

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 551

By: Myers of the Senate

and

(DeWitt) of the House

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9 COMMITTEE SUBSTITUTE

10 [state government - Oklahoma Central Purchasing Act
11 - adding exception - modifying exceptions - effective
12 date - emergency]

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

15 SECTION 1. AMENDATORY 74 O.S. 2001, Section 85.12, as
16 last amended by Section 77, Chapter 1, O.S.L. 2007 (74 O.S. Supp.
17 2008, Section 85.12), is amended to read as follows:

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

23 B. Except as otherwise provided by this section, the
24 acquisitions specified in this subsection shall be made in

1 compliance with Section 85.39 of this title but are not subject to
2 other provisions of The Oklahoma Central Purchasing Act:

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

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

17 3. Department of Transportation and Transportation Commission
18 contractual services or right-of-way purchases; contracts awarded
19 pursuant to bids let by the Transportation Commission for the
20 maintenance or construction of streets, roads, highways, bridges,
21 underpasses, or any other transportation facilities under the
22 control of the Department of Transportation, the acquisitions of
23 equipment or materials accruing to the Department of Transportation
24 required in Federal-Aid contracts; and contracts for public service

1 type announcements initiated by the Department of Transportation;
2 but not contractual services for advertising or public relations or
3 employment services;

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

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

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

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

20 8. Acquisitions by the Oklahoma Municipal Power Authority;

21 9. Acquisitions by the Grand River Dam Authority;

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

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

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

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

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

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

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

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

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

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

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

20 21. Contracts for managed health care services entered into by
21 the state entity designated by law or the Department of Human
22 Services, as specified in paragraph 1 of subsection A of Section
23 1010.3 of Title 56 of the Oklahoma Statutes;

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

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

11 24. Acquisitions by the Oklahoma Energy Resources Board;

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

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

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

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

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

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

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

13 32. Acquisitions by the Oklahoma Correctional Industries and
14 the Agri-Services programs of the Department of Corrections of raw
15 materials, component parts and other products, any equipment
16 excluding vehicles, and any services excluding computer consultant
17 services used to produce goods or services for resale and for the
18 production of agricultural products;

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

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

8 35. Contracts not to exceed One Hundred Thousand Dollars
9 (\$100,000.00) entered into by the Department of Environmental
10 Quality for engineering services to assist qualifying small
11 municipalities or rural water or sewer districts with engineering
12 reports or plans and specifications needed for construction or
13 repairs to achieve compliance with federal and state public water
14 supply or wastewater laws and regulations.

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

1 for any acquisition from a statewide contract or otherwise available
2 to the state.

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

8 SECTION 2. AMENDATORY 74 O.S. 2001, Section 840-2.16, as
9 amended by Section 1, Chapter 207, O.S.L. 2007 (74 O.S. Supp. 2008,
10 Section 840-2.16), is amended to read as follows:

11 Section 840-2.16 Except as otherwise provided by law, any
12 classified, unclassified or exempt employee of the state, excluding
13 members of boards and commissions, institutions under the
14 administrative authority of the Oklahoma State Regents for Higher
15 Education, employees of public school districts and elected
16 officials, on July 1 of each year, earning less than the amount
17 established in the Federal Poverty Guidelines for a three-person
18 household, issued each year in the Federal Register by the United
19 States Department of Health and Human Services, shall receive the
20 necessary grade or salary adjustment to provide for a minimum
21 annualized salary equal to the amount established in the Federal
22 Poverty Guidelines for a three-person household, issued each year in
23 the Federal Register by the United States Department of Health and
24 Human Services. Any classified, unclassified or exempt employee of

1 the state, excluding members of boards and commissions, institutions
2 under the administrative authority of the Oklahoma State Regents for
3 Higher Education, employees of public school districts and elected
4 officials, employed after July 1, 2007, shall receive a minimum
5 annualized salary equal to the amount established in the Federal
6 Poverty Guidelines for a three-person household, issued each year in
7 the Federal Register by the United States Department of Health and
8 Human Services. This section shall not apply to those persons
9 employed pursuant to paragraph 8 and paragraph 12 of subsection A of
10 Section 840-5.5 and Section 2241 of this title or those persons
11 employed pursuant to Section 1.6a of Title 53 of the Oklahoma
12 Statutes.

13 SECTION 3. This act shall become effective July 1, 2009.

14 SECTION 4. It being immediately necessary for the preservation
15 of the public peace, health and safety, an emergency is hereby
16 declared to exist, by reason whereof this act shall take effect and
17 be in full force from and after its passage and approval.

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