

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 1719

By: Jolley of the Senate

and

Echols of the House

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9 COMMITTEE SUBSTITUTE

10 An Act relating to sole source purchase contracts;
11 amending 74 O.S. 2011, Section 85.22, as amended by
12 Section 1, Chapter 219, O.S.L. 2013 and Section 2,
13 Chapter 219, O.S.L. 2013 (74 O.S. Supp. 2013,
14 Sections 85.22 and 85.45j.1), which relate to public
contracts; modifying requirements for certain
statements; modifying requirements for substitution
of certain items relating to sole source contracts;
and declaring an emergency.

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

18 SECTION 1. AMENDATORY 74 O.S. 2011, Section 85.22, as
19 amended by Section 1, Chapter 219, O.S.L. 2013 (74 O.S. Supp. 2013,
20 Section 85.22), is amended to read as follows:

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

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

2 1. I am the duly authorized agent of _____, the bidder
3 submitting the competitive bid which is attached to this statement,
4 for the purpose of certifying the facts pertaining to the existence
5 of collusion among bidders and between bidders and state officials
6 or employees, as well as facts pertaining to the giving or offering
7 of things of value to government personnel in return for special
8 consideration in the letting of any contract pursuant to the bid to
9 which this statement is attached;

10 2. I am fully aware of the facts and circumstances surrounding
11 the making of the bid to which this statement is attached and have
12 been personally and directly involved in the proceedings leading to
13 the submission of such bid; and

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

16 a. to any collusion among bidders in restraint of freedom
17 of competition by agreement to bid at a fixed price or
18 to refrain from bidding,

19 b. to any collusion with any state official or employee
20 as to quantity, quality or price in the prospective
21 contract, or as to any other terms of such prospective
22 contract, nor

23 c. in any discussions between bidders and any state
24 official concerning exchange of money or other thing

1 of value for special consideration in the letting of a
2 contract, ~~nor~~

3 ~~d. to any efforts or offers with state agency or~~
4 ~~political subdivision officials or others to create a~~
5 ~~sole brand acquisition or a sole source acquisition in~~
6 ~~contradiction to Section 2 of this act.~~

7 B. I certify, if awarded the contract, whether competitively
8 bid or not, neither the contractor nor anyone subject to the
9 contractor's direction or control has paid, given or donated or
10 agreed to pay, give or donate to any officer or employee of the
11 State of Oklahoma any money or other thing of value, either directly
12 or indirectly, in procuring the contract to which this statement is
13 attached.

14 Certified this _____ day of _____ 20__.

15 SECTION 2. AMENDATORY Section 2, Chapter 219, O.S.L.
16 2013 (74 O.S. Supp. 2013, Section 85.45j.1), is amended to read as
17 follows:

18 Section 85.45j.1. A. Notwithstanding any other provision of
19 law or agency rule to the contrary, any bid submissions received by
20 a state agency or any political subdivision pursuant to authorized
21 sole source bidding procedures established by the provisions of
22 Section 85.45j of Title 74 of the Oklahoma Statutes, which
23 substitute an item with one that is ~~alike~~ substantially equivalent
24 in quality, performance and design or which meets the required

1 specifications of the bid shall be considered ~~and shall not be~~
2 ~~prohibited. In terms of public construction contracts, with~~
3 ~~exception of specific products submitted and approved prior to~~
4 ~~release for bidding by the Oklahoma Attorney General for matching~~
5 ~~preexisting materials, at least three equivalent items from more~~
6 ~~than one manufacturer and more than one supplier or representative~~
7 ~~shall be included in the required specifications, but only when the~~
8 cost is less.

9 B. In addition, no sole source bid proposal shall require any
10 limitation that materials must be supplied from a vendor within any
11 specific geographical area. Geographic preference for vendors
12 inside the geographical boundaries may be given, but only when the
13 cost is the same or less.

14 SECTION 3. 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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