

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 HOUSE BILL 1030

By: Reynolds

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6 AS INTRODUCED

7 An Act relating to public finance; amending 62 O.S.
8 2011, Section 34.31, as amended by Section 363,
9 Chapter 304, O.S.L. 2012 (62 O.S. Supp. 2012, Section
10 34.31), which relates to acquisition of certain
11 computer software; removing escrow requirement;
12 requiring vendor to provide source code to certain
13 entities; and providing an effective date.

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

15 SECTION 1. AMENDATORY 62 O.S. 2011, Section 34.31, as
16 amended by Section 363, Chapter 304, O.S.L. 2012 (62 O.S. Supp.
17 2012, Section 34.31), is amended to read as follows:

18 Section 34.31 A. No state agency, as defined by Section 250.3
19 of Title 75 of the Oklahoma Statutes, the Purchasing Division of the
20 Office of Management and Enterprise Services nor the Information
21 Services Division of the Office of Management and Enterprise
22 Services, unless otherwise provided by federal law, shall enter into
23 a contract for the acquisition of customized computer software
24 developed or modified exclusively for the agency or the state,
unless the vendor agrees to ~~place into escrow with an independent~~

1 ~~third party the source code for the software and/or modifications~~
2 provide to the agency or the state the source code for the software.

3 B. ~~The vendor must agree to place the source code for the~~
4 ~~software and any upgrades supplied to an agency in escrow with a~~
5 ~~third party acceptable to the agency and to enter into a customary~~
6 ~~source code escrow agreement which includes a provision that~~
7 ~~entitles the agency to receive everything held in escrow upon the~~
8 ~~occurrence of any of the following:~~

9 1. ~~A bona fide material default of the obligations of the~~
10 ~~vendor under the agreement with the agency;~~

11 2. ~~An assignment by the vendor for the benefit of its~~
12 ~~creditors;~~

13 3. ~~A failure by the vendor to pay, or an admission by the~~
14 ~~vendor of its inability to pay, its debts as they mature;~~

15 4. ~~The filing of a petition in bankruptcy by or against the~~
16 ~~vendor when such petition is not dismissed within sixty (60) days of~~
17 ~~the filing date;~~

18 5. ~~The appointment of a receiver, liquidator or trustee~~
19 ~~appointed for any substantial part of the vendor's property;~~

20 6. ~~The inability or unwillingness of the vendor to provide the~~
21 ~~maintenance and support services in accordance with the agreement~~
22 ~~with the agency; or~~

23 7. ~~The ceasing of a vendor of maintenance and support of the~~
24 ~~software.~~

1 ~~The fees of any third party escrow agent subject to this section~~
2 ~~shall be borne by the vendor.~~

3 ~~C.~~ The State Purchasing Director or a procurement officer of a
4 state agency shall not process any state agency request for the
5 customization, modernization, or development of computer software
6 unless the proposed vendor provides documentation that complies with
7 ~~subsections~~ subsection A ~~and B~~ of this section.

8 ~~D.~~ C. The State Purchasing Director shall provide advice and
9 assistance, as may be required, in order for state agencies to
10 comply with the provisions of this section.

11 ~~E.~~ D. As used in this section:

12 1. "State agency" shall include all state agencies, whether
13 subject to The Oklahoma Central Purchasing Act or not, except the
14 Oklahoma Lottery Commission; and

15 2. "Source code" means the programming instruction for a
16 computer program in its original form, created by a programmer with
17 a text editor or a visual programming tool and saved in a file.

18 SECTION 2. This act shall become effective November 1, 2013.

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