

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 54th Legislature (2014)

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 1719

By: Jolley of the Senate

and

Echols of the House

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10 COMMITTEE SUBSTITUTE

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

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

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

24 Section 85.22 Any competitive bid submitted to the State of
 Oklahoma or contract executed by the state for goods or services in

1 excess of Five Thousand Dollars (\$5,000.00) shall contain a
2 certification, which shall be in substantially the following form:

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

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

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

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

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

21 b. to any collusion with any state official or employee
22 as to quantity, quality or price in the prospective
23 contract, or as to any other terms of such prospective
24 contract,

1 c. in any discussions between bidders and any state
2 official concerning exchange of money or other thing
3 of value for special consideration in the letting of a
4 contract, nor

5 d. to any ~~efforts or offers~~ collusion with any state
6 agency ~~or political subdivision officials~~ official or
7 ~~others~~ employee as to create a ~~sole brand acquisition~~
8 ~~or a~~ sole-source acquisition in contradiction to
9 Section ~~2~~ 85.45j.1 of this ~~act~~ title.

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

17 Certified this _____ day of _____ 20__.

18 SECTION 2. AMENDATORY Section 2, Chapter 219, O.S.L.
19 2013 (74 O.S. Supp. 2013, Section 85.45j.1), is amended to read as
20 follows:

21 Section 85.45j.1 A. Notwithstanding any other provision of law
22 or agency rule to the contrary, any bid submissions received by a
23 state agency or any political subdivision pursuant to authorized
24 sole-source bidding procedures established by the provisions of

1 Section 85.45j of ~~Title 74 of the Oklahoma Statutes~~ this title,
2 which substitute an item with one that is alike substantially
3 equivalent in quality, performance and design or which meets the
4 required specifications of the bid shall be considered ~~and shall not~~
5 ~~be prohibited.~~ ~~In terms of public construction contracts, with~~
6 ~~exception of specific products submitted and approved prior to~~
7 ~~release for bidding by the Oklahoma Attorney General for matching~~
8 ~~preexisting materials, at least three equivalent items from more~~
9 ~~than one manufacturer and more than one supplier or representative~~
10 ~~shall be included in the required specifications,~~ but only when the
11 cost is less.

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

17 SECTION 3. It being immediately necessary for the preservation
18 of the public peace, health and safety, an emergency is hereby
19 declared to exist, by reason whereof this act shall take effect and
20 be in full force from and after its passage and approval.

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22 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
23 04/08/2014 - DO PASS, As Amended.
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