

FLOOR AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2332 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: Jason Murphey _____

Adopted: _____

Reading Clerk

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 FLOOR SUBSTITUTE
4 FOR

5 HOUSE BILL NO. 2332

6 By: Murphey

7 FLOOR SUBSTITUTE

8 An Act relating to state government; amending 74 O.S.
9 2001, Sections 85.5, as last amended by Section 23,
10 Chapter 451, O.S.L. 2009, 85.22, as last amended by
11 Section 9, Chapter 322, O.S.L. 2009, Section 3,
12 Chapter 322, O.S.L. 2009 and 90.2 (74 O.S. Supp.
13 2009, Sections 85.5, 85.22 and 85.33B), which relate
14 to The Oklahoma Central Purchasing Act; modifying
15 duties of State Purchasing Director; modifying
16 provisions related to certain dollar limit; imposing
17 duties on institutions of higher education; modifying
18 procedures with respect to payment for postal
19 services; amending Section 1, Chapter 340, O.S.L.
20 2008, as amended by Section 6, Chapter 451, O.S.L.
21 2009 (62 O.S. Supp. 2009, Section 41.5a-4), which
22 relates to the Information Services Division of the
23 Office of State Finance; clarifying type of
24 electronic storage for removal; specifying type of
electronic storage media eligible for certain funds;
amending 62 O.S. 2001, Section 41.4a, as amended by
Section 48, Chapter 441, O.S.L. 2009, and as
renumbered by Section 64, Chapter 441, O.S.L. 2009
(62 O.S. Supp. 2009, Section 34.71), which relates to
invoice procedures; modifying time period for payment
of invoices; providing an effective date; and
declaring an emergency.

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

1 SECTION 1. AMENDATORY 74 O.S. 2001, Section 85.5, as
2 last amended by Section 23, Chapter 451, O.S.L. 2009 (74 O.S. Supp.
3 2009, Section 85.5), is amended to read as follows:

4 Section 85.5 A. Except as otherwise provided in this section,
5 pursuant to the provisions of Section 85.4 of this title, the State
6 Purchasing Director, under the supervision of the Director of the
7 Department of Central Services, shall have sole and exclusive
8 authority and responsibility for all acquisitions used or consumed
9 by state agencies. In order to carry out the powers and duties
10 established in Section ~~2~~ 34.11.1 of ~~this act~~ Title 62 of the
11 Oklahoma Statutes, the Chief Information Officer shall have sole and
12 exclusive authority and responsibility for all acquisitions of
13 information and telecommunications technology, equipment, software,
14 products and related peripherals and services used or consumed by
15 state agencies.

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

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

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;

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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. Use of a state purchase card to make acquisitions; and
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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;

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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 4. In order to carry out the powers and duties established in
7 Section 2 of this act, the Chief Information Officer shall have the
8 authority to designate certain information technology and
9 telecommunication contracts for state agencies as statewide
10 contracts and mandatory statewide contracts.

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

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

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

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

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

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

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

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

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

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

22 8. In cooperation with the Office of State Finance and the
23 State Treasurer, develop an electronic payment mechanism for use in
24 the settlement of accounts payable invoices, with no limit, to make

1 payment for products or services acquired in accordance with The
2 Oklahoma Central Purchasing Act and any rules promulgated pursuant
3 thereto; and

4 9. Implement a policy to approve the ability of the department,
5 agencies, boards, commissions and trusts to accept the terms of
6 service for usage of social media services and contract for
7 technology products and services provided the terms of service or
8 contract contains standard language including a liability agreement
9 which is considered customary or largely similar to terms of service
10 agreed to or contracts entered into by other government entities and
11 private sector enterprises.

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

16 L. The State Purchasing Director may authorize the use of a
17 state purchase card for acquisitions within the following
18 parameters:

- 19 1. No limit on the amount of the transaction for the following:
- 20 a. purchases from statewide contracts issued by the State
 - 21 Purchasing Director, and
 - 22 b. regulated utilities; and

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1 2. For any other transaction with a state purchase card, the
2 transaction shall not exceed Two Thousand Five Hundred Dollars
3 (\$2,500.00).

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

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

14 O. As a condition of awarding a contract in excess of the
15 dollar amount prescribed by subparagraph a of paragraph 11 of
16 subsection C of this section pursuant to The Oklahoma Central
17 Purchasing Act, the State Purchasing Director shall verify with the
18 Oklahoma Tax Commission that the business entity to which the state
19 contract is to be awarded, whether subject to the procedures
20 required by Section 85.7 of this title or not, has obtained a sales
21 tax permit pursuant to the provisions of Section 1364 of Title 68 of
22 the Oklahoma Statutes if such entity is required to do so.

23 P. The State Purchasing Director is hereby authorized to
24 explore and investigate cost savings in energy, resource usage, and

1 maintenance contracts and to identify and negotiate contract
2 solutions including, but not limited to, pilot projects to achieve
3 cost savings for the State of Oklahoma.

4 Q. The Office of State Finance, with input from the State
5 Purchasing Director, shall promulgate payment procedure rules for
6 state agencies to adhere to regarding statewide contracts issued by
7 the State Purchasing Director.

8 R. The Office of State Finance along with the Department of
9 Central Services, Central Purchasing Division, shall promulgate
10 payment procedure rules for agencies to adhere to regarding
11 statewide contracts issued by the Division.

12 SECTION 2. AMENDATORY 74 O.S. 2001, Section 85.22, as
13 last amended by Section 9, Chapter 322, O.S.L. 2009 (74 O.S. Supp.
14 2009, Section 85.22), is amended to read as follows:

15 Section 85.22 Any competitive bid submitted to the State of
16 Oklahoma or contract executed by the state for goods or services in
17 excess of Five Thousand Dollars (\$5,000.00) shall contain a
18 certification, which shall be in substantially the following form:

19 A. For purposes of competitive bids, I certify:

20 1. I am the duly authorized agent of _____, the bidder
21 submitting the competitive bid which is attached to this statement,
22 for the purpose of certifying the facts pertaining to the existence
23 of collusion among bidders and between bidders and state officials
24 or employees, as well as facts pertaining to the giving or offering

1 of things of value to government personnel in return for special
2 consideration in the letting of any contract pursuant to the bid to
3 which this statement is attached;

4 2. I am fully aware of the facts and circumstances surrounding
5 the making of the bid to which this statement is attached and have
6 been personally and directly involved in the proceedings leading to
7 the submission of such bid; and

8 3. Neither the bidder nor anyone subject to the bidder's
9 direction or control has been a party:

10 a. to any collusion among bidders in restraint of freedom
11 of competition by agreement to bid at a fixed price or
12 to refrain from bidding,

13 b. to any collusion with any state official or employee
14 as to quantity, quality or price in the prospective
15 contract, or as to any other terms of such prospective
16 contract, nor

17 c. in any discussions between bidders and any state
18 official concerning exchange of money or other thing
19 of value for special consideration in the letting of a
20 contract.

21 B. I certify, if awarded the contract, whether competitively
22 bid or not, neither the contractor nor anyone subject to the
23 contractor's direction or control has paid, given or donated or
24 agreed to pay, give or donate to any officer or employee of the

1 State of Oklahoma any money or other thing of value, either directly
2 or indirectly, in procuring the contract to which this statement is
3 attached.

4 Certified this _____ day of _____ 20__.

5 SECTION 3. AMENDATORY Section 3, Chapter 322, O.S.L.
6 2009 (74 O.S. Supp. 2009, Section 85.33B), is amended to read as
7 follows:

8 Section 85.33B A. On a monthly basis the Director of Central
9 Purchasing and institutions of higher education shall provide to the
10 Office of State Finance a complete listing in electronic format of
11 all transactions occurring with the aid of a state purchase card.
12 The list shall contain the name of the purchaser and purchasing
13 agency, amount of purchase, and all available descriptions of items
14 purchased.

15 B. Upon receipt of the list described in subsection A of this
16 section, the Office of State Finance shall allow the public access
17 to the list in searchable format through its website defined in
18 Section 46 of Title 62 of the Oklahoma Statutes.

19 SECTION 4. AMENDATORY 74 O.S. 2001, Section 90.2, is
20 amended to read as follows:

21 Section 90.2 ~~No money shall be expended~~ Expenditures by any
22 agency, board, commission, department or institution of the state
23 for postage stamps or post office box rent ~~except on vouchers~~ shall
24 only be made payable to United States Post Office ~~and the warrant or~~

1 ~~check shall be endorsed by the postmaster from where the purchase is~~
2 ~~made.~~

3 SECTION 5. AMENDATORY Section 1, Chapter 340, O.S.L.
4 2008, as amended by Section 6, Chapter 451, O.S.L. 2009 (62 O.S.
5 Supp. 2009, Section 41.5a-4), is amended to read as follows:

6 Section 41.5a-4 A. The Information Services Division of the
7 Office of State Finance is authorized to:

8 1. Develop and publish a state policy and procedures for the
9 destruction or disposal of all electronic storage media to ensure
10 that all confidential information stored on such electronic media
11 devices is destroyed or disposed of in a secure and safe manner;

12 2. Define the requirements for the secure destruction or
13 disposal of electronic storage media; and

14 3. Assist the Department of Central Services in implementing
15 the policy and procedures for the destruction or disposal of state
16 electronic storage media.

17 B. The Information Services Division of the Office of State
18 Finance shall notify all agencies, boards, commissions and
19 authorities of the policy and procedures for the secure and safe
20 destruction or disposal of electronic storage media.

21 C. The Department of Central Services shall remove all data
22 from electronic storage media from all surplus information
23 technology and telecommunication equipment before it is sold,
24 donated, stored or destroyed. A state agency may remove electronic

1 storage media from their surplus information technology and
2 telecommunication equipment prior to sending the surplus to the
3 Department of Central Services, so long as the agency has the
4 technical expertise for removal and that the electronic storage
5 media is sent for destruction or disposal pursuant to this
6 subsection.

7 D. The Department of Central Services shall use existing and
8 future funds from the sale of state surplus equipment and
9 appropriations, as necessary, to pay for the destruction of
10 electronic storage media of equipment processed through the
11 Department of Central Services.

12 SECTION 6. AMENDATORY 62 O.S. 2001, Section 41.4a, as
13 amended by Section 48, Chapter 441, O.S.L. 2009, and as renumbered
14 by Section 64, Chapter 441, O.S.L. 2009 (62 O.S. Supp. 2009, Section
15 34.71), is amended to read as follows:

16 Section 34.71 The Director of the Office of State Finance shall
17 establish a procedure to issue payment of a proper invoice for goods
18 or services within no ~~less~~ more than forty-five (45) days from the
19 date on which the invoice was received in the office designated by
20 the agency to which the goods or services were sold and delivered.

21 SECTION 7. Section 4 of this act shall become effective
22 November 1, 2010.

23 SECTION 8. It being immediately necessary for the preservation
24 of the public peace, health and safety, an emergency is hereby

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

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4 52-2-10198 MAH 03/04/10

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