

1 **SENATE FLOOR VERSION**

2 February 18, 2013

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 1056

6 By: Standridge of the Senate

7 and

8 Derby of the House

9 An Act relating to professional services and
10 products; creating the Professional Services
11 Acquisition Act; providing short title; defining
12 terms; prohibiting certain contracts, solicitations
13 and acquisitions without certain compliance;
14 providing exception; providing for rescinding of
15 contact for violation; directing review of state
16 contracts within certain time for certain compliance;
17 requiring replacement contract for noncompliance;
18 construing application of certain provisions;
19 establishing jurisdiction for certain proceedings;
20 providing for codification; and providing an
21 effective date.

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

23 SECTION 1. NEW LAW A new section of law to be codified
24 in the Oklahoma Statutes as Section 84A of Title 74, unless there is
created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Professional
Services Acquisition Act".

1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 84A-1 of Title 74, unless there
3 is created a duplication in numbering, reads as follows:

4 As used in the Professional Services Acquisition Act, unless the
5 context otherwise requires:

6 1. "Acquisition" means items, products, and professional
7 services acquired by purchase;

8 2. "Business entity" means individuals, partnerships, business
9 trusts, cooperatives, associates, corporations, or any other firm,
10 group or concern which functions as a separate entity for business
11 purposes;

12 3. "Contract" means a mutually binding legal relationship
13 obligating the seller to furnish an acquisition and the buyer to pay
14 for it;

15 4. "Contracting" means purchasing or otherwise obtaining
16 acquisitions from private sources;

17 5. "Contractor" means an individual or business entity entering
18 into a contract for goods and/or services or contracting with a
19 person or agency as a result of a solicitation;

20 6. "Item" or Product" means some quantity or kind of materials
21 or supplies with respect to any controlled substance, compounded
22 pharmaceutical substance or prescription drug controlled by the
23 Uniform Controlled Dangerous Substances Act and its rules, or any
24 medical, podiatry or optometric device, materials or supplies

1 required after a diagnosis or recommendation by a licensed
2 physician;

3 7. "Materials" or "supplies" includes all property an
4 individual acquires for his or her personal use or consumption by a
5 medical prescription to treat any condition, injury, illness or
6 ailment, or by a medical diagnosis or recommendation for treatment
7 of a condition, injury, illness or ailment, and shall include such
8 items as eye glasses, contact lenses, arch supports, prescriptions
9 and compounded pharmaceutical substances;

10 8. "Professional services" means acts performed and regulated
11 by valid license issued and regulated pursuant to laws of this
12 state, another state or the United States for allopathic physicians,
13 osteopathic physicians, pharmacists, dentists, podiatrists or
14 optometrists which are performed directly upon or on behalf of a
15 person after physical examination of the person for purposes of
16 diagnosis or treatment recommendation for a medical condition,
17 injury, illness or ailment and which require by law, direct
18 engagement or supervision of the act, time, effort or skills
19 involved in performing or completing the act;

20 9. "Solicit" or "Solicitation" means a request or invitation by
21 a business entity or agency to supply or acquire items, products or
22 professional services for a price and for purposes of selling or
23 purchasing acquisitions by use of electronic commerce; and
24

1 10. "Electronic commerce" means use of electronic methods to
2 enable solicitation, supplier response, contracting, notice of
3 contract award, acquisition processes, or any other function to make
4 an acquisition.

5 SECTION 3. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 5500.2 of Title 59, unless there
7 is created a duplication in numbering, reads as follows:

8 A. A person or business entity whose physical place of business
9 is located outside of the physical boundaries of this state shall
10 not be authorized to solicit, contract or provide an acquisition in
11 this state with respect to professional services, or its related
12 products, where public funds from this state are paid on behalf of
13 the solicitation, contract or acquisition, except when such person
14 or business entity is in compliance with the same rules, regulations
15 and laws imposed on a person or business entity whose physical place
16 of business is located in this state.

17 B. The State of Oklahoma, including its agencies, contractors
18 and subcontractors, is prohibited from using state funds in any
19 manner relative to solicitation, bid, acquisition, contracting, or
20 hiring an out-of-state person or business entity to provide
21 professional services, or its related products, except when the
22 person or business entity is in compliance with the same rules,
23 regulations and laws required for the same type of business entity
24 or person physically located in this state.

1 C. The provisions of subsections A and B of this section shall
2 apply to allopathic physicians, osteopathic physicians, pharmacists,
3 dentists, podiatrists and optometrists offering professional
4 services and related products in this state.

5 D. Any state agency soliciting, entering into a contract or
6 contracting for any acquisition in violation of the provisions of
7 this section shall be required to either rescind the contract or
8 decline to renew the contract until compliance is met. Within
9 ninety (90) days from the effective date of this section, each state
10 agency in this state to which the provisions of this section may
11 apply shall immediately review each of its out-of-state contractors
12 and contracting sources to confirm compliance with the provisions of
13 this section. The review shall be completed within thirty (30) days
14 and any contractor or contracting source that does not comply with
15 the provisions of this section shall be replaced in a timely manner,
16 but not later than a renewal of such contract, with an alternative
17 contractor or contracting source that is in compliance with the
18 provisions of this section.

19 E. Nothing in this section shall be construed to limit the
20 authority of any licensure board in this state from bringing an
21 action pursuant to its authority to regulate the products or
22 professional services or to enforce license violations.

23 F. For purposes of any administrative, civil or criminal action
24 to enforce the provisions of this section, the use of a computer,

1 computer system, computer network, or any electronic means to obtain
2 an acquisition of product or professional services defined in this
3 section in one jurisdiction to or from another jurisdiction is
4 deemed to have occurred in this jurisdiction.

5 SECTION 4. This act shall become effective November 1, 2013.

6 COMMITTEE REPORT BY: COMMITTEE ON HEALTH AND HUMAN SERVICES
7 February 18, 2013 - DO PASS AS AMENDED
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