

STATE OF OKLAHOMA

1st Session of the 52nd Legislature (2009)

CONFERENCE COMMITTEE
SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 1032

By: Murphey, Pittman and
Reynolds of the House

and

Brogdon, Ivester and Gumm
of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to state government; creating the Oklahoma State Government Modernization Act of 2009; stating legislative purpose; requiring certain persons to provide a list of certain purchase card expenditures; directing Office of State Finance to publish list; amending 62 O.S. 2001, Section 41.5q, as amended by Section 11, Chapter 266, O.S.L. 2006 (62 O.S. Supp. 2008, Section 41.5q), which relates to state fiscal affairs; modifying definition; creating procedures for the development of online licensing and permitting; providing for exemption process from online licensing and permitting; amending 74 O.S. 2001, Sections 85.5, as last amended by Section 3, Chapter 96, O.S.L. 2008, 85.7, as last amended by Section 4, Chapter 96, O.S.L. 2008, 85.13, as amended by Section 5, Chapter 96, O.S.L. 2008, 85.22, as amended by Section 6, Chapter 96, O.S.L. 2008, 85.39, 85.41, as amended by Section 5, Chapter 483, O.S.L. 2002, 85.42, as last amended by Section 1, Chapter 276, O.S.L. 2008, 85.43 and 85.45j (74 O.S. Supp. 2008, Sections 85.5, 85.7, 85.13, 85.22, 85.41 and 85.42), which relate to The Oklahoma Central Purchasing Act; modifying dollar threshold related to certain purchasing procedures; modifying powers of State Purchasing Director; modifying terminology for certain purchasing officials; authorizing State

1 Purchasing Director to renegotiate certain contracts;
2 modifying limits for transactions with state purchase
3 card; requiring annual report by State Purchasing
4 Director; modifying provisions related to dollar
5 threshold for emergency acquisitions; providing
6 certain restriction regarding things of value
7 inapplicable based upon administrative rules of
8 Ethics Commission; modifying formalities regarding
9 execution of certain statements; modifying procedures
10 related to certification of certain professional
11 services contracts; deleting certain requirements for
12 use of affidavit; repealing 40 O.S. 2001, Section
13 418.2, as last amended by Section 16, Chapter 354,
14 O.S.L. 2007 (40 O.S. Supp. 2008, Section 418.2),
15 which relates to the Workers Safety Policy Council;
16 providing for codification; providing for
17 noncodification; and declaring an emergency.

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

19 SECTION 1. NEW LAW A new section of law not to be
20 codified in the Oklahoma Statutes reads as follows:

21 This act shall be known and may be cited as the "Oklahoma State
22 Government Modernization Act of 2009".

23 SECTION 2. NEW LAW A new section of law not to be
24 codified in the Oklahoma Statutes reads as follows:

25 The State of Oklahoma finds it vital for state government to
26 modernize governmental activities by taking advantage of new
27 technologies to provide more cost-effective services to the citizens
28 while also enhancing transparency.

1 SECTION 3. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 85.33B of Title 74, unless there
3 is created a duplication in numbering, reads as follows:

4 A. On a monthly basis the Director of Central Purchasing shall
5 provide to the Office of State Finance a complete listing in
6 electronic format of all transactions occurring with the aid of a
7 state purchase card. The list shall contain the name of the
8 purchaser and purchasing agency, amount of purchase, and all
9 available descriptions of items purchased.

10 B. Upon receipt of the list described in subsection A of this
11 section, the Office of State Finance shall allow the public access
12 to the list in searchable format through its website defined in
13 Section 46 of Title 62 of the Oklahoma Statutes.

14 SECTION 4. AMENDATORY 62 O.S. 2001, Section 41.5q, as
15 amended by Section 11, Chapter 266, O.S.L. 2006 (62 O.S. Supp. 2008,
16 Section 41.5q), is amended to read as follows:

17 Section 41.5q A. Subject to review and adoption as outlined in
18 Section 41.5s of this title, a state agency, board, commission, or
19 authority is hereby authorized to charge a convenience fee for any
20 electronic or online transaction. A convenience fee shall apply to
21 electronic or online transactions only and shall not apply when
22 accessing information provided through state government websites.
23 If a state entity sets a convenience fee for electronic or online
24 transactions, the fee shall be reviewed by the State Governmental

1 Internet Applications Review Board as provided for in Section 41.5s
2 of this title. Each state entity shall keep a record of how the
3 convenience fee has been determined. A state agency, board,
4 commission, or authority may periodically adjust a convenience fee
5 as needed upon review and adoption as provided for in Section 41.5s
6 of this title.

7 B. For purposes of this section, "convenience fee" shall mean
8 ~~any~~ a charge that is necessary to process an electronic or online
9 transaction with a state agency, board, commission or authority.
10 ~~The fee may be in excess of any fee charged for the service or~~
11 ~~product being provided by such state entity. This may include~~
12 ~~reasonable charges for the cost of the electronic or on line service~~
13 ~~including recovery of costs incurred in the development and~~
14 ~~implementation of the service or system, cost of sustaining and~~
15 ~~upgrading the electronic or on line service, and future expansion of~~
16 ~~the electronic or on line services~~ shall be limited to bank
17 processing fees and financial transaction fees, the cost of
18 providing for secure transaction, portal fees, and fees necessary to
19 compensate for increased bandwidth incurred as a result of providing
20 for an online transaction.

21 SECTION 5. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 41.5p-1 of Title 62, unless
23 there is created a duplication in numbering, reads as follows:
24

1 A. Except as otherwise provided by this section, as of July 1,
2 2010, each state agency, board, commission or other entity organized
3 within the executive department of state government responsible for
4 licensing or permitting shall utilize the portal system to allow for
5 the web-based application and renewal application for any license or
6 permit issued by that agency. Access to the online renewal systems
7 shall be featured prominently on the portal system.

8 B. Each entity responsible for licensing or permitting shall
9 make available to the Office of State Finance on a yearly basis a
10 report describing the number of licenses issued, license renewals
11 and permits issued as well as an estimate of the amount of savings
12 incurred by the entity as a result of the online licensing and
13 permitting process.

14 C. The Office of State Finance shall make available to the
15 public a copy of each report submitted in accordance with the
16 requirements of subsection B of this section by placing the report
17 on the website defined in Section 46 of Title 62 of the Oklahoma
18 Statutes.

19 D. The Director of State Finance may exempt a specific license
20 or permit from the requirements of this section should he find
21 compelling evidence that the issuance of the license or permit
22 requires the provision of information that cannot be provided
23 through an online licensing or permitting process and when the
24 failure of the applicant to provide the information would create a

1 significant risk to the integrity of the license or permit. The
2 Director of State Finance shall document any exemptions issued
3 pursuant to the provisions of this subsection and describe the
4 compelling evidence justifying the need for the exemptions in a
5 report to be provided to the Governor, Speaker of the Oklahoma House
6 of Representatives and Speaker Pro Tempore of the State Senate. The
7 exception provided for in this subsection shall not apply to license
8 renewals pursuant to the Oklahoma Vehicle License and Registration
9 Act of Title 47 of the Oklahoma Statutes.

10 SECTION 6. AMENDATORY 74 O.S. 2001, Section 85.5, as
11 last amended by Section 3, Chapter 96, O.S.L. 2008 (74 O.S. Supp.
12 2008, Section 85.5), is amended to read as follows:

13 Section 85.5 A. Pursuant to the provisions of Section 85.4 of
14 this title, the State Purchasing Director, under the supervision of
15 the Director of the Department of Central Services, shall have sole
16 and exclusive authority and responsibility for all acquisitions used
17 or consumed by state agencies.

18 B. The State Purchasing Director, after consultation with the
19 requisitioning state agency, shall have authority to determine the
20 particular brand, model, or other specific classification of each
21 acquisition and to draft or invoke pursuant to The Oklahoma Central
22 Purchasing Act specifications establishing the requirements for all
23 necessary contracts or purchase orders.

1 C. The Director of the Department of Central Services shall
2 have authority and responsibility to promulgate rules pursuant to
3 provisions of The Oklahoma Central Purchasing Act governing,
4 providing for, prescribing, or authorizing any act, practice, or
5 requirement for which regulatory power is delegated for:

6 1. The time, manner, authentication, and form of making
7 requisitions for acquisitions;

8 2. Inspection, analysis, and testing of acquisitions or samples
9 suppliers submit prior to contract award;

10 3. The form and manner of submission for bids or proposals a
11 supplier submits and the manner of accepting and opening bids or
12 proposals;

13 4. The conditions under which the Department of Central
14 Services shall require written contracts for acquisitions, the
15 conditions under which acquisitions may be made on an open account
16 basis, and the conditions and manner of negotiating such contracts;

17 5. Obtaining acquisitions produced by state institutions;

18 6. Conditions under which any of the rules herein authorized
19 may be waived;

20 7. The amounts of and deposits on any bond or other surety
21 required to be submitted with a bid or contract for the furnishing
22 of acquisitions and the conditions under which such bond or other
23 surety shall be required;

1 8. Storage and storage facilities necessary to accomplish
2 responsibilities of the Director of the Department of Central
3 Services;

4 9. The manner and conditions of delivery, which shall include
5 the designation of the common carrier of property to be used to
6 transport acquisitions whenever a common carrier is used, and the
7 acceptance, or rejection, including check of quantities, of any
8 acquisitions;

9 10. The form of any estimate, order, or other document the
10 Director of the Department of Central Services requires;

11 11. State agency acquisitions not exceeding the acquisition
12 purchase amount requiring competitive bid pursuant to Section 85.7
13 of this title to ensure competitiveness, fairness, compliance with
14 provisions of all sections of The Oklahoma Central Purchasing Act,
15 and compliance with provisions of Section 3001 et seq. of this
16 title, which relate to the State Use Committee. The rules shall
17 include separate provisions based on acquisition purchase price as
18 follows:

- 19 a. state agencies shall make acquisitions not exceeding
20 ~~Two Thousand Five Hundred Dollars (\$2,500.00)~~ Five
21 Thousand Dollars (\$5,000.00), provided the acquisition
22 process is fair and reasonable and is conducted
23 pursuant to rules authorized pursuant to this section,
24 and

b. state agencies with certified procurement officers and internal purchasing procedures found compliant by the Director of the Department of Central Services pursuant to this section may make acquisitions in excess of ~~Two Thousand Five Hundred Dollars~~

~~(\$2,500.00) as provided below:~~

~~(1) acquisitions with a price exceeding Two Thousand Five Hundred Dollars (\$2,500.00) and not exceeding Ten Thousand Dollars (\$10,000.00), pursuant to rules authorized by this section, and~~

~~(2) acquisitions with a price exceeding Ten Thousand Dollars (\$10,000.00) and not exceeding the amount requiring a requisition to the State Purchasing Director, pursuant to Section 85.7 of this title, by telephone, facsimile, invitation to bid, or solicitation by means of electronic commerce, receipt of bids and bid award by the state agency~~
Five Thousand Dollars (\$5,000.00) and not exceeding One Hundred Thousand Dollars (\$100,000.00), pursuant to rules authorized by this section;

12. Training by the State Purchasing Director of state agency procurement officers;

1 13. Review and audit by the State Purchasing Director of state
2 agency acquisitions;

3 14. The conditions for increasing acquisition limits for state
4 agencies which have had a prior reduction in acquisition limit by
5 the Director of the Department of Central Services;

6 15. Use of a state purchase card to make acquisitions; ~~and~~

7 16. Any other matter or practice which relates to the
8 responsibilities of the Director of the Department of Central
9 Services;

10 17. Conditions for determination and authorization of
11 acquisition limits of state agencies pursuant to Section 85.7 of
12 this title; and

13 18. The form and manner of verification by suppliers that the
14 supplier is eligible to do business in the State of Oklahoma and has
15 obtained all necessary permits and licenses, pursuant to applicable
16 provisions of law.

17 D. The State Purchasing Director shall provide training for
18 state agency purchasing officials and other purchasing staff. The
19 training shall include principles of state procurement practices,
20 basic contracting, provisions of The Oklahoma Central Purchasing
21 Act, rules promulgated pursuant to The Oklahoma Central Purchasing
22 Act, provisions of Section 3001 et seq. of this title, which relate
23 to the State Use Committee, and any other matters related to state
24 procurement practices. State agency purchasing officials that

1 demonstrate proficiency shall be certified as "certified procurement
2 officers" or "certified procurement analysts" by the State
3 Purchasing Director and shall be authorized to make acquisitions
4 pursuant to provisions of The Oklahoma Central Purchasing Act and
5 rules authorized by this section. The State Purchasing Director
6 shall assess a fee to state agencies for the training that does not
7 exceed each state agency's pro rata share of the costs the State
8 Purchasing Director incurs to provide the training.

9 E. The State Purchasing Director shall review state agency
10 acquisitions for the purposes of:

11 1. Ensuring state agency compliance with provisions of The
12 Oklahoma Central Purchasing Act;

13 2. Ensuring state agency compliance with rules promulgated by
14 the Department of Central Services pursuant to The Oklahoma Central
15 Purchasing Act;

16 3. Ensuring state agency compliance with provisions of Section
17 3001 et seq. of this title pertaining to the State Use Committee;

18 4. Reporting any acquisition by any state agency found not to
19 be in compliance with those sections or rules to the Director of the
20 Department of Central Services; and

21 5. Recommending that the Director of the Department of Central
22 Services reduce the acquisition competitive bid limit amount for any
23 state agency found not to be in compliance with The Oklahoma Central
24 Purchasing Act or rules promulgated thereto.

1 F. When recommended by the State Purchasing Director, based on
2 written findings by the State Purchasing Director, the Director of
3 the Department of Central Services may:

4 1. Require retraining of state agency procurement officials and
5 other purchasing staff found not to be in compliance with provisions
6 of The Oklahoma Central Purchasing Act, or rules promulgated
7 pursuant to The Oklahoma Central Purchasing Act;

8 2. Reduce the acquisition competitive bid limit for any state
9 agency found not to be in compliance with provisions of The Oklahoma
10 Central Purchasing Act or rules promulgated pursuant to The Oklahoma
11 Central Purchasing Act;

12 3. Transmit written findings by the State Purchasing Director
13 to the State Auditor and Inspector for further investigation,
14 indicating purchasing procedures that do not conform to provisions
15 pursuant to The Oklahoma Central Purchasing Act or rules promulgated
16 pursuant to The Oklahoma Central Purchasing Act;

17 4. Transmit to the Attorney General or the State Auditor and
18 Inspector for further investigation a report made by the State
19 Purchasing Director that the Director of the Department of Central
20 Services reasonably believes indicates that an action that
21 constitutes a criminal violation pursuant to The Oklahoma Central
22 Purchasing Act or other laws has been taken by any state agency,
23 state agency official, bidder, or supplier; or
24

1 5. Increase the state agency acquisition purchase amount
2 requiring competitive bid, not to exceed the acquisition purchase
3 amount requiring competitive bid, pursuant to Section 85.7 of this
4 title.

5 G. 1. Pursuant to the requirements of The Oklahoma Central
6 Purchasing Act, the State Purchasing Director shall have authority
7 to enter into any statewide, multistate or multigovernmental
8 contract. The state entity designated by law, as specified in
9 Section 1010.3 of Title 56 of the Oklahoma Statutes, shall
10 participate in the purchase of pharmaceuticals available through
11 such multistate or multigovernmental contracts entered into by the
12 State Purchasing Director.

13 2. The State Purchasing Director may utilize contracts awarded
14 by other governmental agencies, including agencies of the United
15 States of America.

16 3. The State Purchasing Director may designate contracts
17 described in this subsection for use by state agencies.

18 4. Prior to exercising the authority to cancel a contract, the
19 State Purchasing Director may authorize renegotiation of an existing
20 contract with an incumbent supplier for the purposes of obtaining
21 more favorable terms for the state provided the State Purchasing
22 Director shall not renegotiate the term of the contract.
23
24

1 H. The State Purchasing Director may develop and test new
2 contracting policies and procedures that hold potential for making
3 the Purchasing Division more effective and efficient.

4 I. The State Purchasing Director shall endeavor to satisfy state
5 agencies in terms of cost, quality, and timeliness of the delivery
6 of acquisitions by using bidders who have a record of successful
7 past performance, promoting competition, minimizing administrative
8 operating costs, and conducting business with integrity, fairness,
9 and openness.

10 J. The State Purchasing Director shall undertake the following:

11 1. The use of electronic commerce pursuant to the Oklahoma
12 Online Bidding Act for solicitation, notification, and other
13 purchasing processes;

14 2. Monitoring rules promulgated pursuant to The Oklahoma
15 Central Purchasing Act to ensure that the rules, satisfy the
16 interests of the state, are clear and succinct, and encourage
17 efficiency in purchasing processes;

18 3. A program to identify vendors with poor delivery and
19 performance records;

20 4. Development of criteria for the use of sealed bid
21 contracting procedures, negotiated contracting procedures, selection
22 of types of contracts, postaward administration of purchase orders
23 and contracts, contract modifications, termination of contracts, and
24 contract pricing;

1 5. Continual improvement in the quality of the performance of
2 the Purchasing Division through training programs, management
3 seminars, development of benchmarks and key management indicators,
4 and development of standard provisions, clauses and forms;

5 6. Development of electronic means of making state agencies
6 aware of office furniture, equipment, machinery, tools, and hardware
7 available for purchase from the surplus property programs;

8 7. Development of programs to improve customer relations
9 through training, improved communications, and appointment of
10 technical representatives; and

11 8. In cooperation with the Office of State Finance and the
12 State Treasurer, develop an electronic payment mechanism for use in
13 the settlement of accounts payable invoices, with no limit, to make
14 payment for products or services acquired in accordance with The
15 Oklahoma Central Purchasing Act and any rules promulgated pursuant
16 thereto.

17 K. The State Purchasing Director shall, in cooperation with the
18 Oklahoma Department of Agriculture, Food, and Forestry, identify the
19 needs of state agencies and institutions for agricultural products
20 grown and produced in Oklahoma.

21 L. The State Purchasing Director may authorize the use of a
22 state purchase card for acquisitions within the following
23 parameters:

24 1. No limit on the amount of the transaction for the following:

- a. purchases from statewide contracts issued by the State Purchasing Director, and
- b. regulated utilities; and

2. For any other transaction with a state purchase card, the transaction shall not exceed ~~Two Thousand Five Hundred Dollars (\$2,500.00)~~ Five Thousand Dollars (\$5,000.00).

M. The State Purchasing Director may utilize and authorize state agencies to utilize reverse auctions to obtain acquisitions.

N. Prior to the award of a contract to a supplier, the State Purchasing Director shall verify, pursuant to applicable provisions of law, that the supplier is eligible to do business in the State of Oklahoma by confirming registration with the Secretary of State and franchise tax payment status pursuant to Sections 1203 and 1204 of Title 68 of the Oklahoma Statutes. The provisions of this subsection shall be applicable only if the contract amount is Twenty-five Thousand Dollars (\$25,000.00) or greater.

O. As a condition of awarding a contract pursuant to The Oklahoma Central Purchasing Act, the State Purchasing Director shall verify with the Oklahoma Tax Commission that the business entity to which the state contract is to be awarded, whether subject to the procedures required by Section 85.7 of this title or not, has obtained a sales tax permit pursuant to the provisions of Section 1364 of Title 68 of the Oklahoma Statutes if such entity is required to do so.

1 P. The State Purchasing Director is hereby authorized to
2 explore and investigate cost savings in energy, resource usage, and
3 maintenance contracts and to identify and negotiate contract
4 solutions including, but not limited to, pilot projects to achieve
5 cost savings for the State of Oklahoma.

6 Q. The Office of State Finance, with input from the State
7 Purchasing Director, shall promulgate payment procedure rules for
8 state agencies to adhere to regarding statewide contracts issued by
9 the State Purchasing Director.

10 R. The Office of State Finance along with the Department of
11 Central Services, Central Purchasing Division, shall promulgate
12 payment procedure rules for agencies to adhere to regarding
13 statewide contracts issued by the Division.

14 S. On an annual basis, the State Purchasing Director shall
15 transmit to the Governor, Speaker of the House of Representatives
16 and President Pro Tempore of the State Senate a report documenting
17 the savings realized by each agency through the application of best
18 spend practices including the collection and tracking of spend data,
19 strategic sourcing programs, and implementation of managed and
20 mandatory statewide contracts. The report shall document the
21 reasons for the failure to issue a mandatory statewide contract for
22 any items comprising total statewide spend in the amount of Five
23 Million Dollars (\$5,000,000.00) or greater.
24

1 T. The acquisition limitations provided for in subparagraph b
2 of paragraph 11 of subsection C of this section and paragraph 1 of
3 subsection A of Section 85.7 of this title shall not apply to agency
4 purchases provided the agency has subject matter experts on staff
5 having the specialized expertise to purchase said goods or services,
6 the agency possesses the necessary legal and procurement staff to
7 procure and monitor the contracts and provided the Director of
8 Central Services shall certify that the proposed purchase does not
9 conflict with consolidated statewide spend initiatives.

10 1. Nothing in this subsection shall give an agency authority to
11 issue statewide, multistate, or multigovernmental contracts.

12 2. Agencies making purchases pursuant to this subsection shall:

13 a. be responsible for contracts awarded pursuant to this
14 subsection, which includes, but may not be limited to,
15 contract management, all costs connected with or
16 incurred as a result of the contract, including legal
17 representation,

18 b. comply with rules and policies of the Department of
19 Central Services, and

20 c. report contracts issued pursuant to this subsection to
21 the Department of Central Services, Central Purchasing
22 Division, on a quarterly basis.

23 3. Purchases made in accordance with this subsection shall be
24 made pursuant to rules authorized by this section.

SECTION 7. AMENDATORY 74 O.S. 2001, Section 85.7, as last amended by Section 4, Chapter 96, O.S.L. 2008 (74 O.S. Supp. 2008, Section 85.7), is amended to read as follows:

Section 85.7 A. 1. Except as otherwise provided by The Oklahoma Central Purchasing Act, no state agency shall make an acquisition for an amount exceeding ~~Twenty five Thousand Dollars (\$25,000.00)~~ Fifty Thousand Dollars (\$50,000.00) or the limit determined by the State Purchasing Director pursuant to rules authorized by Section 85.5 of this title, not to exceed One Hundred Thousand Dollars (\$100,000.00), without submission of a requisition to the State Purchasing Director and submission of suppliers' competitive bids or proposals to the State Purchasing Director.

2. Any acquisition a state agency makes shall be made pursuant to The Oklahoma Central Purchasing Act and rules promulgated pursuant thereto.

a. Split purchasing for the purpose of evading the requirement of competitive bidding shall be a felony.

b. The State Purchasing Director may waive or increase the limit ~~of Twenty five Thousand Dollars (\$25,000.00)~~ authorized for a state agency acquisition by not more than ten percent (10%) to perfect an otherwise valid acquisition inadvertently exceeding the limit due to administrative error by the state agency or unforeseeable circumstances. The state agency shall

1 request a waiver upon the discovery of the error or
2 circumstance to the State Purchasing Director on a
3 form the Director requires.

4 c. The State Purchasing Director shall report all
5 requests for waivers or increases, stating the amount
6 and whether the request was granted or denied, monthly
7 to the Governor, President Pro Tempore of the Senate,
8 and Speaker of the House of Representatives.

9 3. a. Contracts for master custodian banks or trust
10 companies, investment managers, investment
11 consultants, and actuaries for the state retirement
12 systems, CompSource Oklahoma, State and Education
13 Employees Group Insurance Board, pension fund
14 management consultants of the Oklahoma State Pension
15 Commission and the Commissioners of the Land Office,
16 and other professional services as defined in Section
17 803 of Title 18 of the Oklahoma Statutes shall be
18 exempt from competitive bidding procedures of Section
19 85.7 and requisition requirements of Section 85.4 of
20 this title.

21 b. Contracts with financial institutions to act as
22 depositories and managers of the Oklahoma College
23 Savings Plan accounts shall be exempt from competitive
24 bidding procedures.

1 c. A state agency that makes an acquisition pursuant to
2 this paragraph shall notify the State Purchasing
3 Director within fifteen (15) days following completion
4 of the acquisition. The Department of Central
5 Services shall compile a list of the exempt contracts
6 and send the list to a member of the Appropriations
7 and Budget Committee of the House of Representatives
8 or Appropriations Committee of the Senate, if the
9 member requests.

10 4. Requisitions pursuant to this section shall not be required
11 prior to emergency acquisitions by a state agency not exceeding
12 ~~Fifty Thousand Dollars (\$50,000.00)~~ One Hundred Thousand Dollars
13 (\$100,000.00). The state agency shall submit a requisition to the
14 State Purchasing Director within five (5) days following the
15 acquisition together with a statement of the emergency. The State
16 Purchasing Director shall send the requisition and a written
17 analysis to the Governor, the President Pro Tempore of the Senate,
18 and the Speaker of the House of Representatives specifying the facts
19 and circumstances giving rise to the emergency requisition.

20 5. Requisitions pursuant to this section for acquisitions to
21 alleviate a serious environmental emergency shall not be required
22 if, upon receiving a request from the Chair of the Corporation
23 Commission and after having examined the facts and circumstances of
24 the case, the Governor certifies in writing the existence of a

1 serious environmental emergency. For the purposes of this section,
2 "serious environmental emergency" means a situation within the
3 jurisdiction of the Commission:

- 4 a. in which serious damage to the environment will
5 quickly occur if immediate action is not taken and the
6 damage will be so significant that the urgent need for
7 action outweighs the need for competitive bids, or
- 8 b. a situation in which human life or safety is in
9 imminent danger or significant property interests are
10 threatened with imminent destruction.

11 6. Acquisitions for repairs of equipment in emergencies, of
12 livestock through a market agency, dealer, commission house, or
13 livestock auction market bonded or licensed under federal or state
14 law, the purchase or collection of semen or embryos, and the
15 placement of embryos into recipient livestock shall not require
16 requisitions pursuant to this section or any other provisions of The
17 Oklahoma Central Purchasing Act.

18 7. The Board of Directors of the Oklahoma Historical Society
19 shall select suppliers for the restoration of historical sites and
20 museums and shall not be subject to the requisition requirements of
21 this section or any other provision of The Oklahoma Central
22 Purchasing Act. The Board may send a requisition to the State
23 Purchasing Director and request supplier bid or proposal submission
24 procedures, but supplier and bid selection will be the prerogative

1 of the Board and will be based on contractors' documented
2 qualifications and experience.

3 8. Purchases of postage by state agencies shall be made
4 pursuant to Sections 90.1 through 90.4 of this title.

5 9. Sole source or sole brand acquisitions by a state agency or
6 the State Purchasing Director shall comply with Section 85.45j of
7 this title.

8 10. Acquisitions for the design, development, communication, or
9 implementation of the state employees flexible benefits plan shall
10 not be subject to the requirements of this section; provided, that
11 the Flexible Benefits Advisory Council shall use procedures
12 consistent with the competitive bid requirements of The Oklahoma
13 Central Purchasing Act.

14 11. a. Any acquisition of a service which the Department of
15 Central Services has approved as qualifying for a
16 fixed and uniform rate shall be made pursuant to
17 provisions of this paragraph.

18 b. The Department of Central Services shall establish
19 criteria and guidelines for those services which may
20 qualify for a fixed and uniform rate.

21 c. Fixed and uniform rate contracts authorized by this
22 paragraph shall be limited to contracts for those
23 services furnished to persons directly benefiting from
24

1 such services and shall not be used by a state agency
2 to employ consultants or to make other acquisitions.

3 d. Any state agency desiring to have a service qualified
4 for a fixed and uniform rate shall make a request for
5 service qualification to the Department of Central
6 Services and submit documentation to support the
7 request. The Department of Central Services shall
8 approve or deny the request. If the Department of
9 Central Services approves the request, the state
10 agency shall establish a fixed and uniform rate for
11 the service. No contracts shall be entered into by
12 the state agency until the rate has been approved by
13 the state agency in a public hearing. The proposed
14 rate shall be clearly and separately identified in the
15 agenda of the state agency for the hearing and shall
16 be openly and separately discussed during such
17 hearing. The state agency shall notify the Director
18 of the Department of Central Services of its pending
19 consideration of the proposed rate at least thirty
20 (30) days before the state agency is to meet on the
21 proposed rate. The state agency shall deliver to the
22 Director of the Department of Central Services a copy
23 of the agenda items concerning the proposed rate with
24 supporting documentation. The Director of the

1 Department of Central Services shall communicate any
2 observation, reservation, criticism, or recommendation
3 to the agency, either in person at the time of the
4 hearing or in writing delivered to the state agency
5 before or at the time of the hearing. The Director of
6 the Department of Central Services shall specifically
7 note in the written communications whether the
8 Director of the Department of Central Services has
9 determined the rate to be excessive. Any written
10 communication presented in the absence of the Director
11 of the Department of Central Services shall be
12 presented orally during the public hearing. Whether
13 made in person or in writing, any comment made by the
14 Director of the Department of Central Services shall
15 be made a part of the minutes of the hearing in full.

- 16 e. Within two (2) weeks after the convening of the
17 Legislature, the administrative officer of the state
18 agency shall furnish to the Speaker of the House of
19 Representatives, the President Pro Tempore of the
20 Senate and to any member of the House or Senate, if
21 requested by the member, a complete list of all of the
22 types of services paid for by uniform fixed rates, the
23 amount of the rate last approved by the agency for the
24 service, and the number of contracts then in existence

1 for each type of service. Any rate which has been
2 determined to be excessive by the Director of the
3 Department of Central Services shall be specifically
4 identified in the list by the state agency.

5 f. At any time, the Director of the Department of Central
6 Services may review, suspend, or terminate a contract
7 entered into pursuant to the provisions of this
8 paragraph if the Director of the Department of Central
9 Services determines the contract is not necessary, is
10 excessive, or is not justified.

11 12. Specifically prescribed nonmedical adaptive technology-
12 related acquisitions for individuals with disabilities who are
13 clients of the State Department of Rehabilitation Services and which
14 are prescribed by a physician, rehabilitation engineer, qualified
15 rehabilitation technician, speech therapist, speech pathologist,
16 occupational therapist, physical therapist, or qualified sensory
17 aids specialist, and other client acquisitions, shall not be subject
18 to the requisition requirements of this section. The Commission for
19 Rehabilitation Services shall develop standards for the purchase of
20 such acquisitions and may elect to utilize the Purchasing Division
21 for an acquisition. The standards shall foster economy, provide a
22 short response time, include appropriate safeguards, require written
23 records, ensure appropriate competition for economical and efficient
24 purchasing, and shall be approved by the State Purchasing Director.

1 13. The Department of Human Services shall develop procedures
2 for acquisitions of specifically prescribed nonmedical assistive
3 technology-related items not exceeding the acquisition purchase
4 amount requiring a requisition pursuant to this section for
5 individuals under sixteen (16) years of age who are recipients of
6 Supplemental Security Income which are prescribed by a physician,
7 qualified sensory aids specialist or qualified special education
8 instructor. The procedures shall reflect standards for the
9 acquisition of such nonmedical assistive technology-related items,
10 may provide for utilization of the Purchasing Division when
11 appropriate, shall foster economy, provide a short response time,
12 shall include appropriate safeguards and written records to ensure
13 appropriate competition and economical and efficient purchasing, and
14 shall be approved by the State Purchasing Director.

15 14. a. Structured settlement agreements entered into by the
16 Attorney General's office in order to settle any
17 lawsuit involving the state, the Legislature, any
18 state agency or any employee or official of the state
19 shall not be subject to the competitive bidding
20 requirements of this section if:

21 (1) prior to entering into any contract for the
22 services of an entity to administer a structured
23 settlement agreement, the Attorney General
24

1 receives proposals from at least three entities
2 engaged in providing such services, and

3 (2) the selection of a particular entity is made on
4 the basis of the response to the request which is
5 the most economical and provides the most
6 competent service which furthers the best
7 interests of the state.

8 b. A list of any such structured settlement agreements
9 entered into by the Attorney General with summary
10 thereon for the previous calendar year shall be
11 submitted to the Speaker of the House of
12 Representatives and the President Pro Tempore of the
13 Senate on January 31 of each year.

14 15. Acquisitions a state agency makes pursuant to a contract
15 the State Purchasing Director enters into or awards and designates
16 for use by state agencies shall be exempt from competitive bidding
17 procedures.

18 16. The Commission on Marginally Producing Oil and Gas Wells
19 shall be exempt from the competitive bid requirements of this
20 section for contracts with local vendors for the purpose of holding
21 special events and exhibitions throughout the state.

22 17. Agreements entered into by any state agency with the United
23 States Army Corps of Engineers in order to provide emergency
24 response or to protect the public health, safety, or welfare shall

1 not require requisitions and shall not be subject to competitive
2 bidding requirements of this section.

3 B. Acquisitions shall be awarded to the lowest and best, or
4 best value, bidder at a specified time and place, which shall be
5 open to the public.

6 C. Bids for professional service contracts for an amount
7 requiring submission of requisitions to the State Purchasing
8 Director shall be evaluated by the State Purchasing Director and the
9 state agency contracting for such service. Both cost and technical
10 expertise shall be considered in determining the lowest and best, or
11 best value, bid. Further, the state agency shall present its
12 evaluation and recommendation to the State Purchasing Director. A
13 documented evaluation report containing the evaluations of the State
14 Purchasing Director and the state agency contracting for such
15 service shall be completed prior to the awarding of a professional
16 service contract and such report shall be a matter of public record.

17 D. When requested by CompSource Oklahoma, the State and
18 Education Employees Group Insurance Board, or the governing board of
19 a state retirement system authorized to hire investment managers,
20 the Department of Central Services shall assist the requesting body
21 in the process of selecting investment managers. When requested by
22 the Flexible Benefits Advisory Council, the Department of Central
23 Services shall assist the Council in the process of selecting
24

1 contracts for the design, development, communication, or
2 implementation of the state employees flexible benefits plan.

3 E. Except as otherwise specifically provided by law, the
4 acquisition of food items or food products by a state agency from a
5 public trust created pursuant to Sections 176 through 180.56 of
6 Title 60 of the Oklahoma Statutes shall comply with competitive
7 bidding procedures pursuant to the provisions of this section.

8 SECTION 8. AMENDATORY 74 O.S. 2001, Section 85.13, as
9 amended by Section 5, Chapter 96, O.S.L. 2008 (74 O.S. Supp. 2008,
10 Section 85.13), is amended to read as follows:

11 Section 85.13 It shall be unlawful for the State Purchasing
12 Director or any buyer or any officer of the Department of Central
13 Services, or any member of their immediate family, under The
14 Oklahoma Central Purchasing Act to accept any gift, donation, or
15 gratuity for himself or any member of his immediate family from any
16 seller or prospective seller of any property covered by The Oklahoma
17 Central Purchasing Act; and it shall further be unlawful for any
18 seller or any prospective seller to give or donate anything of value
19 to the State Purchasing Director or any buyer or officer of the
20 Department of Central Services or any buyer under The Oklahoma
21 Central Purchasing Act or any member of the immediate family of the
22 State Purchasing Director or buyer or officer of the Department of
23 Central Services. This provision shall not apply to exceptions to
24 the definition of "anything of value" in the Rules of the Ethics

1 Commission promulgated pursuant to Article XXIX of the Oklahoma
2 Constitution.

3 The violation of any provision of this section shall constitute
4 a misdemeanor and in the event the State Purchasing Director or any
5 buyer or any officer of the Department of Central Services is
6 convicted for the violation of this section he shall forfeit his
7 position immediately in addition to the penalty provided in this
8 section.

9 SECTION 9. AMENDATORY 74 O.S. 2001, Section 85.22, as
10 amended by Section 6, Chapter 96, O.S.L. 2008 (74 O.S. Supp. 2008,
11 Section 85.22), is amended to read as follows:

12 Section 85.22 Any competitive bid submitted to the State of
13 Oklahoma or contract executed by the state for goods or services
14 shall contain a certification, which shall be in substantially the
15 following form:

16 ~~STATE OF OKLAHOMA~~

17 ~~COUNTY OF~~

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

19 1. I am the duly authorized agent of _____, the bidder
20 submitting the competitive bid which is attached to this statement,
21 for the purpose of certifying the facts pertaining to the existence
22 of collusion among bidders and between bidders and state officials
23 or employees, as well as facts pertaining to the giving or offering
24 of things of value to government personnel in return for special

1 consideration in the letting of any contract pursuant to the bid to
2 which this statement is attached;

3 2. I am fully aware of the facts and circumstances surrounding
4 the making of the bid to which this statement is attached and have
5 been personally and directly involved in the proceedings leading to
6 the submission of such bid; and

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

9 a. to any collusion among bidders in restraint of freedom
10 of competition by agreement to bid at a fixed price or
11 to refrain from bidding,

12 b. to any collusion with any state official or employee
13 as to quantity, quality or price in the prospective
14 contract, or as to any other terms of such prospective
15 contract, nor

16 c. in any discussions between bidders and any state
17 official concerning exchange of money or other thing
18 of value for special consideration in the letting of a
19 contract.

20 B. I certify, if awarded the contract, whether competitively
21 bid or not, neither the contractor nor anyone subject to the
22 contractor's direction or control has paid, given or donated or
23 agreed to pay, give or donate to any officer or employee of the
24 State of Oklahoma any money or other thing of value, either directly

1 or indirectly, in procuring the contract to which this statement is
2 attached.

3 Certified this _____ day of _____ 20__.

4 SECTION 10. AMENDATORY 74 O.S. 2001, Section 85.39, is
5 amended to read as follows:

6 Section 85.39 A. 1. Each state agency shall develop internal
7 purchasing procedures for acquisitions by the state agency.
8 Procedures shall, at a minimum, include provisions for the state
9 agency's needs assessment, funding, routing, review, audits,
10 monitoring, and evaluations. Following development, the state
11 agency shall submit the procedures to the State Purchasing Director.

12 2. The State Purchasing Director shall review the procedures
13 submitted pursuant to paragraph 1 of this subsection to determine
14 compliance with The Oklahoma Central Purchasing Act, rules
15 promulgated pursuant thereto, Sections 3001 through 3010 of this
16 title, and provisions of paragraph 1 of this subsection. The State
17 Purchasing Director shall provide written findings, including
18 details of noncompliance, if any, to the Director of the Department
19 of Central Services.

20 3. The Director of the Department of Central Services shall,
21 within fifteen (15) days after the procedures are submitted, notify
22 the state agency that the procedures are in compliance or indicate
23 revisions necessary to bring the procedures into compliance.

24

1 B. A state agency shall not make acquisitions exceeding ~~Two~~
2 ~~Thousand Five Hundred Dollars (\$2,500.00)~~ Five Thousand Dollars
3 (\$5,000.00) pursuant to Section 85.5 of this title, unless the
4 Director of the Department of Central Services provides notice of
5 compliance.

6 C. Each state agency shall maintain a document file for each
7 acquisition the state agency makes which shall include, at a
8 minimum, justification for the acquisition, supporting
9 documentation, copies of all contracts, if any, pertaining to the
10 acquisition, evaluations, written reports if required by contract,
11 and any other information the State Purchasing Director requires be
12 kept.

13 SECTION 11. AMENDATORY 74 O.S. 2001, Section 85.41, as
14 amended by Section 5, Chapter 483, O.S.L. 2002 (74 O.S. Supp. 2008,
15 Section 85.41), is amended to read as follows:

16 Section 85.41 A. A state agency that acquires professional
17 services shall comply with the provisions of this section.

18 B. The state agency shall evaluate the performance of the
19 professional services provided pursuant to a professional services
20 contract. The performance evaluation shall indicate the quality of
21 service or work product of the supplier. The state agency shall
22 retain the evaluation in the document file the state agency
23 maintains for the acquisition pursuant to Section 85.39 of this
24 title. If the evaluation indicates deficiencies with the supplier's

1 work, the state agency shall send a copy of the evaluation to the
2 State Purchasing Director.

3 C. If the work product of the contract is a report, the state
4 agency shall file the report with the State Librarian and Archivist.

5 D. A state agency shall administer, monitor, and audit the
6 professional services contract. The State Purchasing Director may
7 require the state agency to report to the State Purchasing Director
8 the status of an unfinished professional services contract.

9 E. A professional services contract shall include an audit
10 clause which provides that all items of the supplier that relate to
11 the professional services are subject to examination by the state
12 agency, the State Auditor and Inspector and the State Purchasing
13 Director.

14 F. 1. If the final product of the professional services
15 contract is a written proposal, report, or study, the professional
16 services contract shall require the supplier to ~~sign a sworn~~
17 ~~statement certifying~~ certify that the supplier has not previously
18 provided the state agency or another state agency with a final
19 product that is a substantial duplication of the final product of
20 the proposed contract.

21 2. Any state agency renewing a contract with a supplier shall
22 not be subject to the provisions of paragraph 1 of this subsection.

23 G. 1. Contracts for professional services shall provide for
24 payment for services at a uniform rate throughout the duration of

1 the contract if the services throughout the duration of the contract
2 are similar and consistent.

3 2. No state agency shall execute a contract for professional
4 services providing for nonuniform payments throughout the duration
5 of the contract without authorization of the State Purchasing
6 Director.

7 SECTION 12. AMENDATORY 74 O.S. 2001, Section 85.42, as
8 last amended by Section 1, Chapter 276, O.S.L. 2008 (74 O.S. Supp.
9 2008, Section 85.42), is amended to read as follows:

10 Section 85.42 A. Except as otherwise provided for in this
11 section, any agency, whether or not such agency is subject to The
12 Oklahoma Central Purchasing Act, is prohibited from entering into a
13 sole source contract or a contract for professional services with or
14 for the services of any person, who has terminated employment with
15 or who has been terminated by that agency for one (1) year after the
16 termination date of the employee from the agency. The provisions of
17 this subsection shall not prohibit an agency from hiring or rehiring
18 such person as a state employee.

19 B. Each contract entered into by any person or firm with the
20 State of Oklahoma shall include ~~an affidavit~~ a statement certifying
21 that no person who has been involved in any manner in the
22 development of that contract while employed by the State of Oklahoma
23 shall be employed to fulfill any of the services provided for under
24 said contract. This subsection shall not preclude faculty and staff

1 of the institutions within The State System of Higher Education from
2 negotiating and participating in research grants and educational
3 contracts. Nor shall this subsection apply to personnel of the
4 Capital Resources Division of the Oklahoma Department of Commerce
5 who contract to provide services to the Oklahoma Capital Investment
6 Board.

7 C. As used in this section, person is defined as any state
8 official or employee of a department, board, bureau, commission,
9 agency, trusteeship, authority, council, committee, trust, school
10 district, fair board, court, executive office, advisory group, task
11 force, study group, supported in whole or in part by public funds or
12 entrusted with the expenditure of public funds or administering or
13 operating public property, and all committees, or subcommittees
14 thereof, judges, justices, and state legislators.

15 D. An agency may enter into a sole source contract or a
16 contract for professional services at any time with a person who is
17 a qualified interpreter for the deaf.

18 E. The Department of Transportation, Oklahoma Water Resources
19 Board, Department of Environmental Quality, Oklahoma Tourism and
20 Recreation Department, the Oklahoma ~~Transportation~~ Turnpike
21 Authority and the Oklahoma Department of Agriculture, Food, and
22 Forestry may enter into a contract for professional services at any
23 time with a person who has retired from state service, provided the
24 provisions specified in subsection B of this section are satisfied.

1 F. The Department of Human Services may enter into a contract
2 for professional services related to computer application
3 development support and network engineering at any time with a
4 person who has separated from state service, provided the provisions
5 specified in subsection B of this section are satisfied.

6 G. To maintain public health infrastructure and preparedness,
7 the State Department of Health and city-county health departments
8 may enter into a contract for professional services at any time with
9 a physicians assistant, registered nurse, advanced practice nurse,
10 nurse midwife, registered dietitian, occupational therapist,
11 physical therapist, or speech-language pathologist who has retired
12 from state service; provided, the provisions specified in subsection
13 B of this section are also satisfied.

14 H. The Department of Mental Health and Substance Abuse Services
15 may enter into a contract for professional services at any time with
16 a physician who has separated and/or retired from state service;
17 provided that the provisions specified in subsection B of this
18 section are satisfied.

19 SECTION 13. AMENDATORY 74 O.S. 2001, Section 85.43, is
20 amended to read as follows:

21 Section 85.43 A. Each chief administrative officer of a state
22 agency shall submit to the State Purchasing Director by November 1
23 of each year a report listing all acquisitions exceeding Ten
24 ~~Thousand Dollars (\$10,000.00)~~ Fifty Thousand Dollars (\$50,000.00)

1 but not exceeding ~~Twenty-five Thousand Dollars (\$25,000.00)~~ One
2 Hundred Thousand Dollars (\$100,000.00) of the state agency for the
3 preceding fiscal year which will include the following information:

4 1. Professional services contracts;
5 2. Nonprofessional services contracts; and
6 3. Contracts for the leasing of property including real
7 property contracts and any lease agreements for products or
8 equipment.

9 B. The report shall contain:

10 1. The name of the supplier;
11 2. A description of each acquisition;
12 3. The purchase price of the acquisition; and
13 4. The total amount expended to date for the preceding fiscal
14 year for the acquisition.

15 C. The report shall specifically identify sole source and sole
16 brand acquisitions.

17 D. The state agency shall submit the report to the State
18 Auditor and Inspector and to the Department of Central Services.
19 The state agency shall submit the report to any member of the
20 Appropriations and Budget Committee of the House of Representatives
21 or Appropriations Committee of the Senate if a member so requests.

22 E. The State Auditor and Inspector shall review the report for
23 compliance with statutes and rules or other provisions of law
24 applicable to sole source and sole brand acquisitions.

SECTION 14. AMENDATORY 74 O.S. 2001, Section 85.45j, is amended to read as follows:

Section 85.45j A. 1. Pursuant to the provisions of this section, an acquisition may be exempt from competitive bidding procedures as a sole source or sole brand acquisition.

2. If a state agency desires to make a sole source or sole brand acquisition, the state agency shall retain in the state agency's acquisition file or attach to the requisition ~~an affidavit~~ a certification signed by the chief administrative officer of the state agency, in the following form:

SOLE SOURCE OR SOLE BRAND ACQUISITION

~~AFFIDAVIT~~ CERTIFICATION

STATE AGENCY

SUPPLIER NAME

SUPPLIER ADDRESS

SUPPLIER TELEPHONE

I hereby affirm that pursuant to the provisions of the attached requisition or contract that

(Name of Supplier)

is the only person or business entity singularly qualified to provide the acquisition, and if a product is the only brand or product which is unique, for the following reasons:

1 _____
2 _____
3 _____

4 The following is a brief description of all efforts which were
5 made to verify that the services or products to be purchased
6 pursuant to the provisions of the attached requisition or contract
7 qualify as a sole source or sole brand acquisition:

8 _____
9 _____
10 _____
11 _____
12 _____

13 I understand that the signing of this ~~affidavit~~ certification
14 knowing such information to be false may subject me to punishment
15 for perjury.

16 _____

17 (Chief administrative officer)

18 ~~STATE OF OKLAHOMA)~~

19 ~~) ss.~~

20 ~~COUNTY OF OKLAHOMA)~~

21 ~~Subscribed and sworn to before me this~~ ____ day of _____, 19__ or
22 ~~20__.~~

23 _____

24 ~~Notary Public~~

1 ~~My Commission expires.~~

2 _____

3 3. A court order requiring the purchase of specific products or
4 services but which does not specify a brand or supplier shall not
5 substitute for the ~~affidavit~~ certification required by this
6 subsection or otherwise invalidate the acquisition procedures
7 required pursuant to the Oklahoma Central Purchasing Act.

8 4. Any chief administrative officer of a state agency affirming
9 the ~~affidavit~~ certification required by this subsection who knows
10 the information to be false shall be deemed guilty of perjury and
11 upon conviction shall be punished by fine or by imprisonment or both
12 fine and imprisonment pursuant to law. Upon conviction or upon
13 entering a plea of nolo contendere pursuant to this paragraph, the
14 chief administrative officer shall immediately forfeit his or her
15 position and shall be ineligible for appointment to or employment in
16 the state service for a period of five (5) years after entering a
17 plea of nolo contendere or being convicted.

18 5. Upon a determination by the Director of the Department of
19 Central Services that there are reasonable grounds to believe that a
20 violation of this subsection has occurred, the Director shall send
21 findings to the Attorney General that support the determination.
22 The Attorney General shall review the findings and determine whether
23 to investigate or prosecute the person.

1 6. If the acquisition's purchase price is such that the state
2 agency is required to submit a requisition to the State Purchasing
3 Director, the State Purchasing Director shall approve or deny the
4 requisition for a sole source or sole brand acquisition. Prior to
5 approving a requisition pursuant to this paragraph, the State
6 Purchasing Director shall document reasons a sole source or sole
7 brand purchase is necessary and shall retain a written record for
8 three (3) fiscal years following the end of the fiscal year during
9 which the sole source or sole brand acquisition was made.

10 7. For sole source or sole brand acquisitions exceeding ~~Two~~
11 ~~Thousand Five Hundred Dollars (\$2,500.00)~~ Five Thousand Dollars
12 (\$5,000.00) and not requiring submission of a requisition to the
13 State Purchasing Director, the state agency's certified procurement
14 officer shall document reasons a sole source or sole brand
15 acquisition is necessary and shall retain a written record for three
16 (3) fiscal years following the end of the fiscal year during which
17 the sole source or sole brand acquisition was made.

18 8. The chief administrative officer of each state agency shall
19 submit to the State Purchasing Director a monthly listing of all
20 sole source and sole brand acquisitions exceeding ~~Two Thousand Five~~
21 ~~Hundred Dollars (\$2,500.00)~~ Five Thousand Dollars (\$5,000.00)
22 executed by the state agency in the preceding month. The report
23 shall indicate whether requisitions for sole source and sole brand
24

1 acquisitions were disapproved or modified by the State Purchasing
2 Director and information the State Purchasing Director requires.

3 9. The State Purchasing Director shall electronically provide
4 to the Office of State Finance the information received pursuant to
5 paragraph 8 of this subsection in machine-readable format and in the
6 form the Office of State Finance requires.

7 B. By the fifteenth day of each month, or the first working day
8 thereafter, the Office of State Finance shall provide a report from
9 the information received pursuant to this section to:

10 1. The Speaker of the House of Representatives and the
11 President Pro Tempore of the Senate;

12 2. The Majority and Minority Leaders of both the House of
13 Representatives and the Senate;

14 3. The Chair and ~~Vice-Chair~~ Vice-chair of the Appropriations
15 and Budget Committee of the House of Representatives and the
16 Appropriations Committee of the Senate; and

17 4. Any member of the Legislature requesting the report.

18 The report shall detail all sole source and sole brand acquisitions
19 by state agencies for the month prior to the month preceding the
20 submission of the report. The report shall be titled "Monthly Sole
21 Source and Sole Brand Contracting Report of Oklahoma State Agencies"
22 and indicate the time period of the report. The report shall be
23 provided in physical form unless the requesting person specifies the
24 electronic version. The report shall be signed by the Director of

1 State Finance or the Director's designee. The report shall be in
2 columnar database format and shall include at least the following
3 fields of information: state agency number; state agency name; date
4 created by the Department of Central Services for the requisition;
5 date of either approval or disapproval of the requisition; if
6 disapproved, the reason why such contract was disapproved; estimated
7 amount of the requisition; purchase order amount; purchase order
8 number; actual business name of supplier; supplier federal employer
9 identification number; contact person; and the commodity
10 classification listing at the appropriate level to distinguish
11 between similar acquisitions. Information required by this
12 subsection shall be reported and maintained on each report through
13 the next reporting period after an acquisition is made. The
14 applicable data in the fields of information specified in this
15 subsection shall be listed even if the state agency requisition is
16 disapproved.

17 C. The Office of State Finance shall maintain electronic
18 historic data or any other data received pursuant to this section
19 for at least two (2) years.

20 D. By August 15 of each year, from the data received pursuant
21 to this section, the Office of State Finance shall complete and
22 submit a report detailing the number of sole source or sole brand
23 contracts issued by each state agency and a list of the business
24 names of the suppliers who received sole source or sole brand awards

1 during the previous fiscal year and if more than one such award, the
2 number of awards so executed.

3 SECTION 15. REPEALER 40 O.S. 2001, Section 418.2, as
4 last amended by Section 16, Chapter 354, O.S.L. 2007 (40 O.S. Supp.
5 2008, Section 418.2), is hereby repealed.

6 SECTION 16. It being immediately necessary for the preservation
7 of the public peace, health and safety, an emergency is hereby
8 declared to exist, by reason whereof this act shall take effect and
9 be in full force from and after its passage and approval.

10

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