

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 SENATE BILL 544

By: Standridge

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5
6 AS INTRODUCED

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

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

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

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

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

1 As used in the Professional Services Acquisition Act, unless the
2 context otherwise requires:

3 1. "Acquisition" means items, products, and professional
4 services acquired by purchase;

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

9 3. "Contract" means a mutually binding legal relationship
10 obligating the seller to furnish an acquisition and the buyer to pay
11 for it;

12 4. "Contracting" means purchasing or otherwise obtaining
13 acquisitions from private sources;

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

17 6. "Item" or "product" means some quantity or kind of materials
18 or supplies with respect to any controlled substance, compounded
19 pharmaceutical substance or prescription drug controlled by the
20 Uniform Controlled Dangerous Substances Act and its rules, or any
21 medical, podiatry or optometric device, materials or supplies
22 required after a diagnosis or recommendation by a licensed
23 physician;

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

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

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

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

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

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

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

23 C. The provisions of subsections A and B of this section shall
24 apply to allopathic physicians, osteopathic physicians, pharmacists,

1 dentists, podiatrists, and optometrists offering professional
2 services and related products in this state.

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

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

21 F. For purposes of any administrative, civil or criminal action
22 to enforce the provisions of this section, the use of a computer,
23 computer system, computer network or any electronic means to obtain
24 an acquisition of product or professional services defined in this

1 section in one jurisdiction to or from another jurisdiction is
2 deemed to have occurred in this jurisdiction.

3 SECTION 4. This act shall become effective November 1, 2015.

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