The provisions of this subsection shall be applicable
12 only if the contract amount is Twenty-five Thousand Dollars
13 (\$25,000.00) or greater.

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

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

21 ~~R.~~ The Office of State Finance, with input from the State
22 Purchasing Director, shall promulgate payment procedure rules for
23 state agencies to adhere to regarding statewide contracts issued by
24 the State Purchasing Director.

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

5 SECTION 4. AMENDATORY 74 O.S. 2001, Section 85.7, as
6 last amended by Section 2, Chapter 309, O.S.L. 2004 (74 O.S. Supp.
7 2007, Section 85.7), is amended to read as follows:

8 Section 85.7 A. 1. Except as otherwise provided by The
9 Oklahoma Central Purchasing Act, no state agency shall make an
10 acquisition for an amount exceeding Twenty-five Thousand Dollars
11 (\$25,000.00) without submission of a requisition to the State
12 Purchasing Director and submission of suppliers' competitive bids or
13 proposals to the State Purchasing Director.

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

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

19 b. The State Purchasing Director may waive or increase
20 the limit of Twenty-five Thousand Dollars (\$25,000.00)
21 for a state agency acquisition by not more than ten
22 percent (10%) to perfect an otherwise valid
23 acquisition inadvertently exceeding the limit due to
24 administrative error by the state agency or

1 unforeseeable circumstances. The state agency shall
2 request a waiver upon the discovery of the error or
3 circumstance to the State Purchasing Director on a
4 form the Director requires.

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

10 3. a. Contracts for master custodian banks or trust
11 companies, investment managers, investment
12 consultants, and actuaries for the state retirement
13 systems, CompSource Oklahoma, State and Education
14 Employees Group Insurance Board, pension fund
15 management consultants of the Oklahoma State Pension
16 Commission and the Commissioners of the Land Office,
17 and other professional services as defined in Section
18 803 of Title 18 of the Oklahoma Statutes shall be
19 exempt from competitive bidding procedures of Section
20 85.4 of this title.

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

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

10 4. Requisitions pursuant to this section shall not be required
11 prior to emergency acquisitions by a state agency not exceeding
12 ~~Thirty five Thousand Dollars (\$35,000.00)~~ Fifty Thousand Dollars
13 (\$50,000.00). The state agency shall submit a requisition to the
14 State Purchasing Director within five (5) days following the
15 acquisition together with a statement of the emergency. The State
16 Purchasing Director shall send the requisition and a written
17 analysis to the Governor, the President Pro Tempore of the Senate,
18 and the Speaker of the House of Representatives specifying the facts
19 and circumstances giving rise to the emergency requisition.

20 5. Requisitions pursuant to this section for acquisitions to
21 alleviate a serious environmental emergency shall not be required
22 if, upon receiving a request from the Chair of the Corporation
23 Commission and after having examined the facts and circumstances of
24 the case, the Governor certifies in writing the existence of a

1 serious environmental emergency. For the purposes of this section,
2 "serious environmental emergency" means a situation within the
3 jurisdiction of the Commission:

- 4 a. in which serious damage to the environment will
5 quickly occur if immediate action is not taken and the
6 damage will be so significant that the urgent need for
7 action outweighs the need for competitive bids, or
- 8 b. a situation in which human life or safety is in
9 imminent danger or significant property interests are
10 threatened with imminent destruction.

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

18 7. The Board of Directors of the Oklahoma Historical Society
19 shall select suppliers for the restoration of historical sites and
20 museums and shall not be subject to the requisition requirements of
21 this section or any other provision of The Oklahoma Central
22 Purchasing Act. The Board may send a requisition to the State
23 Purchasing Director and request supplier bid or proposal submission
24 procedures, but supplier and bid selection will be the prerogative

1 of the Board and will be based on contractors' documented
2 qualifications and experience.

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

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

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

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

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

21 c. Fixed and uniform rate contracts authorized by this
22 paragraph shall be limited to contracts for those
23 services furnished to persons directly benefiting from
24

1 such services and shall not be used by a state agency
2 to employ consultants or to make other acquisitions.

3 d. Any state agency desiring to have a service qualified
4 for a fixed and uniform rate shall make a request for
5 service qualification to the Department of Central
6 Services and submit documentation to support the
7 request. The Department of Central Services shall
8 approve or deny the request. If the Department of
9 Central Services approves the request, the state
10 agency shall establish a fixed and uniform rate for
11 the service. No contracts shall be entered into by
12 the state agency until the rate has been approved by
13 the state agency in a public hearing. The proposed
14 rate shall be clearly and separately identified in the
15 agenda of the state agency for the hearing and shall
16 be openly and separately discussed during such
17 hearing. The state agency shall notify the Director
18 of the Department of Central Services of its pending
19 consideration of the proposed rate at least thirty
20 (30) days before the state agency is to meet on the
21 proposed rate. The state agency shall deliver to the
22 Director of the Department of Central Services a copy
23 of the agenda items concerning the proposed rate with
24 supporting documentation. The Director of the

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

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

1 for each type of service. Any rate which has been
2 determined to be excessive by the Director of the
3 Department of Central Services shall be specifically
4 identified in the list by the state agency.

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

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

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

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

21 (1) prior to entering into any contract for the
22 services of an entity to administer a structured
23 settlement agreement, the Attorney General
24

1 receives proposals from at least three entities
2 engaged in providing such services, and

3 (2) the selection of a particular entity is made on
4 the basis of the response to the request which is
5 the most economical and provides the most
6 competent service which furthers the best
7 interests of the state.

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

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

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

22 17. Agreements entered into by any state agency with the United
23 States Army Corps of Engineers in order to provide emergency
24 response or to protect the public health, safety, or welfare shall

1 not require requisitions and shall not be subject to competitive
2 bidding requirements of this section.

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

6 C. Bids for professional service contracts for an amount
7 requiring submission of requisitions to the State Purchasing
8 Director shall be evaluated by the State Purchasing Director and the
9 state agency contracting for such service. Both cost and technical
10 expertise shall be considered in determining the lowest and best, or
11 best value, bid. Further, the state agency shall present its
12 evaluation and recommendation to the State Purchasing Director. A
13 documented evaluation report containing the evaluations of the State
14 Purchasing Director and the state agency contracting for such
15 service shall be completed prior to the awarding of a professional
16 service contract and such report shall be a matter of public record.

17 D. When requested by CompSource Oklahoma, the State and
18 Education Employees Group Insurance Board, or the governing board of
19 a state retirement system authorized to hire investment managers,
20 the Department of Central Services shall assist the requesting body
21 in the process of selecting investment managers. When requested by
22 the Flexible Benefits Advisory Council, the Department of Central
23 Services shall assist the Council in the process of selecting

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1 contracts for the design, development, communication, or
2 implementation of the state employees flexible benefits plan.

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

8 SECTION 5. AMENDATORY 74 O.S. 2001, Section 85.12, as
9 last amended by Section 77, Chapter 1, O.S.L. 2007 (74 O.S. Supp.
10 2007, Section 85.12), is amended to read as follows:

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

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

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

22 2. The printing or duplication of publications or forms of
23 whatsoever kind or character by state agencies if the work is
24 performed upon their own equipment by their own employees. Pursuant

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

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

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

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

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

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

13 8. Acquisitions by the Oklahoma Municipal Power Authority;

14 9. Acquisitions by the Grand River Dam Authority;

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

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

21 12. Contracts entered into by the Oklahoma Industrial Finance
22 Authority for the services of an appraiser or for acquisition of
23 insurance when the Authority's Board of Directors determines that an
24

1 emergency exists, and contracts for the services of legal counsel
2 when approved by the Attorney General;

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

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

11 15. Contracts entered into by the Oklahoma Department of Career
12 and Technology Education for the development, revision, or updating
13 of vocational curriculum materials, and contracts entered into by
14 the Oklahoma Department of Career and Technology Education for
15 training and supportive services that address the needs of new or
16 expanding industries;

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

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

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

23 19. Acquisitions available to an agency through a General
24 Services Administration (GSA) contract or other federal contract if

1 the acquisition is on current statewide contract and the terms of
2 the GSA or other federal contract, as determined by the State
3 Purchasing Director, are more favorable to the agency than the terms
4 of a statewide contract for the same products;

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

14 21. Contracts for managed health care services entered into by
15 the state entity designated by law or the Department of Human
16 Services, as specified in paragraph 1 of subsection A of Section
17 1010.3 of Title 56 of the Oklahoma Statutes;

18 22. Acquisitions by the Forestry Service of the Oklahoma
19 Department of Agriculture, Food, and Forestry as authorized by the
20 federal General Services Administration through a General Services
21 Administration contract or other federal contract if the
22 acquisitions are not on current statewide contract or the terms of
23 the federal contract are more favorable to the agency than the terms
24 of a statewide contract for the same products;

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

4 24. Acquisitions by the Oklahoma Energy Resources Board;

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

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

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

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

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

21 30. Acquisitions by the Oklahoma Boll Weevil Eradication
22 Organization for employment and personnel services, and for
23 acquiring sprayers, blowers, traps, and attractants related to the
24

1 eradication of boll weevils in this state or as part of a national
2 or regional boll weevil eradication program;

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

6 32. Acquisitions by the Oklahoma Correctional Industries and
7 the Agri-Services programs of the Department of Corrections of raw
8 materials, component parts and other products, any equipment
9 excluding vehicles, and any services excluding computer consultant
10 services used to produce goods or services for resale and for the
11 production of agricultural products;

12 33. Contracts entered into by the Department of Human Services
13 for provision of supported living services to members of the
14 plaintiff class in Homeward Bound, Inc., et. al., v. The Hisson
15 Memorial Center, et. al., Case Number 85-C-437-E, United States
16 District Court for the Northern District of Oklahoma; ~~and~~

17 34. Contracts negotiated by the Office of Juvenile Affairs with
18 designated Youth Services Agencies and the Oklahoma Association of
19 Youth Services, or another Oklahoma nonprofit corporation whose
20 membership consists solely of Youth Services Agencies and of whom at
21 least a majority of Youth Services Agencies are members, pursuant to
22 the provisions of Section 7302-3.6a of Title 10 of the Oklahoma
23 Statutes;

24

1 35. Acquisitions for work-related conferences, seminars and
2 allowable membership dues; and

3 36. Professional services as identified in Section 803 of Title
4 18 of the Oklahoma Statutes.

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

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

22 SECTION 6. AMENDATORY 74 O.S. 2001, Section 85.13, is
23 amended to read as follows:

24

1 Section 85.13 It shall be unlawful for the State Purchasing
2 Director or any buyer or any officer of the ~~Office of Public Affairs~~
3 Department of Central Services, or any member of their immediate
4 family, under The Oklahoma Central Purchasing Act to accept any
5 gift, donation, or gratuity for himself or any member of his
6 immediate family from any seller or prospective seller of any
7 property covered by The Oklahoma Central Purchasing Act; and it
8 shall further be unlawful for any seller or any prospective seller
9 to give or donate anything of value to the State Purchasing Director
10 or any buyer or officer of the ~~Office of Public Affairs~~ Department
11 of Central Services or any buyer under The Oklahoma Central
12 Purchasing Act or any member of the immediate family of the State
13 Purchasing Director or buyer or officer of the ~~Office of Public~~
14 ~~Affairs~~ Department of Central Services. This provision shall not
15 apply to items of nominal value provided by vendors to all persons
16 attending trade shows or professional conferences.

17 The violation of any provision of this section shall constitute
18 a misdemeanor and in the event the State Purchasing Director or any
19 buyer or any officer of the ~~Office of Public Affairs~~ Department of
20 Central Services is convicted for the violation of this section he
21 shall forfeit his position immediately in addition to the penalty
22 provided in this section.

23 SECTION 7. AMENDATORY 74 O.S. 2001, Section 85.22, is
24 amended to read as follows:

1 Section 85.22 ~~A notarized sworn statement shall be attached to~~
2 ~~any~~ Any competitive bid submitted to the State of Oklahoma or
3 contract executed by the state for goods or services shall contain a
4 certification, which shall be in substantially the following form:

5 STATE OF OKLAHOMA }
6 } ~~ss~~

7 COUNTY OF }
8 _____, ~~of lawful age, being first duly sworn, on oath~~

9 ~~says~~ A. For purposes of competitive bids, I certify:

10 1. ~~(s)he is~~ I am the duly authorized agent of _____,
11 the bidder submitting the competitive bid which is attached to this
12 statement, for the purpose of certifying the facts pertaining to the
13 existence of collusion among bidders and between bidders and state
14 officials or employees, as well as facts pertaining to the giving or
15 offering of things of value to government personnel in return for
16 special consideration in the letting of any contract pursuant to the
17 bid to which this statement is attached;

18 2. ~~(s)he is~~ I am fully aware of the facts and circumstances
19 surrounding the making of the bid to which this statement is
20 attached and ~~has~~ have been personally and directly involved in the
21 proceedings leading to the submission of such bid; and

22 3. neither the bidder nor anyone subject to the bidder's
23 direction or control has been a party:
24

- 1 a. to any collusion among bidders in restraint of freedom
2 of competition by agreement to bid at a fixed price or
3 to refrain from bidding,
4 b. to any collusion with any state official or employee
5 as to quantity, quality or price in the prospective
6 contract, or as to any other terms of such prospective
7 contract, nor
8 c. in any discussions between bidders and any state
9 official concerning exchange of money or other thing
10 of value for special consideration in the letting of a
11 contract.

12 _____
13 ~~Subscribed and sworn to before me~~

14 B. I certify, if awarded the contract, whether competitively
15 bid or not, neither the contractor nor anyone subject to the
16 contractor's direction or control has paid, given or donated or
17 agreed to pay, give or donate to any officer or employee of the
18 State of Oklahoma any money or other thing of value, either directly
19 or indirectly, in procuring the contract to which this statement is
20 attached.

21 Certified this _____ day of _____ 19 20 .

22 _____
23 ~~Notary Public (or Clerk or Judge)~~

1 SECTION 8. REPEALER 74 O.S. 2001, Section 85.23, is
2 hereby repealed.

3 SECTION 9. This act shall become effective November 1, 2008.
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5 51-2-9479 LRB 01/02/08
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