

1 raw materials and supplies, and to engage the supervisory personnel
2 necessary to establish and maintain for this state at the penal
3 institutions, now or hereafter under the control of the State Board
4 of Corrections, industries and agricultural programs for the
5 utilization of services of prisoners in the manufacture or
6 production of ~~the articles or products~~ and services as may be needed
7 for the construction, operation, maintenance or use of any office,
8 department, institution or agency supported in whole or in part by
9 this state and the political subdivisions thereof. Upon the request
10 of the Oklahoma Historical Society or the Oklahoma Tourism and
11 Recreation Department, the Department of Corrections shall provide
12 labor for and shall produce or manufacture ~~articles,~~ products or
13 materials needed for the repair, construction and maintenance of
14 historical sites and state parks including, but not limited to, the
15 production of materials and products needed for the reconstruction
16 of historic forts in the state.

17 B. All ~~articles~~ products and services provided by the Prison
18 Industries Program of the Department of Corrections ~~in the state~~
19 ~~correctional institutions,~~ and not required for use therein, ~~shall~~
20 may be purchased as required by all by any office, department,
21 institution, agency, county, city, district or political
22 subdivision, school, college or university, or any agency thereof,
23 or any agency of the state, which is supported in whole or in part

1 by the state, directly without issuance of a solicitation or
2 competitive bid.

3 C. All offices, departments, institutions, agencies, counties,
4 schools, colleges, universities, or political subdivisions or any
5 agency ~~thereof~~ of this state which are supported in whole or in part
6 by this state, ~~if such article or service is the lowest and best~~
7 ~~bid, and no such article or product may be purchased by any such~~
8 ~~office, department, institution, agency, county, school, college,~~
9 ~~university, or political subdivisions or agency thereof from any~~
10 ~~other source unless excepted from the provisions as hereinafter~~
11 ~~provided. Purchases made by the above-described state agencies may~~
12 ~~be made by submitting the proper requisition through the Department~~
13 ~~of Central Services or by direct order to the prison industries~~
14 ~~program of~~ shall include the Prison Industries Program of the
15 Department of Corrections as a vendor in all solicitations for the
16 purchase of products and services that are provided by the Prison
17 Industries Program, and if such product or service is the lowest and
18 best bid, the agency shall purchase the product or service from the
19 Prison Industries Program of the Department of Corrections.

20 ~~C. D. If a requisition is received by the Department of Central~~
21 ~~Services or a direct order is received by the Prison Industries~~
22 ~~Program of the Department of Corrections from a state agency for any~~
23 product or service is provided by the Prison Industries Program of

1 the Department of Corrections and such product or service is also
2 available from a severely handicapped person or a qualified
3 nonprofit agency for the severely handicapped as provided in Section
4 3001 et seq. of Title 74 of the Oklahoma Statutes at a comparable
5 price, then the product or service shall be purchased from such
6 severely handicapped person or qualified nonprofit agency for the
7 severely handicapped. If the product or service ~~is not available~~
8 ~~within the time period required by the purchasing state agency,~~
9 delivery dates do not meet the requirements of the agency and a
10 waiver is obtained through the Department of Central Services, then
11 such product or service may be purchased under the provisions of
12 subsection B of this section or, if competitively bid, shall be
13 purchased from the Department of Corrections under the provisions of
14 subsection C of this section.

15 ~~D. All offices, departments, institutions, agencies, counties,~~
16 ~~cities, districts or political subdivisions, schools, colleges, or~~
17 ~~universities, or any agency thereof, or any agencies of the state,~~
18 ~~which are supported in whole or in part by this state, may purchase~~
19 ~~the goods or services produced by the prison industries of the~~
20 ~~Department of Corrections through their properly authorized~~
21 ~~purchasing authority, or they may place a direct order without~~
22 ~~competitive bid, with the prison industries of the Department of~~
23 ~~Corrections.~~

1 E. Not-for-profit corporations or charitable agencies chartered
2 in Oklahoma or other states may purchase ~~such goods~~ products and
3 services provided by the Prison Industries Program and agriculture
4 programs of the Department of Corrections. Units of the federal
5 government and units of government in other states may also purchase
6 such ~~goods~~ products and services. All entities which contract with
7 the state, its political units, its agencies, its public
8 institutions, not-for-profit corporations or charitable agencies
9 chartered in Oklahoma may purchase ~~goods~~ products or services from
10 the Department of Corrections which are used in the performance of
11 such contracts. Any church located in the State of Oklahoma may
12 also purchase ~~goods~~ products and services produced by the ~~prison~~
13 ~~industries~~ Prison Industries Program of the Department of
14 Corrections. Any community action agency or council of governments
15 within this state may purchase housing components produced by the
16 ~~prison industries~~ Prison Industries Program of the Department of
17 Corrections. Nothing shall prohibit the Department from bidding on
18 portions of a state contract which are subcontracted by the primary
19 contractor.

20 F. Others are prohibited from purchasing such ~~goods~~ products
21 and services, with the exception that all surplus agricultural
22 products may be sold on the open market or bartered and exchanged
23 for other food, feed or seed products of comparable value. The
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1 Department of Corrections shall keep complete and accurate records
2 of any such barter or exchanges in such form and manner as the
3 Department of Central Services may prescribe. A copy of such
4 records shall be filed with the Department of Central Services no
5 later than March 1 of each year for all barter or exchanges
6 occurring in the previous calendar year.

7 G. Products provided, produced or manufactured by the
8 Department of Corrections shall be of styles, patterns, designs and
9 quantities specified by the Department of Corrections except where
10 the same have been or may be specified by the Department of Central
11 Services. Products shall be provided at a fair market price for
12 comparable quality.

13 H. State agencies shall make maximum utilization of such
14 products and services and no similar products or services shall be
15 purchased by state agencies from any other source than the
16 Department of Corrections ~~except as provided~~ without compliance with
17 the provisions in ~~subsection~~ subsections B, C and D of this section,
18 unless the Department of Corrections certifies to the State
19 Purchasing Director that it is not able to provide products and
20 services, and no claim therefor shall be paid without such
21 certification.

22 I. Exceptions from the mandatory provisions hereof may be made
23 in any case where, in the opinion of the Department of Central
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1 Services, the ~~article or product does~~ products or services do not
2 meet the reasonable requirements of or for such offices,
3 departments, institutions or agencies, or in any case where the
4 requisitions made cannot be reasonably complied with. No such
5 offices, departments, institutions or agencies, shall be allowed to
6 evade the intent and meaning of this section by slight variations
7 from standards adopted by the Department of Central Services, when
8 the ~~articles,~~ services provided or products produced or manufactured
9 by the Department of Corrections, in accordance with established
10 standards, are reasonably adapted to the actual needs of such
11 offices, departments, institutions or agencies.

12 J. In the event of disagreement between the Department of
13 Corrections and the State Purchasing Director on fairness of price,
14 ability to comply to specifications, reasonableness of
15 specifications and timeliness of delivery of products or services
16 the matter will be resolved by the Central Purchasing Director.

17 K. The Department of Central Services shall cooperate with the
18 Department of Corrections in seeking to promote for use in state
19 agencies and by all other eligible customers, the products provided,
20 produced and manufactured and services provided by the ~~prison~~
21 ~~industries~~ Prison Industries Program of the Department of
22 Corrections.

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1 L. The Department of Corrections shall prepare catalogs
2 containing the description of all ~~goods~~ products and services
3 provided, with the pricing of each item. Copies of such catalog
4 shall be sent by the Department of Corrections to all offices,
5 departments, institutions and agencies of this state, and shall be
6 available for distribution to all other eligible customers.

7 SECTION 2. AMENDATORY 74 O.S. 2001, Section 85.12, as
8 last amended by Section 2, Chapter 370, O.S.L. 2010 (74 O.S. Supp.
9 2010, Section 85.12), is amended to read as follows:

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

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

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

21 2. The printing or duplication of publications or forms of
22 whatsoever kind or character by state agencies if the work is
23 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,
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1 or by an Indian Tribal Council for use by the Department of
2 Corrections only;

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

10 6. Contracts for custom harvesting by the Department of
11 Corrections for the Department or its institutions;

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

15 8. Acquisitions by the Oklahoma Municipal Power Authority;

16 9. Acquisitions by the Grand River Dam Authority;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 24. Acquisitions by the Oklahoma Energy Resources Board;

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

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

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

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

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

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

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

11 32. Acquisitions by the Oklahoma Correctional Industries and
12 the Agri-Services programs of the Department of Corrections of raw
13 materials, component parts, trailers, and other products, any
14 equipment excluding vehicles below a gross vehicle weight of
15 fourteen thousand (14,000) pounds, and any services excluding
16 computer consultant services used to ~~produce goods~~ provide products
17 or services for resale and for the ~~production~~ provision of
18 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;

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 2-7-306 of Title 10A 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; and

15 36. Contracts for annuities for structured settlements provided
16 for in Section 158 of Title 51 of the Oklahoma Statutes.

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

1 services of the Purchasing Division and the State Purchasing
2 Director. Any political subdivision or rural fire protection
3 district may designate the State Purchasing Director as its agent
4 for any acquisition from a statewide contract or otherwise available
5 to the state.

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

11 SECTION 3. This act shall become effective November 1, 2011.

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13 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
14 03-03-2011 - DO PASS, As Coauthored.

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