

1 does not expand authority of state agency or state
2 officer; providing for discretion in the request for
3 proposal process; amending 74 O.S. 2001, Section
4 85.3A, as last amended by Section 1, Chapter 66,
5 O.S.L. 2010 (74 O.S. Supp. 2010, Section 85.3A),
6 which relates to The Oklahoma Central Purchasing Act;
7 providing for exemption; providing for codification;
8 and providing an effective date.

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

10 SECTION 1. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 20.1 of Title 74, unless there
12 is created a duplication in numbering, reads as follows:

13 This act shall be known and may be cited as the "Legal Services
14 Reform Act".

15 SECTION 2. AMENDATORY 74 O.S. 2001, Section 18c, as last
16 amended by Section 1, Chapter 55, O.S.L. 2010 (74 O.S. Supp. 2010,
17 Section 18c), is amended to read as follows:

18 Section 18c. A. 1. Except as otherwise provided by this
19 subsection, no state officer, board or commission shall have
20 authority to ~~employ or appoint attorneys~~ retain a private attorney
21 or law firm to advise or represent said officer, board or commission
22 ~~in any matter~~, without following the procedures set forth in Section
23 4 of this act.

24 2. ~~The provisions of this subsection shall not apply to the~~
~~Corporation Commission, the Council on Law Enforcement Education and~~

1 ~~Training, the Consumer Credit Commission, the Board of Managers of~~
2 ~~the State Insurance Fund, the Oklahoma Tax Commission, the~~
3 ~~Commissioners of the Land Office, the Oklahoma Public Welfare~~
4 ~~Commission also known as the Commission for Human Services, the~~
5 ~~State Board of Corrections, the Oklahoma Health Care Authority, the~~
6 ~~Department of Public Safety, the Oklahoma State Bureau of Narcotics~~
7 ~~and Dangerous Drugs Control, the Alcoholic Beverage Laws Enforcement~~
8 ~~Commission, the Transportation Commission, the Oklahoma Energy~~
9 ~~Resources Board, the Department of Central Services, the Oklahoma~~
10 ~~Merit Protection Commission, the Office of Personnel Management, the~~
11 ~~Oklahoma Water Resources Board, the Department of Labor, the~~
12 ~~Department of Agriculture, Food, and Forestry, the Northeast~~
13 ~~Oklahoma Public Facilities Authority, the Oklahoma Firefighters~~
14 ~~Pension and Retirement System, the Oklahoma Public Employees~~
15 ~~Retirement System, the Uniform Retirement System for Justices and~~
16 ~~Judges, the Oklahoma Conservation Commission, the Office of Juvenile~~
17 ~~Affairs, and the State Board of Pharmacy.~~

18 ~~3. The provisions of paragraph 2 of this subsection shall not~~
19 ~~be construed to authorize the Office of Juvenile Affairs to employ~~
20 ~~any attorneys that are not specifically authorized by law.~~

21 ~~4. All the legal duties of such officer, board or commission~~
22 ~~shall devolve upon and are hereby vested in the Attorney General;~~
23 ~~provided that:~~

1 a. the Governor shall have authority to employ special
2 counsel to protect the rights or interest of the state
3 as provided in Section 6 of this title, and

4 b. liquidation agents of banks shall have the authority
5 to employ local counsel, with the consent of the Bank
6 Commissioner and the Attorney General and the approval
7 of the district court.

8 B. At the request of any state officer, board or commission,
9 ~~except the Corporation Commission, the Board of Managers of the~~
10 ~~CompSource Oklahoma, Oklahoma Tax Commission and the Commissioners~~
11 ~~of the Land Office, the Grand River Dam Authority, the Oklahoma~~
12 ~~State Bureau of Narcotics and Dangerous Drugs Control, the Alcoholic~~
13 ~~Beverage Laws Enforcement Commission, the Oklahoma Firefighters~~
14 ~~Pension and Retirement System, the Oklahoma Public Employees~~
15 ~~Retirement System, the Uniform Retirement System for Justices and~~
16 ~~Judges and the Interstate Oil and Gas Compact Commission, the~~
17 Attorney General shall defend any action in which they may be sued
18 in their official capacity. At the request of any such state
19 officer, board or commission, the Attorney General shall have
20 authority to institute suits in the name of the State of Oklahoma on
21 their relation, if after investigation the Attorney General is
22 convinced there is sufficient legal merit to justify the action.

1 C. Any officer, board, or commission which has the authority to
2 employ or appoint attorneys may request that the Attorney General
3 defend any action arising pursuant to the provisions of the
4 Governmental Tort Claims Act.

5 D. Nothing in this section shall be construed to repeal or
6 affect the provisions of the statutes of this state pertaining to
7 ~~attorneys and legal advisors of the several commissions and~~
8 ~~departments of state specified in subsection B of this section, and~~
9 ~~all acts and parts of acts pertaining thereto shall be and remain in~~
10 ~~full force and effect~~ general counsels and other attorneys
11 authorized to be employed by state agencies, officers, boards, and
12 commissions.

13 SECTION 3. AMENDATORY 74 O.S. 2001, Section 20i, is
14 amended to read as follows:

15 Section 20i. A. An agency or official of the executive branch
16 may obtain legal representation by one or more attorneys by means of
17 one of the following:

18 1. Employing an attorney as such if otherwise authorized by
19 law;

20 2. Contracting with the Office of the Attorney General; or

21 3. If the Attorney General is unable to represent the agency,
22 ~~or official due to a conflict of interest, or the Office of the~~
23 ~~Attorney General is unable or lacks the personnel or expertise to~~

1 ~~provide the specific representation required by such agency or~~
2 ~~official, for good cause to be determined solely at the discretion~~
3 ~~of the Attorney General, contracting with a private attorney or~~
4 ~~attorneys pursuant to this section and the procedures set forth in~~
5 ~~Section 4 of this act.~~

6 B. When entering into a contract for legal representation by
7 one or more private attorneys, an agency or official of the
8 executive branch shall select an attorney or attorneys from a list
9 of attorneys maintained by the Attorney General. An agency may
10 contract for legal representation with one or more attorneys who are
11 not on the list only when there is no attorney on the list capable
12 of providing the specific representation and only with the approval
13 of the Attorney General. The list shall include any attorney who
14 desires to furnish services to an agency or official of the
15 executive branch and who has filed a schedule of fees for services
16 with and on a form approved by the Attorney General. An agency or
17 official may agree to deviate from the schedule of fees only with
18 the approval of the Attorney General.

19 C. Before entering into a contract for legal representation by
20 one or more private attorneys, an agency or official of the
21 executive branch shall furnish a copy of the proposed contract to
22 the Attorney General and, if not fully described in the contract,
23 notify the Attorney General of the following:

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1 1. The nature and scope of the representation including, but
2 not limited to, a description of any pending or anticipated
3 litigation or of the transaction requiring representation;

4 2. The reason or reasons for not obtaining the representation
5 from an attorney employed by the agency or official, if an attorney
6 is employed by the agency or official;

7 3. The reason or reasons for not obtaining the representation
8 from the Attorney General by contract;

9 4. The anticipated cost of the representation including the
10 following:

11 a. the basis for or method of calculation of the fee
12 including, when applicable, the hourly rate for each
13 attorney, paralegal, legal assistant, or other person
14 who will perform services under the contract, and

15 b. the basis for and method of calculation of any
16 expenses which will be reimbursed by the agency or
17 official under the contract; and

18 5. An estimate of the anticipated duration of the contract.

19 D. Before entering into a contract for legal representation by
20 one or more private attorneys ~~where the agency has reason to believe~~
21 ~~that the case, transaction or matter will equal or exceed Twenty~~
22 ~~Thousand Dollars (\$20,000.00) or after employment when it becomes~~
23 ~~apparent that the case, transaction or matter will equal or exceeds~~

1 ~~Twenty Thousand Dollars (\$20,000.00)~~, an agency or official of the
2 executive branch shall obtain the approval of the Attorney General
3 ~~when the total cost, including fees and expenses, of all contracts~~
4 ~~relating to the same case, transaction, or matter will equal or~~
5 ~~exceed Twenty Thousand Dollars (\$20,000.00)~~. Any amendment,
6 modification, or extension of a contract which, had it been a part
7 of the original contract would have required approval by the
8 Attorney General, shall also require approval by the Attorney
9 General.

10 E. When an agency or official of the executive branch enters
11 into a contract for professional legal services pursuant to this
12 section, the agency shall also comply with the applicable provisions
13 of Section 85.41 of Title 74 of the Oklahoma Statutes.

14 F. The provisions of this section shall not apply to the
15 Oklahoma Indigent Defense System created pursuant to Section 1355 et
16 seq. of Title 22 of the Oklahoma Statutes.

17 G. The Attorney General shall, on or before February 1 of each
18 year, make a written report on legal representation obtained
19 pursuant to paragraphs 2 and 3 of subsection A of this section. The
20 report shall include a brief description of each contract, the
21 circumstances necessitating each contract, and the amount paid or to
22 be paid under each contract. The report shall be filed with the
23 Governor, the President Pro Tempore of the Senate, the Speaker of
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1 the House of Representatives, the Chair of the Appropriations and
2 Budget Committee of the House of Representatives, and the Chair of
3 the Appropriations Committee of the Senate.

4 SECTION 4. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 20.2 of Title 74, unless there
6 is created a duplication in numbering, reads as follows:

7 A. Any state agency or state officer that wishes to retain a
8 lawyer or law firm to perform legal services on behalf of this state
9 shall not do so until a request for proposal process has been
10 undertaken.

11 B. The contracting agency shall cause an Internet website
12 controlled by or on behalf of the agency to contain a conspicuous
13 statement, visible from the main webpage or equivalent segment of
14 the website, that within one hundred twenty (120) days after the
15 award of the contract for which the request for proposals was
16 undertaken any person may obtain a copy of the request for proposal
17 from the agency which prepared it and the identity of all persons or
18 entities to whom the request for proposal was transmitted.

19 C. Each agency subject to the provisions of this section shall
20 maintain a list of the persons and entities to whom a request for
21 proposal has been transmitted, including the mailing address to
22 which the proposal was mailed, and shall make such information
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1 available for inspection within one hundred twenty (120) days after
2 the contract has been awarded.

3 SECTION 5. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 20.3 of Title 74, unless there
5 is created a duplication in numbering, reads as follows:

6 A. The request for proposal required by Section 4 of this act
7 and all responses submitted to the request for proposals shall be
8 made accessible through an Internet website maintained by or on
9 behalf of the state agency within one hundred twenty (120) days
10 after the contract has been awarded.

11 B. When the request for proposal has been made accessible on
12 the Internet website, the information shall remain accessible
13 through the website for a period of three (3) years after the
14 contract has been awarded.

15 C. The identity of a vendor to whom or to which an agency has
16 awarded a contract in response to a request for proposal, a brief
17 description of the services to be performed under the contract, the
18 projected total payments to be made under the contract, the actual
19 payments made under the contract, once made, and the date the
20 contract was awarded shall be accessible on the Internet website
21 within one hundred twenty (120) days after the contract has been
22 awarded and shall remain accessible on the Internet website for a
23 period of three (3) years.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 D. All information required to be accessible by the provisions
2 of this section or any document that the agency makes accessible
3 pursuant to Section 4 of this act shall be presented in a format
4 which allows complete review of the content of such documents.

5 SECTION 6. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 20.4 of Title 74, unless there
7 is created a duplication in numbering, reads as follows:

8 A. At the conclusion of any legal proceeding for which a state
9 agency or state officer retained outside counsel on a contingency-
10 fee basis, the state shall receive from counsel a statement of the
11 hours worked on the case, expenses incurred, the aggregate fee
12 amount, and a breakdown as to the hourly rate based on hours worked
13 divided into fee recovered, less expenses.

14 B. In no case shall the state incur fees and expenses in excess
15 of One Thousand Dollars (\$1,000.00) per hour for legal services. In
16 cases in which a disclosure submitted in accordance with subsection
17 A of this section indicates an hourly rate in excess of One Thousand
18 Dollars (\$1,000.00) per hour, the fee amount shall be reduced to an
19 amount equivalent to One Thousand Dollars (\$1,000.00) per hour.

20 SECTION 7. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 20.5 of Title 74, unless there
22 is created a duplication in numbering, reads as follows:

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1 A. Nothing in the Legal Services Reform Act shall be construed
2 to expand the authority of any state agency or state officer to
3 enter into contracts where no such authority previously existed.

4 B. Contracts entered into pursuant to the Legal Services Reform
5 Act shall not be subject to The Oklahoma Central Purchasing Act, and
6 the request for proposal process shall be subject to the discretion
7 of the chief executive officer of the agency or a designee.

8 SECTION 8. AMENDATORY 74 O.S. 2001, Section 85.3A, as
9 last amended by Section 1, Chapter 66, O.S.L. 2010 (74 O.S. Supp.
10 2010, Section 85.3A), is amended to read as follows:

11 Section 85.3A Compliance with the provisions of The Oklahoma
12 Central Purchasing Act shall not be required of:

- 13 1. County government;
- 14 2. The Oklahoma State Regents for Higher Education, the
15 institutions, centers, or other constituent agencies of The Oklahoma
16 State System of Higher Education;
- 17 3. The telecommunications network known as OneNet;
- 18 4. The Department of Public Safety gun range;
- 19 5. The State Treasurer for the following purchases:
 - 20 a. services, including, but not limited to, legal
21 services to assist in the administration of the
22 Uniform Unclaimed Property Act, as provided in Section
23 668 of Title 60 of the Oklahoma Statutes, and

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 b. software, hardware and associated services to assist
2 in the administration of funds and securities held by
3 the state, as provided in Section 71.2 of Title 62 of
4 the Oklahoma Statutes;

5 6. CompSource Oklahoma if CompSource Oklahoma is operating
6 pursuant to a pilot program authorized by Sections 3316 and 3317 of
7 this title; ~~or~~

8 7. Contracts entered into pursuant to the Legal Services Reform
9 Act; or

10 8. The Oklahoma Wheat Commission.

11 SECTION 9. This act shall become effective November 1, 2011.

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13 COMMITTEE REPORT BY: COMMITTEE ON GOVERNMENT MODERNIZATION, dated
14 02-21-2011 - DO PASS, As Amended and Coauthored.