SENATE FLOOR VERSION
April 10, 2013

COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 2062 By: Derby and Murphey of the House

and

Jolley of the Senate

[technology - county purchasing procedures - Chief Information Officer - expanding certain jurisdictional areas of responsibility - recodification - effective date - emergency]

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

SECTION 1. AMENDATORY 19 O.S. 2011, Section 1500, is amended to read as follows:

Section 1500. A. The county clerk of each county or an employee of that office so designated by the county clerk shall be the county purchasing agent. Provided, in counties having a county budget board created pursuant to the County Budget Act, the board may, upon an affirmative vote of a majority of all the board members then in office, appoint a county purchasing agent. In the event the board does not appoint a county purchasing agent, the county clerk or an employee of that office so designated by the county clerk shall be the county purchasing agent. The county purchasing agent shall be under the general supervision and direction of the appointing authority.

B. All persons serving as county purchasing agents on July 1, 1989, shall attend training seminars sponsored by the Oklahoma Cooperative Extension Service prior to July 1, 1990. The training seminars will cover the terminology, concepts, customs and practices of the sellers of supplies, materials ~~and~~, equipment and information technology and telecommunications goods commonly purchased for the county. All county purchasing agents appointed after July 1, 1989, shall attend the training seminars within one (1) year of their appointment.

C. The county purchasing agent shall be authorized necessary assistants to carry out the duties and responsibilities provided by law and as may be delegated by the appointing authority. Provided, the employment of such assistants shall be upon the approval of the appointing authority. The salary of the county purchasing agent and assistants shall be fixed by the appointing authority. Provided, if the county clerk is the county purchasing agent, the salary of the county clerk shall remain as provided by law.

D. The county purchasing agent shall, at the expense of the county, be authorized adequate office space, furnishings, equipment and supplies to carry out the duties and responsibilities of the county purchasing agent as provided by law and as may be delegated by the appointing authority. Provided, the acquisition of such furnishings, equipment and supplies shall be upon the approval of the appointing authority, and the acquisition of office space shall be upon the approval of the board of county commissioners.

SECTION 2. AMENDATORY 19 O.S. 2011, Section 1500.1, is amended to read as follows:

Section 1500.1 A. Except as otherwise provided by Section 1500 et seq. of ~~Title 19 of the Oklahoma Statutes~~ this title, the county purchasing agent shall have the authority to develop, implement and promote policies and procedures that allow the procurement of materials and equipment through contracts that are flexible, value based and are in the best interests of the state and its political subdivisions.

B. Except as otherwise provided, the county purchasing agent shall have the authority to use electronic commerce for the solicitation, notification, and other purchasing processes. For purposes of this subsection, "electronic commerce" means the use of electronic methods to enable solicitations, supplier response, notice of contract award, county acquisition processes, or any other function to make an acquisition.

C. Counties shall have the authority to conduct a procurement transaction ~~for the procurement of materials, equipment, or services~~ by electronic means subject to the provisions of the Uniform Electronic Transactions Act.

SECTION 3. AMENDATORY 19 O.S. 2011, Section 1502, as amended by Section 3, Chapter 144, O.S.L. 2012 (19 O.S. Supp. 2012, Section 1502), is amended to read as follows:

Section 1502. A. 1. The board of county commissioners or a designated employee shall:

a. prescribe a uniform identification system for all supplies, materials and equipment of a county used in the construction and maintenance of roads and bridges, and

b. create and administer an inventory system for all:

(1) equipment of a county having an original cost of Five Hundred Dollars ($500.00) or more for use in the construction and maintenance of roads and bridges, and

(2) supplies and materials of a county purchased in lots of Five Hundred Dollars ($500.00) or more for use in the construction and maintenance of roads and bridges.

Such person shall be the county road and bridge inventory officer.

2. a. In counties having a county budget board created pursuant to ~~Sections~~ Section 1402 et seq. of ~~Title 19 of the Oklahoma Statutes~~ this title, said board may, upon an affirmative vote of a majority of all the board members then in office, appoint a county road

and bridge inventory officer who shall be employed by the county and shall have such duties as are provided in subparagraphs a and b of paragraph 1 of this subsection. In the event the board does not appoint a county road and bridge inventory officer the board of county commissioners or designee shall be the county road and bridge inventory officer. The appointed county road and bridge inventory officer shall be under the general supervision and direction of the appointing authority.

b. The appointed county road and bridge inventory officer shall be authorized necessary assistants to carry out the duties and responsibilities provided by law and as may be delegated by the appointing authority. Provided, the employment of such assistants shall be upon the approval of the appointing authority. The salary of the county road and bridge inventory officer and assistants shall be fixed by the appointing authority.

c. The appointed county road and bridge inventory officer shall, at the expense of the county, be authorized adequate office space, furnishings, equipment and supplies to carry out the duties and responsibilities of the county road and bridge inventory officer as provided by law and as may be delegated by the appointing authority. Provided, the acquisition of such furnishings, equipment and supplies shall be upon the approval of the appointing authority and the acquisition of office space shall be upon the approval of the board of county commissioners.

B. The board of county commissioners shall:

1. Prescribe a uniform identification system for all supplies, materials ~~and~~, equipment and information technology and telecommunication goods of a county not used in the construction and maintenance of roads and bridges; and

2. Create and administer an inventory system for all:

a. equipment, information technology and telecommunication goods of a county having an original cost of Five Hundred Dollars ($500.00) or more and not used in the construction and maintenance of roads and bridges, and

b. supplies and materials of a county purchased in lots of Five Hundred Dollars ($500.00) or more and not used in the construction and maintenance of roads and bridges.

The board of county commissioners may designate an employee of that office to administer such inventory system.

SECTION 4. AMENDATORY 19 O.S. 2011, Section 1504, is amended to read as follows:

Section 1504. A. A receiving officer shall receive all ~~supplies, materials and equipment~~ purchased, lease-purchased or rented ~~by his~~ items procured for the department and shall identify such items received in a manner prescribed by the county road and bridge inventory officer or board of county commissioners or designee. The receiving officer shall also maintain a record of all ~~supplies, materials and equipment~~ such items received, disbursed, stored and consumed by ~~his~~ the department.

B. The receiving officer shall comply with receiving procedures provided by law.

SECTION 5. AMENDATORY 19 O.S. 2011, Section 1505, as last amended by Section 74, Chapter 304, O.S.L. 2012 (19 O.S. Supp. 2012, Section 1505), is amended to read as follows:

Section 1505. The following procedures shall be used by counties for the requisition, purchase, lease-purchase, rental, and receipt of supplies, materials, ~~and~~ equipment and information technology and telecommunication goods and services for the maintenance, operation, and capital expenditures of county government unless otherwise provided for by law.

A. The procedure for requisitioning items for county offices shall be as follows:

1. The requesting department shall prepare a requisition form in triplicate. The requisition shall contain any specifications for an item as deemed necessary by the requesting department. The form shall be prescribed by the State Auditor and Inspector;

2. The requesting department shall retain a copy of the requisition and forward the original requisition and a copy to the county purchasing agent; and

3. Upon receipt of the requisition, the county purchasing agent, within two (2) working days, shall begin the bidding and purchasing process as provided for in this section. Nothing in this section shall prohibit the transfer of supplies, materials, or equipment between county departments upon a written agreement between county officers.

B. The bid procedure for selecting a vendor for the purchase, lease-purchase, or rental of supplies, materials, ~~and~~ equipment and information technology and telecommunication goods and services used by a county shall be as follows:

1. The county purchasing agent shall request written recommendations from all county officers pertaining to needed or commonly used supplies, materials, ~~and~~ equipment and information technology and telecommunication goods and services. From such recommendations and available requisition, purchase, or inventory records, the county purchasing agent shall prepare a list of items needed or commonly used by county officers. The county purchasing

agent shall request from the Purchasing Division or from the Information Services Division in the case of information technology and telecommunication goods and services of the Office of Management and Enterprise Services all contracts quoting the price the state is paying for the items. The county purchasing agent shall either request the Purchasing Division or the Information Services Division of the Office of Management and Enterprise Services, as applicable, to make the purchase for the county or the county purchasing agent shall solicit bids for unit prices on the items for periods of not to exceed twelve (12) months in the manner described in paragraph 2 of this subsection. If the county purchasing agent receives a requisition for an item for which the county purchasing agent does not have a current bid, the county purchasing agent shall request from the Purchasing Division or the Information Services Division of the Office of Management and Enterprise Services, as applicable, all contracts quoting the price the state is paying for the item. The county purchasing agent shall either request the Purchasing Division or the Information Services Division of the Office of Management and Enterprise Services, as applicable, to make the purchase for the county or the county purchasing agent shall solicit bids in the manner described in paragraph 2 of this subsection. Nothing in this paragraph shall prohibit bids from being taken on an item currently on a twelve-month bid list, at any time deemed necessary by the county purchasing agent. Whenever the county purchasing agent deems it necessary to take a bid on an item currently on a twelve-month bid list, the reason for the bid shall be entered into the minutes of the board of county commissioners;

2. Bids shall be solicited by mailing a notice to all persons or firms who have made a written request of the county purchasing agent that they be notified of such bid solicitation and to all other persons or firms who might reasonably be expected to submit bids. Notice of solicitation of bids shall also be published one time in a newspaper of general circulation in the county. Notices shall be mailed and published at least ten (10) days prior to the date on which the bids are opened. Proof of the mailing shall be made by the affidavit of the person mailing the request for bids and shall be made a part of the official records of the county purchasing agent. Whenever any prospective supplier or vendor dealing in or listing for sale any particular item or article required to be purchased or acquired by sealed bids fails to enter or offer a sealed bid for three successive bid solicitations, the name of the supplier or vendor may be dropped from the mailing lists of the board of county commissioners;

3. The sealed bids received from vendors and the state contract price received from the ~~Purchasing~~ applicable Division of the Office of Management and Enterprise Services shall be given to the county clerk by the county purchasing agent. The county clerk shall

forward the sealed bids and state contract price, if any, to the board of county commissioners;

4. The board of county commissioners, in an open meeting, shall open the sealed bids and compare them to the state contract price. The board of county commissioners shall select the lowest and best bid based upon, if applicable, the availability of material and transportation cost to the job site within thirty (30) days of the meeting. For any special item not included on the list of needed or commonly used items, the requisitioning official shall review the bids and submit a written recommendation to the board before final approval. The board of county commissioners shall keep a written record of the meeting as required by law, and any time the lowest bid was not considered to be the lowest and best bid, the reason for such conclusion shall be recorded. Whenever the board of county commissioners rejects the written recommendation of the requisitioning official pertaining to a special item, the reasons for the rejection shall be entered in their minutes and stated in a letter to the requisitioning official and county purchasing agent;

5. The county purchasing agent shall notify the successful bidders and shall maintain a copy of the notification. The county purchasing agent shall prepare and maintain a vendors list specifying the successful bidders and shall notify each county officer of the list. The county purchasing agent may remove any vendor from such list who refuses to provide goods or services as

provided by contract if the removal is authorized by the board of county commissioners. The county purchasing agent may make purchases from the successful bidders for a price at or below the bid price. If a vendor who is the low bidder cannot or will not sell goods or services as required by a county bid contract, the county purchasing agent may purchase from the next low bidder or take quotations as provided in paragraph 6 of this subsection, provided, however, such purchase does not exceed Ten Thousand Dollars ($10,000.00); and

6. When bids have been solicited as provided for by law and no bids have been received, the procedure shall be as follows:

a. the county purchasing agent shall determine if potential vendors are willing to commit to a firm price for a reduced period of time, and, if such is the case, the bid procedure described in this subsection shall be followed, or

b. if vendors are not willing to commit to a firm price for a reduced period, the purchasing agent shall solicit and record at least three quotes of current prices available to the county and authorize the purchase of goods <u>or services</u> based on the lowest and best quote as it becomes necessary to acquire such goods <u>or services</u>. The quotes shall be recorded on a form prescribed by the State Auditor and Inspector and shall be attached to the purchase order and filed with the county clerk's copy of the purchase order. Any time the lowest quote was not considered to be the lowest and best quote, the reason for this conclusion shall be recorded by the county purchasing agent and transmitted to the county clerk, or

c. if three quotes are not available, a memorandum to the county clerk from the county purchasing agent shall describe the basis upon which a purchase is authorized. The memorandum shall state the reasons why the price for such a purchase is the lowest and best under the circumstances. The county clerk shall then attach the memorandum to the county clerk's copy of the purchase order and file both in the office of the county clerk.

C. After selection of a vendor, the procedure for the purchase, lease-purchase, or rental of supplies, materials, ~~and~~ equipment and information technology and telecommunication goods and services used by a county shall be as follows:

1. The county purchasing agent shall prepare a purchase order in quadruplicate and submit it with a copy of the requisition to the county clerk;

2. The county clerk shall then encumber the amount stated on the purchase order and assign a sequential number to the purchase order;

3. If there is an unencumbered balance in the appropriation made for that purpose by the county excise board, the county clerk shall so certify in the following form:

I hereby certify that the amount of this encumbrance has been entered against the designated appropriation accounts and that this encumbrance is within the authorized available balance of said appropriation.

Dated this ________ day of ________, 20__.

____

County Clerk/Deputy

of _____________________ County.

In instances where it is impossible to ascertain the exact amount of the indebtedness sought to be incurred at the time of recording the encumbrance, an estimated amount may be used. No purchase order shall be valid unless signed by the county purchasing agent and certified by the county clerk; and

4. The county clerk shall file a copy of the purchase order and return the original purchase order and two copies to the county purchasing agent who shall file a copy, retain the other copy for the county road and bridge inventory officer if the purchase order is for the purchase of equipment, supplies, or materials for the

construction or maintenance of roads and bridges, and submit the original purchase order to the receiving officer of the requesting department.

D. 1. The procedure for the purchase of supplies, materials, ~~and~~ equipment and information technology and telecommunication goods and services at public auction or by sealed bid to be used by a county shall be as follows:

a. the county purchasing agent shall prepare a purchase order in quadruplicate and submit it with a copy of the requisition to the county clerk,

b. the county clerk shall then encumber the amount stated on the purchase order and assign a sequential number to the purchase order,

c. if there is an unencumbered balance in the appropriation made for that purpose by the county excise board, the county clerk shall so certify in the following form:

I hereby certify that the amount of this encumbrance has been entered against the designated appropriation accounts and that this encumbrance is within the authorized available balance of said appropriation.

Dated this ________ day of ________, 20__.

____

County Clerk/Deputy

of ____________________ County.

In instances where it is impossible to ascertain the exact amount of the indebtedness sought to be incurred at the time of recording the encumbrance, an estimated amount may be used. No purchase order shall be valid unless signed by the county purchasing agent and certified by the county clerk, and

d. the county clerk shall file a copy of the purchase order and return the original purchase order and two copies to the county purchasing agent who shall file a copy, retain the other copy for the county road and bridge inventory officer if the purchase order is for the purchase of equipment, supplies, or materials for the construction or maintenance of roads and bridges, and submit the original purchase order to the receiving officer of the requesting department.

2. The procedure for the purchase of supplies, materials and equipment at a public auction when the purchase will be made with the proceeds from the sale of county property at the same public auction are as follows:

a. the purchasing agent shall cause such items being sold to be appraised in the manner determined in Section 421.1 of this title,

b. the county purchasing agent shall prepare a purchase order in quadruplicate and submit it with a copy of the requisition to the county clerk,

c. the county clerk shall then encumber the amount of the appraised value and any additional funds obligated by the county on the purchase order and assign a sequential number to the purchase order,

d. the county clerk shall certify that the amount of the encumbrance is equal to the appraised value of the item being sold plus any additional funds obligated by the county. In effect the recording of the encumbrance is an estimate that is authorized by law. No purchase order shall be valid unless signed by the county purchasing agent and certified by the county clerk,

e. the county clerk shall file a copy of the purchase order and return the original purchase order and two copies to the county purchasing agent who shall file a copy, retain a copy for the county road and bridge inventory officer if the purchase order is for the purchase of equipment, supplies or materials for the construction or maintenance of roads and bridges, and submit the original purchase order to the receiving officer of the requesting department, and

f. a purchase shall not be bid until such time that the appraised item or items are sold. Any item or items purchased shall not exceed the appraised value plus any additional funds obligated by the county or the actual selling price of the item or items, whichever is the lesser amount.

E. The procedure for the receipt of items shall be as follows:

1. A receiving officer for the requesting department shall be responsible for receiving all items delivered to that department;

2. Upon the delivery of an item, the receiving officer shall determine if a purchase order exists for the item being delivered;

3. If no such purchase order has been provided, the receiving officer shall refuse delivery of the item;

4. If a purchase order is on file, the receiving officer shall obtain a delivery ticket, bill of lading, or other delivery document and compare it with the purchase order. If any item is back ordered, the back order and estimated date of delivery shall be noted in the receiving report;

5. The receiving officer shall complete a receiving report in quadruplicate which shall state the quantity and quality of goods delivered. The receiving report form shall be prescribed by the State Auditor and Inspector. The person delivering the goods shall acknowledge the delivery by signature, noting the date and time;

6. The receiving officer shall file the original receiving report and submit:

a. the original purchase order and a copy of the receiving report to the county purchasing agent, and

b. a copy of the receiving report with the delivery documentation to the county clerk;

7. The county purchasing agent shall file the original purchase order and a copy of the receiving report;

8. Upon receipt of the original receiving report and the delivery documentation, the county clerk shall maintain a file until such time as an invoice is received from the vendor;

9. The invoice shall state the name and address of the vendor and must be sufficiently itemized to clearly describe each item purchased, the unit price when applicable, the number or volume of each item purchased, the total price, the total purchase price, and the date of the purchase;

10. Upon receipt of an invoice, the county clerk shall compare the following documents:

a. requisition,

b. purchase order,

c. invoice with noncollusion affidavit as required by law,

d. receiving report, and

e. delivery document.

The documents shall be available for public inspection during regular business hours; and

11. If the documents conform as to the quantity and quality of the items, the county clerk shall prepare a warrant for payment according to procedures provided for by law.

F. The following procedures are for the processing of purchase orders:

1. Purchase orders may be allowed and paid at the first meeting of the board of county commissioners five (5) business days after presentation for payment, provided that purchase orders for the salaries of the county officers and their full-time assistants, deputies and employees may be allowed and paid immediately after filing;

2. The board of county commissioners shall consider the purchase orders so presented and act upon the purchase orders, by allowing in full or in part or by holding for further information or disallowing the same. The disposition of purchase orders shall be indicated by the board of county commissioners, showing the amounts allowed or disallowed and shall be signed by at least two members of the board of county commissioners. Any claim held over for further information shall be acted upon by allowing or disallowing same at any future meeting of the board held within seventy-five (75) days from the date of filing of the purchase order. Any purchase order not acted upon within the seventy-five (75) days from the date of

filing shall be deemed to have been disallowed, but such disallowance shall not prevent the refiling of the purchase order at the proper time; and

3. Whenever any allowance, either in whole or in part, is made upon any purchase order presented to the board of county commissioners and is accepted by the person making the claim, such allowance shall be a full settlement of the entire purchase order and provided that the cashing of warrant shall be considered as acceptance by the claimant.

G. The procedure upon consumption or disposal of supplies, materials, or equipment shall be as follows:

1. For consumable road or bridge items or materials, a quarterly report of the road and bridge projects completed during such period shall be prepared and kept on file by the consuming department. The quarterly report may be prepared and kept electronically by the consuming department. The report shall contain a record of the date, the place, and the purpose for the use of the road or bridge items or materials. For purposes of identifying county bridges, the board of county commissioners shall number each bridge subject to its jurisdiction; and

2. For disposal of all equipment <u>and information technology and telecommunication goods</u> which originally cost more than Five Hundred Dollars ($500.00), resolution of disposal shall be submitted by the officer on a form prescribed by the State Auditor and Inspector's

Office to the board of county commissioners. The approval of the resolution of disposal shall be entered into the minutes of the board.

H. Inventory forms and reports shall be retained for not less than two (2) years after all audit requirements for the state and federal government have been fulfilled and after any pending litigation involving the forms and reports has been resolved.

I. The procedures provided for in this section shall not apply when a county officer certifies that an emergency exists requiring an immediate expenditure of funds. Such an expenditure of funds shall not exceed Five Thousand Dollars ($5,000.00). The county officer shall give the county purchasing agent a written explanation of the emergency. The county purchasing agent shall attach the written explanation to the purchase order. The purchases shall be paid by attaching a properly itemized invoice, as described in this section, to a purchase order which has been prepared by the county purchasing agent and submitting them to the county clerk for filing, encumbering, and consideration for payment by the board of county commissioners.

SECTION 6. AMENDATORY 62 O.S. 2011, Section 34.11.1, as last amended by Section 56 of Enrolled Senate Bill No. 977 of the 1st Session of the 54th Oklahoma Legislature, is amended to read as follows:

Section 34.11.1. A. There is hereby created the position of Chief Information Officer who shall be appointed by the Governor. The Chief Information Officer, in addition to having authority over the Information Services Division of the Office of Management and Enterprise Services, shall also serve as Secretary of Information Technology and Telecommunications or successor cabinet position and shall have jurisdictional areas of responsibility related to information technology and telecommunications systems of all state agencies as provided for in ~~the Oklahoma Information Services Act~~ state law. The salary of the Chief Information Officer shall not be less than One Hundred Thirty Thousand Dollars ($130,000.00) or more than One Hundred Sixty Thousand Dollars ($160,000.00). ~~The first Chief Information Officer shall be appointed no later than January 1, 2010.~~

B. Any person appointed to the position of Chief Information Officer shall meet the following eligibility requirements:

1. A baccalaureate degree in Computer Information Systems, Information Systems or Technology Management, Business Administration, Finance, or other similar degree;

2. A minimum of ten (10) years of professional experience with responsibilities for management and support of information systems and information technology, including seven (7) years of direct management of a major information technology operation;

3. Familiarity with local and wide-area network design, implementation, and operation;

4. Experience with data and voice convergence service offerings;

5. Experience in developing technology budgets;

6. Experience in developing requests for proposal and administering the bid process;

7. Experience managing professional staff, teams, and consultants;

8. Knowledge of telecommunications operations;

9. Ability to develop and set strategic direction for information technology and telecommunications and to manage daily development and operations functions;

10. An effective communicator who is able to build consensus;

11. Ability to analyze and resolve complex issues, both logical and interpersonal;

12. Effective verbal and written communications skills and effective presentation skills, geared toward coordination and education;

13. Ability to negotiate and defuse conflict; and

14. A self-motivator, independent, cooperative, flexible and creative.

C. The salary and any other expenses for the Chief Information Officer shall be budgeted as a separate line item through the Office of Management and Enterprise Services. The operating expenses of the Information Services Division shall be set by the Chief Information Officer and shall be budgeted as a separate line item through the Office of Management and Enterprise Services. The Office of Management and Enterprise Services shall provide adequate office space, equipment and support necessary to enable the Chief Information Officer to carry out the information technology and telecommunications duties and responsibilities of the <u>Chief Information</u> Officer and the Information Services Division.

D. 1. Within twelve (12) months of appointment, the first Chief Information Officer shall complete an assessment<u>, which shall be modified annually pursuant to Section 35.5 of this title,</u> of the implementation of the transfer, coordination, and modernization of all information technology and telecommunication systems of all state agencies in the state as provided for in the Oklahoma Information Services Act. The assessment shall include the information technology and telecommunications systems of all institutions within The Oklahoma State System of Higher Education, the Oklahoma State Regents for Higher Education and the telecommunications network known as OneNet <u>as assembled and submitted by the Oklahoma Higher Education Chief Information Officer, as designated by the Oklahoma State Regents for Higher Education</u>.

2. Within twelve (12) months of appointment, the first Chief Information Officer shall issue a report setting out a plan of action which will include the following:

a. define the shared service model organization structure and the reporting relationship of the recommended organization,

b. the implementation of an information technology and telecommunications shared services model that defines the statewide infrastructure environment needed by most state agencies that is not specific to individual agencies and the shared applications that are utilized across multiple agencies,

c. define the services that shall be in the shared services model under the control of the Information Services Division of the Office of Management and Enterprise Services,

d. define the roadmap to implement the proposed shared services model. The roadmap shall include recommendations on the transfer, coordination, and modernization of all information technology and telecommunication systems of all the state agencies in the state,

e. recommendations on the reallocation of information technology and telecommunication resources and personnel,

f. ~~recommendations on maximizing the benefits to the state by the alignment and operation of the communications and data transfer network assets known as OneNet,~~

~~g.~~ a cost benefit analysis to support the recommendations on the reallocation of information technology and telecommunication resources and personnel,

~~h.~~

g. a calculation of the net savings realized through the reallocation and consolidation of information technology and telecommunication resources and personnel after compensating for the cost of contracting with a private consultant as authorized in paragraph 4 of this subsection, implementing the plan of action, and ongoing costs of the Information Services Division of the Office of Management and Enterprise Services, and

~~i.~~

h. the information required in subsection B of Section 35.5 of this title.

3. The plan of action report shall be presented to the Governor, Speaker of the House of Representatives, and the President Pro Tempore of the State Senate.

4. The Chief Information Officer may contract with a private consultant or consultants to assist in the assessment and development of the plan of action report as required in this subsection.

E. ~~Beginning on the effective date of appointment, the~~ The Chief Information Officer shall be authorized to employ personnel, fix the duties and compensation of the personnel, not otherwise prescribed by law, and otherwise direct the work of the personnel in performing the function and accomplishing the purposes of the Information Services Division of the Office of Management and Enterprise Services.

F. ~~Beginning on the effective date of the appointment of the first Chief Information Officer, the~~ The Information Services Division of the Office of Management and Enterprise Services shall be responsible for the following duties:

1. Formulate and implement the information technology strategy for all state agencies;

2. Define, design, and implement a shared services statewide infrastructure and application environment for information technology and telecommunications for all state agencies;

3. Direct the development and operation of a scalable telecommunications infrastructure that supports data and voice communications reliability, integrity, and security;

4. Supervise the applications development process for those applications that are utilized across multiple agencies;

5. Provide direction for the professional development of information technology staff of state agencies and oversee the professional development of the staff of the Information Services Division of the Office of Management and Enterprise Services;

6. Evaluate all technology and telecommunication investment choices for all state agencies;

7. Create a plan to ensure alignment of current systems, tools, and processes with the strategic information technology plan for all state agencies;

8. Set direction and provide oversight for the support and continuous upgrading of the current information technology and telecommunication infrastructure in the state in support of enhanced reliability, user service levels, and security;

9. Direct the development, implementation, and management of appropriate standards, policies and procedures to ensure the success of state information technology and telecommunication initiatives;

10. Recruit, hire and transfer the required technical staff in the Information Services Division of the Office of Management and

Enterprise Services to support the services provided by the Division and the execution of the strategic information technology plan;

11. Establish, maintain, and enforce information technology and telecommunication standards;

12. Delegate, coordinate, and review all work to ensure quality and efficient operation of the Information Services Division of the Office of Management and Enterprise Services;

13. Create and implement a communication plan that disseminates pertinent information to state agencies on standards, policies, procedures, service levels, project status, and other important information to customers of the Information Services Division of the Office of Management and Enterprise Services and provide for agency feedback and performance evaluation by customers of the Division;

14. Develop and implement training programs for state agencies using the shared services of the Information Services Division of the Office of Management and Enterprise Services and recommend training programs to state agencies on information technology and telecommunication systems, products and procedures;

15. Provide counseling, performance evaluation, training, motivation, discipline, and assign duties for employees of the Information Services Division of the Office of Management and Enterprise Services;

16. Approve the purchasing of all information technology and telecommunication products and services for all state agencies;

17. Develop and enforce an overall infrastructure architecture strategy and associated roadmaps for desktop, network, server, storage, and statewide management systems for state agencies;

18. Effectively manage the design, implementation and support of complex, highly available infrastructure to ensure optimal performance, on-time delivery of features, and new products, and scalable growth;

19. Define and implement a governance model for requesting services and monitoring service level metrics for all shared services; and

20. Create the budget for the Information Services Division of the Office of Management and Enterprise Services to be submitted to the Legislature each year.

G. ~~Upon receiving approval of the State Governmental Technology Applications Review Board, the Chief Information Officer shall implement the plan of action as set forth in subsection D of this section; provided, the plan of action for the Department of Human Services shall not be implemented until July 1, 2011.~~ The State Governmental Technology Applications Review Board shall provide ongoing oversight of the implementation of the plan of action required in subsection D of this section. Any proposed amendments to the plan of action shall be approved by the Board prior to adoption. ~~The net savings realized through the reallocation and consolidation of information technology and telecommunication~~

~~resources and personnel after compensating for the up-front costs and ongoing costs of the Information Services Division of the Office of Management and Enterprise Services which are identified and reported in the plan of action shall be realized no later than July 1, 2012, and shall at a minimum be not less than fifteen percent (15%) of the overall statewide information technology and telecommunications expenditures made by all state agencies during the fiscal year ending June 30, 2009.~~

H. 1. ~~Beginning on the effective date of appointment, the~~ The Chief Information Officer shall act as the Information Technology and Telecommunications Purchasing Director for all state agencies and shall be responsible for the procurement of all information technology and telecommunication software, hardware, equipment, peripheral devices, maintenance, consulting services, high technology systems, and other related information technology, data processing, telecommunication and related peripherals and services for all state agencies. The Chief Information Officer shall establish, implement, and enforce policies and procedures for the procurement of information technology and telecommunication software, hardware, equipment, peripheral devices, maintenance, consulting services, high technology systems, and other related information technology, data processing, telecommunication and related peripherals and services by purchase, lease-purchase, lease with option to purchase, lease and rental for all state agencies.

The procurement policies and procedures established by the Chief Information Officer shall be consistent with The Oklahoma Central Purchasing Act ~~and Section 85.7h of Title 74 of the Oklahoma Statutes~~.

2. The Chief Information Officer, or any employee or agent of the Chief Information Officer acting within the scope of delegated authority, shall have the same power and authority regarding the procurement of all information technology and telecommunication ~~technology, equipment, software, products and related peripherals~~ products and services as outlined in paragraph 1 of this subsection for all state agencies as the State Purchasing Director has for all acquisitions used or consumed by state agencies as established in The Oklahoma Central Purchasing Act. Such authority shall, consistent with the authority granted to the State Purchasing Director pursuant to Section 85.10 of Title 74 of the Oklahoma Statutes, include the power to designate financial or proprietary information submitted by a bidder confidential and reject all requests to disclose the information so designated, if the Chief Information Officer requires the bidder to submit the financial or proprietary information with a bid, proposal, or quotation.

I. The Information Services Division of the Office of Management and Enterprise Services and the Chief Information Officer shall be subject to The Oklahoma Central Purchasing Act for the approval and purchase of equipment and products not related to information and telecommunications technology, equipment, software, products and related peripherals and services and shall also be subject to the requirements of the Public Competitive Bidding Act of 1974, the Oklahoma Lighting Energy Conservation Act and the Public Building Construction and Planning Act when procuring data processing, information technology, telecommunication, and related peripherals and services and when constructing information technology and telecommunication facilities, telecommunication networks and supporting infrastructure. The Chief Information Officer shall be authorized to delegate all or some of the procurement of information technology and telecommunication products and services and construction of facilities and telecommunication networks to another state entity if the Chief Information Officer determines it to be cost-effective and in the best interest of the state. The Chief Information Officer shall have authority to designate information technology and telecommunication contracts as statewide contracts and mandatory statewide contracts pursuant to Section 85.5 of Title 74 of the Oklahoma Statutes <u>and to negotiate consolidation contracts, enterprise agreements and high technology systems contracts in lieu of or in conjunction with bidding procedures to reduce acquisition costs</u>. Any contract entered into by a state agency for which the Chief Information Officer has not acted as the Information Technology and Telecommunications Purchasing Director as required in this subsection or subsection H of this section, shall be deemed to be unenforceable and the Office of Management and Enterprise Services shall not process any claim associated with the provisions thereof.

J. ~~The Chief Information Officer shall establish and implement charges and a system to assess the charges to state agencies for their use of shared information technology and telecommunication services subject to the approval of the State Governmental Technology Applications Review Board.~~

~~K.~~ The Chief Information Officer shall establish, implement, and enforce policies and procedure for the development and procurement of an interoperable radio communications system for state agencies. The Chief Information Officer shall work with local governmental entities in developing the interoperable radio communications system.

~~L.~~ K. The Chief Information Officer shall develop and implement a plan to utilize open source technology and products for the information technology and telecommunication systems of all state agencies.

~~M.~~ L. All state agencies and authorities of this state and all officers and employees of those entities shall work and cooperate with and lend assistance to the Chief Information Officer and the Information Services Division of the Office of Management and Enterprise Services and provide any and all information requested by the Chief Information Officer.

~~N.~~ M. The Chief Information Officer shall prepare an annual report detailing the ongoing net saving attributable to the reallocation and consolidation of information technology and telecommunication resources and personnel and shall submit the report to the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate.

~~O.~~ N. For purposes of the Oklahoma Information Services Act, unless otherwise provided for, "state agencies" shall include any office, officer, bureau, board, commission, counsel, unit, division, body, authority or institution of the executive branch of state government, whether elected or appointed; provided, except with respect to the provisions of subsection D of this section, the term "state agencies" shall not include institutions within The Oklahoma State System of Higher Education, the Oklahoma State Regents for Higher Education and the telecommunications network known as OneNet.

O. As used in this section:

1. “High technology system” means advanced technological equipment, software, communication lines, and services for the processing, storing, and retrieval of information by a state agency;

2. “Consolidation contract” means a contract for several state or public agencies for the purpose of purchasing information technology and telecommunication goods and services; and

3. “Enterprise agreement” means an agreement for information technology or telecommunication goods and services with a supplier

who manufactures, develops and designs products and provides services that are used by one or more state agencies.

SECTION 7. AMENDATORY 62 O.S. 2011, Section 34.11.2, is amended to read as follows:

Section 34.11.2. A. There is hereby established the Oklahoma State Government 2.0 Initiative.

B. The State Governmental Technology Applications Review Board shall consider and approve a standardized social media policy for use by state agencies, boards, commissions and public trusts having the State of Oklahoma as a beneficiary.

C. The board shall establish open technology standards and a schedule by which state agencies, boards, commissions and public trusts having the State of Oklahoma as a beneficiary shall utilize these standards to provide citizens with web-based interactivity to state government services. Whenever possible these standards shall match commonly used standards by other government entities.

D. The board shall set a schedule by which state agencies, boards, commissions and public trusts having the State of Oklahoma as a beneficiary shall publish and update convenience information sets which shall be accessible through standardized application programming interfaces and published in standardized formats including but not limited to eXtensible Markup Language (XML) and Comma Separated Value (CSV) formats. The board shall establish application programming interface standards which enable access to convenience information sets. The schedule shall place an emphasis on first making accessible convenience information sets most commonly requested in open records requests. A directory and link to all available convenience information sets shall be prominently featured on the portal system referenced in Section 34.24 of this title and if possible linked to the "data.ok.gov" web portal.

E. The board may conduct events and contests to provide recognition of software application development provided that the application being recognized utilizes standards established in this section to the benefit of the citizens of Oklahoma.

F. The board shall establish an application process through which applicants can request the scheduled implementation of application programming interfaces, creation of open technology standards and publication of convenience information sets pursuant to the provisions of this section. Instructions regarding the application process shall be prominently featured on the portal system referenced in Section 34.24 of this title.

G. State agencies, boards, commissions and public trusts having the State of Oklahoma as a beneficiary shall comply with the policies, schedules and standards established by this section.

H. ~~The board shall implement standardized policies by which state agencies may accept terms of service related to liability issues for the usage of social media services, contracts for technology products and technology service contracts provided the~~

~~liability clause in the terms of service or contract contains standard language including a liability agreement which is considered customary or largely similar to terms of service agreed to or contracts entered into by other government entities and private sector enterprises.~~

~~I.~~ The board shall promulgate performance <u>information</u> metrics and guidelines which shall be used to establish criteria which govern participation in the "State Government Employee Performance Transparency Pilot Program". The board shall set a schedule for the publication of performance information metrics through the "data.ok.gov" website.

~~J.~~ <u>I.</u> For the purposes of this section, "open technology standards" are widely accepted standards and mechanisms for the web-based connectivity and asynchronous communication between software programs. "Application programming interface" is a standardized interface enabling a standard form of connectivity between convenience information sets and software programs, "performance information metrics" are sets of information which reflect the performance of state employees and state agencies, and "convenience information sets" are sets of information which are subject to public access under the Oklahoma Open Records Act and which do not contain personally identifiable information.

SECTION 8. AMENDATORY 62 O.S. 2011, Section 34.11.7, is amended to read as follows:

Section 34.11.7. A. The State Governmental Technology Applications Review Board shall establish performance reporting metrics for each state employee who begins participating in telework following the effective date of this act. These reports shall be published through the "data.ok.gov" website.

B. Prior to the lease, purchase, rental or issuance of bonds for the use of additional office space, a state ~~agencies~~ agency shall receive certification from the State Governmental Technology Applications Review Board that ~~no~~ the lease, purchase, rental or issuance of bonds is necessary, after considering the extent to which state employee jobs in that agency can be performed through telework.

C. The Oklahoma Healthcare Authority shall authorize one division of employees to participate in a telework pilot program pursuant to the terms of this section.

D. For the purposes of this section, "performance reporting metrics" shall mean a set of criteria which demonstrates the quantity and quality of work. "Telework" shall mean work which is performed outside of the traditional on-site work environment.

SECTION 9. AMENDATORY 62 O.S. 2011, Section 34.12, as last amended by Section 58 of Enrolled Senate Bill No. 977 of the 1st Session of the 54th Oklahoma Legislature, is amended to read as follows:

Section 34.12. A. The Information Services Division of the Office of Management and Enterprise Services shall:

1. Coordinate information technology planning through analysis of the long-term information technology plans for each agency;

2. Develop a statewide information technology plan with annual modifications to include, but not be limited to, individual agency plans and information systems plans for the statewide electronic information technology function;

3. Establish and enforce minimum mandatory standards for:

   a. information systems planning,

   b. systems development methodology,

   c. documentation,

   d. hardware requirements and compatibility,

   e. operating systems compatibility,

   f. acquisition of software, hardware and technology-related services,

   g. information security and internal controls,

   h. data base compatibility,

   i. contingency planning and disaster recovery, and

   j. imaging systems, copiers, facsimile systems, printers, scanning systems and any associated supplies.

The standards shall, upon adoption, be the minimum requirements applicable to all agencies. These standards shall be compatible with the standards established for the Oklahoma Government

Telecommunications Network. Individual agency standards may be more specific than statewide requirements but shall in no case be less than the minimum mandatory standards. Where standards required of an individual agency of the state by agencies of the federal government are more strict than the state minimum standards, such federal requirements shall be applicable;

4. Develop and maintain applications for agencies not having the capacity to do so;

5. Operate ~~an information technology~~ a data service center to provide operations and hardware support for agencies requiring such services and for statewide systems;

6. Maintain a directory of the following which have a value of Five Hundred Dollars ($500.00) or more: application systems, systems software, hardware, internal and external information technology, communication or telecommunication equipment owned, leased, or rented for use in communication services for state government, including communication services provided as part of any other total system to be used by the state or any of its agencies, and studies and training courses in use by all agencies of the state; and facilitate the utilization of the resources by any agency having requirements which are found to be available within any agency of the state;

7. Assist agencies in the acquisition and utilization of information technology systems and hardware to effectuate the

maximum benefit for the provision of services and accomplishment of the duties and responsibilities of agencies of the state;

8. Coordinate for the executive branch of state government agency information technology activities, encourage joint projects and common systems, linking of agency systems through the review of agency plans, review and approval of all statewide contracts for software, hardware and information technology consulting services and development of a statewide plan and its integration with the budget process to ensure that developments or acquisitions are consistent with statewide objectives and that proposed systems are justified and cost effective;

9. Develop performance reporting guidelines for information technology facilities and conduct an annual review to compare agency plans and budgets with results and expenditures;

10. Establish operations review procedures for information technology installations operated by agencies of the state for independent assessment of productivity, efficiency, cost effectiveness, and security;

11. Establish ~~service~~ data center user charges for billing costs to agencies based on the use of all resources;

12. Provide system development and consultant support to state agencies on a contractual, cost reimbursement basis; and

13. In conjunction with the Oklahoma Office of Homeland Security, enforce the minimum information security and internal

control standards established by the Information Services Division. An enforcement team consisting of the Chief Information Officer of the Information Services Division or a designee, a representative of the Oklahoma Office of Homeland Security, and a representative of the Oklahoma State Bureau of Investigation shall enforce the minimum information security and internal control standards. If the enforcement team determines that an agency is not in compliance with the minimum information security and internal control standards, the Chief Information Officer shall take immediate action to mitigate the noncompliance, including the removal of the agency from the infrastructure of the state until the agency becomes compliant, taking control of the information technology function of the agency until the agency is compliant, and transferring the administration and management of the information technology function of the agency to the Information Services Division or another state agency.

B. No agency of the executive branch of the state shall use state funds for or enter into any agreement for the acquisition of any category of computer hardware, software or any contract for information technology or telecommunication services and equipment, service costs, maintenance costs, or any other costs or fees associated with the acquisition of the services or equipment, without written authorization of the Chief Information Officer or a designee. If written authorization is not obtained prior to incurring an expenditure or entering into any agreement as required in this subsection or as required in Section 35.4 of this title, the Office of Management and Enterprise Services may not process any claim associated with the expenditure and the provisions of any agreement shall not be enforceable. The provisions of this subsection shall not be applicable to any member of The Oklahoma State System of Higher Education, any public elementary or secondary schools of the state, any technology center school district as defined in Section 14-108 of Title 70 of the Oklahoma Statutes, or CompSource Oklahoma ~~if CompSource Oklahoma is operating pursuant to a pilot program authorized by Sections 3316 and 3317 of Title 74 of the Oklahoma Statutes~~.

C. The Chief Information Officer and Information Services Division of the Office of Management and Enterprise Services and all agencies of the executive branch of the state shall not be required to disclose, directly or indirectly, any information of a state agency which is declared to be confidential or privileged by state or federal statute or the disclosure of which is restricted by agreement with the United States or one of its agencies, nor disclose information technology system details that may permit the access to confidential information or any information affecting personal security, personal identity, or physical security of state assets.

SECTION 10. AMENDATORY 62 O.S. 2011, Section 34.13, as amended by Section 346, Chapter 304, O.S.L. 2012 (62 O.S. Supp. 2012, Section 34.13), is amended to read as follows:

Section 34.13. The Information Services Division of the Office of Management and Enterprise Services shall, at the end of each month, render a statement of charges to all state agencies to which it has furnished processing services for the direct costs of the Data Service Center of the <u>Information Services</u> Division<u>, which shall be timely paid</u>. In total, the charges shall not exceed the direct costs of the Data Service Center of the <u>Information Services</u> Division. Systems analysts and programming services costs shall be recovered directly from the agency for which the service was rendered, as agreed to by that agency, and shall not be prorated to agencies not receiving such services. <u>If the charges or programming services costs are not timely paid by a state agency, the Information Services Division may request the Division of Central Accounting and Reporting of the Office of Management and Enterprise Services to create vouchers and process payments to the Information Services Division against the funds of the delinquent agency.</u> All amounts so collected shall be deposited in the State Treasury to the credit of the General Revenue Fund.

SECTION 11. AMENDATORY 62 O.S. 2011, Section 34.19, as amended by Section 351, Chapter 304, O.S.L. 2012 (62 O.S. Supp. 2012, Section 34.19), is amended to read as follows:

Section 34.19. A. The Information Services Division of the Office of Management and Enterprise Services is directed, authorized and empowered to enter into contracts for, to establish criteria for and manage the installation, maintenance and administration of a central communication or intercommunication system for and upon behalf of this state. The installation shall fulfill communication or intercommunications requirements of this state and its agencies located in the Capitol and those buildings situated on the Capitol grounds, known as the "Capitol Complex" in Oklahoma City, Oklahoma, the state-owned building known as the "Tulsa Capitol Building" in Tulsa, Oklahoma, buildings which house state agencies located within four (4) miles of the Capitol Complex, and any location used for the administration of the information technology and telecommunication infrastructure and security for the state.

B. The Information Services Division shall render a statement of charges at the end of each month to all state agencies to which it has furnished communications services for the direct cost sustained~~, provided that~~, which shall timely be paid. If the charges are not timely paid by a state agency, the Information Services Division may request the Division of Central Accounting and Reporting of the Office of Management and Enterprise Services to create vouchers and process payments to the Information Services Division against the funds of the delinquent agency. The following provisions shall apply to the charges:

1. A pro rata formula is to be established in writing after giving consideration to the type of service furnished, the number and kinds of instruments used, the cost of operation and special installations required in each such agency in relation to the total cost of local service. The formula, once determined, is not to be redetermined more often than once every six (6) months nor to be changed after any such redetermination before the expiration of six (6) months; and

2. The Information Services Division is to be reimbursed by the state or any of its agencies for actual cost incurred for equipment installation or modification or for toll charges for use of telephone, telegraph, teletype, data communications, Internet, eGovernment, as referenced in Sections 34.24 and 34.25 of this title, or other form or forms of communication or intercommunication incurred by the state or by any agency.

C. No telephone, teletype, switchboard, line, cable system, data communication system, Internet, eGovernment, or systems of communication or intercommunication are to be installed in any building or buildings owned, rented, leased or otherwise held by this state or its agencies at locations described in subsection A of this section without written order of the Chief Information Officer or a designee. Provided, however, that acquisition and installation of such equipment in the Legislature shall be subject to the final approval of the Speaker of the House of Representatives or the President Pro Tempore of the Senate as appropriate.

SECTION 12. AMENDATORY 62 O.S. 2011, Section 34.21, as last amended by Section 60 of Enrolled Senate Bill No. 977 of the 1st Session of the 54th Oklahoma Legislature, is amended to read as follows:

Section 34.21. A. No agency of the executive branch of the state shall use state funds for or enter into any agreement for the acquisition, development or enhancement of a communication or telecommunication system including voice, data, radio, video, Internet, eGovernment, as referenced in Sections 34.24 and 34.25 of this title, printers, scanners, copiers, facsimile systems and associated supplies, service costs, maintenance costs, or any other costs or fees associated with the acquisition of the system or equipment, without written authorization of the Chief Information Officer or a designee. The Chief Information Officer or a designee shall verify that any acquisition, development or enhancement is compatible with the operation of the Oklahoma Government Telecommunications Network.

B. No agency of the executive branch of the state shall enter into any agreement for the acquisition, development or enhancement of a communication or telecommunication system or service including voice, data, radio, video, Internet, eGovernment, printers, scanners, copiers, and facsimile systems, unless the cost of such addition, change, improvement or development has been included in the statewide communications plan of the Information Services Division of the Office of Management and Enterprise Services, as said plan may have been amended or revised.

C. State agencies may enter into interagency contracts to share communications and telecommunications resources for mutually beneficial purposes. The contract shall clearly state how its purpose contributes to the development or enhancement or cost reduction of a state network which includes voice, data, radio, video, Internet, eGovernment, or facsimile systems. The contract shall be approved by the Information Services Division before any payments are made.

D. The provisions of subsections A, B and C of this section shall not apply to the telecommunications network known as OneNet whether said network is governed or operated by the Oklahoma State Regents for Higher Education or any other state entity assigned responsibility for OneNet.

E. The provisions of this section shall not apply to CompSource Oklahoma ~~if CompSource Oklahoma is operating pursuant to a pilot program authorized by Sections 3316 and 3317 of Title 74 of the Oklahoma Statutes~~.

F. No state agency shall use state funds or enter into any agreement for the acquisition, development or enhancement of a public safety communication system unless the request is consistent with the Statewide Communications Interoperability Plan and the public safety communications standards issued by the Oklahoma Office of Homeland Security. Agencies interested in acquiring, developing or enhancing a public safety communications system shall submit a proposal to the Oklahoma Office of Homeland Security. The Oklahoma Office of Homeland Security shall issue a proposal review which summarizes whether the proposal is consistent with the Statewide Communications Interoperability Plan and the technology standards issued. The proposal review shall be submitted to the requesting agency and to the Chief Information Officer.

SECTION 13. AMENDATORY 62 O.S. 2011, Section 34.24.1, as amended by Section 357, Chapter 304, O.S.L. 2012 (62 O.S. Supp. 2012, Section 34.24.1), is amended to read as follows:

Section 34.24.1. A. Except as ~~otherwise provided by this section, as of July 1, 2010~~ exempted pursuant to Section 34.27 of this title, each state agency, board, commission or other entity organized within the executive department of state government responsible for licensing or permitting shall utilize the portal system to allow for a link to a web-based application and renewal application for any license or permit issued by that agency. Access to the online renewal systems shall be featured prominently on the portal system.

B. Each entity responsible for licensing or permitting shall make available to the Office of Management and Enterprise Services on a yearly basis a report describing the number of licenses issued, license renewals and permits issued as well as an estimate of the amount of savings incurred by the entity as a result of the online licensing and permitting process.

C. The Office of Management and Enterprise Services shall make available to the public a copy of each report submitted in accordance with the requirements of subsection B of this section by placing the report on the website defined in Section 46 of this title.

D. ~~The Director of the Office of Management and Enterprise Services may exempt a specific license or permit from the requirements of this section should he find compelling evidence that the issuance of the license or permit requires the provision of information that cannot be provided through an online licensing or permitting process and when the failure of the applicant to provide the information would create a significant risk to the integrity of the license or permit. The Director of the Office of Management and Enterprise Services shall document any exemptions issued pursuant to the provisions of this subsection and describe the compelling evidence justifying the need for the exemptions in a report to be provided to the Governor, Speaker of the Oklahoma House of Representatives and Speaker Pro Tempore of the State Senate. The exception provided for in this subsection shall not apply to license~~

~~renewals pursuant to the Oklahoma Vehicle License and Registration Act of Title 47 of the Oklahoma Statutes.~~

~~E.~~ The state agencies may accept an electronic signature in the application process for any license or permit; provided, the use of an electronic signature shall not create a significant risk to the integrity of the license or permit.

~~F.~~ E. Nothing in this section shall apply to driver license renewal applications.

SECTION 14. AMENDATORY 62 O.S. 2011, Section 34.25, as amended by Section 358, Chapter 304, O.S.L. 2012 (62 O.S. Supp. 2012, Section 34.25), is amended to read as follows:

Section 34.25. A. ~~Subject to review and adoption as outlined in Section 34.27 of this title, a~~ A state agency, board, commission, or authority ~~is hereby authorized to charge a convenience~~ may obtain reimbursement of a merchant fee ~~for~~ incurred in connection with any electronic or online transaction. ~~A convenience fee shall apply to electronic or online transactions only and shall not apply when accessing information provided through state government websites. If a state entity sets a convenience fee for electronic or online transactions, the fee shall be reviewed by the State Governmental Internet Applications Review Board as provided for in Section 34.27 of this title.~~

B. Subject to review and approval as provided by Section 34.27 of this title, unless otherwise permitted by law, a state agency, board, commission or authority may charge a convenience fee for a manual transaction. Each state entity shall keep a record of how the convenience fee has been determined and shall file the record with the Information Services Division of the Office of Management and Enterprise Services. A state agency, board, commission, or authority may periodically adjust a convenience fee as needed upon review and ~~adoption~~ approval as provided for in Section 34.27 of this title.

~~B.~~ C. For purposes of this section~~, "convenience~~:

1. "Merchant fee" shall mean and be limited to the cost of a charge imposed by a third-party credit card or debit card issuer that is necessary to process an electronic or online transaction with a state agency, board, commission or authority~~. The fee shall be limited to bank processing fees and financial transaction fees, the cost of providing for secure transaction, portal fees, and fees necessary to compensate for increased bandwidth incurred as a result of providing for an online transaction~~;

2. "Convenience fee" shall mean a fee charged to partially compensate for costs incurred as a result of providing for a manual transaction; and

3. "Manual transaction" shall mean a transaction that is not conducted online or electronically if the transaction is made available online or electronically.

SECTION 15. AMENDATORY 62 O.S. 2011, Section 34.27, as amended by Section 360, Chapter 304, O.S.L. 2012 (62 O.S. Supp. 2012, Section 34.27), is amended to read as follows:

Section 34.27. A. There is hereby established the State Governmental Technology Applications Review Board. The Board shall ~~review and make recommendations to the Information Services Division of the Office of Management and Enterprise Services concerning state governmental Internet-based electronic or online transactions or applications being provided by state agencies, boards, commissions, or authorities for use by the public, provide oversight for implementation of the plan of action developed by the Chief Information Officer and advise the Chief Information Officer.~~

~~B. The State Governmental Technology Applications Review Board shall~~ be composed of the following members:

1. The Director of the Office of Management and Enterprise Services or a designee;

2. Four representatives from different state agencies, boards, commissions, or authorities to be appointed by the Governor, at least one of which shall be employed by a law enforcement agency;

3. Two members who are not state government employees to be appointed by the Speaker of the House of Representatives; and

4. Two members who are not state government employees to be appointed by the President Pro Tempore of the Senate.

~~C.~~ B. Members of the Board shall serve for terms of two (2) years. The Board shall select a chair from among its members.

~~D.~~ C. Members of the Board shall not receive compensation for serving on the Board, but shall be reimbursed for travel expenses incurred in the performance of their duties by their respective agencies or appointing authority in accordance with the State Travel Reimbursement Act.

D. Notwithstanding any other section of law, any member of the Board attending a meeting via teleconference shall be counted as being present in person and shall count toward the determination of whether a quorum of the Board is present at the meeting.

E. The Board shall have the duty and responsibility of:

1. Reviewing ~~a schedule of convenience fees, as is defined in Section 34.25 of this title, and~~ for approval all convenience fees as defined in Section 34.25 of this title and changes in convenience fees charged by state agencies, boards, commissions, or authorities ~~for electronic or online transactions, and making recommendations pertaining to convenience fees to the Information Services Division prior to its adoption by rule of such fees, changes to fees, or fee schedule~~;

2. Monitoring all portal systems and applications for portal systems created by state agencies, boards, commissions, or authorities, reviewing portal systems applications approved or denied by the Information Services Division of the Office of

Management and Enterprise Services, and making recommendations to the Legislature and Governor to encourage greater use of the open-systems concept as is defined in Section 34.26 of this title;

3. ~~Approving the plan of action developed by the Chief Information Officer as provided for in Section 34.11.1 of this title, providing~~ Granting an exemption for a specific license or permit to a state agency from the requirements of Section 34.24.1 of this title. The exception shall be limited in time as warranted by the circumstances and the Board is presented compelling evidence that the issuance of the license or permit requires the provision of information that cannot be provided through an online licensing or permitting process and that the failure of the applicant to provide the information would create a significant risk to the integrity of the license or permit. The exception provided for in this paragraph shall not apply to license renewals pursuant to the Oklahoma Vehicle License and Registration Act;

4. Providing ongoing oversight of implementation of the plan of action developed by the Chief Information Officer pursuant to Section 34.11.1 of this title and approving any amendments to the plan of action;

~~4.~~ 5. Approving charges to state agencies established by the ~~Chief~~ Information ~~Officer~~ Services Division pursuant to Section ~~34.11.1~~ 35.5 of this title for ~~their use of~~ shared ~~information~~

~~technology and telecommunications~~ services as defined in Section 35.3 of this title; and

~~5.~~ 6. Functioning in an advisory capacity to the Chief Information Officer~~; and~~

~~6. Developing performance metrics for quantifying the value of goods or services provided by state agencies and for considering if goods and services provided by a state agency could be modernized through the implementation of new technology to provide better quality goods or services that would result in cost savings or best value~~.

SECTION 16. AMENDATORY 62 O.S. 2011, Section 34.28, as amended by Section 361, Chapter 304, O.S.L. 2012 (62 O.S. Supp. 2012, Section 34.28), is amended to read as follows:

Section 34.28. A. The Information Services Division of the Office of Management and Enterprise Services shall work to assure state compliance regarding accessibility of information technology for individuals with disabilities based on the provisions of Section 508 of the Workforce Investment Act of 1998.

B. When developing, procuring, maintaining or using information technology, or when administering contracts or grants that include the procurement, development, upgrading, or replacement of information technology each state agency shall ensure, unless an undue burden would be imposed on the agency, that the information technology allows employees, program participants, and members of the general public access to use of information and data that is comparable to the access by individuals without disabilities.

C. To assure accessibility, the Information Services Division shall:

1. Adopt accessibility standards that address all technical standard categories of Section 508 of the Workforce Investment Act of 1998 to be used by each state agency in the procurement of information technology, and in the development and implementation of custom-designed information technology systems, Web sites, and other emerging information technology systems;

2. Adopt an accessibility clause which shall be included in all contracts for the procurement of information technology by or for the use of state agencies;

3. Establish and implement a review procedure to be used to evaluate the accessibility of custom-designed information technology systems proposed by a state agency prior to expenditure of state funds;

~~3.~~ 4. Review and evaluate accessibility of information technology commonly purchased by state agencies, and provide accessibility reports on such products to those responsible for purchasing decisions;

~~4.~~ 5. Provide in partnership with Oklahoma Able Tech, the state assistive technology program located at Oklahoma State University, training and technical assistance for state agencies to assure procurement of information technology that meets adopted accessibility standards;

~~5.~~ 6. Consult with the State Department of Rehabilitation Services and individuals with disabilities in accessibility reviews of information technology and in the delivery of training and technical assistance;

~~6.~~ 7. Establish complaint procedures, consistent with Section 508 of the Workforce Development Act of 1998, to be used by an individual who alleges that a state agency fails to comply with the provisions of this section;

~~7.~~ 8. Work with and seek advice from the Electronic and Information Technology Accessibility Advisory Council, created in Section 34.30 of this title in developing accessibility standards and complaint procedures as required in this section; and

~~8.~~ 9. Require state agencies to submit evidence of assurance of compliance with state standards on accessibility of information technology for individuals with disabilities developed in accordance with this section. ~~For executive branch state agencies that are required to submit an annual operating plan pursuant to Section 34.16 of this title evidence of compliance shall be included in that report.~~

D. The ~~Chief Information Officer and the~~ Director of the Office of Management and Enterprise Services shall promulgate rules, as necessary, to implement the provisions of this section.

SECTION 17. AMENDATORY 62 O.S. 2011, Section 34.29, is amended to read as follows:

Section 34.29. As used in Sections ~~41.5t~~ <u>34.28</u> through ~~41.5t.2~~ <u>34.30</u> of this title:

1. "Accessibility" means compliance with nationally accepted accessibility and usability standards, such as those established in Section 508 of the Workforce Investment Act of 1998;

2. "Individual with disabilities" means any individual who is considered to have a disability or handicap for the purposes of any federal or Oklahoma law;

3. "Information technology" means any electronic information equipment or interconnected system that is used in the acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information, including audio, graphic, and text;

4. "State agency" means any office, officer, bureau, board, counsel, court, commission, institution, unit, division, body or house of the executive or judicial branches of the state government, whether elected or appointed, excluding political subdivisions of the state. State agency shall include the Oklahoma State Regents for Higher Education, the institutions, centers, or other constituent agencies of The Oklahoma State System of Higher Education, the State Board of Career and Technology Education and Technology Center school districts; and

5. “Undue burden” means significant difficulty or expense, including, but not limited to, difficulty or expense associated with technical feasibility.

SECTION 18. AMENDATORY 62 O.S. 2011, Section 35.3, as amended by Section 413, Chapter 304, O.S.L. 2012 (62 O.S. Supp. 2012, Section 35.3), is amended to read as follows:

Section 35.3. As used in the Information Technology Consolidation and Coordination Act:

1. "Appropriated state agency" means any state agency that receives funding through the annual legislative appropriations process;

2. "Information technology assets" means any equipment or interconnected system or subsystem of equipment that is used in the acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information. The term shall include computers, ancillary equipment, software, firmware and similar procedures, services, including support services and consulting services, software development, and related resources, and shall further include telecommunications fiber networks used for conveying electronic communication or information systems to multiple physical locations;

3. "Information technology position" means a classified or unclassified position in the following functional areas:

a. applications programming,

b. EDP audit,

c. data examination,

d. computer applications,

e. computer data entry,

f. computer networking,

g. computer operations,

h. computer programming,

i. computer security,

j. computer software design,

k. web applications,

l. database analysis,

m. data management analysis,

n. database development,

o. database programming,

p. software design/development,

q. help desk,

r. imaging,

s. systems analysis,

t. systems application planning,

u. systems application,

v. systems administration,

w. systems coordination,

x. systems integration,

y. systems operation,

z. systems planning/development,

aa. systems programming,

bb. systems engineering,

cc. systems service specialist,

dd. systems support,

ee. network administration,

ff. network management,

gg. network technical,

hh. operating systems specialist,

ii. systems program manager,

jj. telecommunications, whether data or voice,

kk. software training, and

ll. technology development or support;

4. "Nonappropriated state agency" means any state agency that does not receive funding through the annual legislative appropriations process;

5. ~~"Planned project" includes any major project or objective included in the operations plan submitted by the agency to the Information Services Division of the Office of Management and Enterprise Services as required pursuant to Section 34.16 of this title;~~

~~6.~~ "Shared services" means those state agency functions which are or could be provided through:

a. the services and systems specified in subsection A of Section 35.6 of this title, and

b. the programs, services, software or processes specified in subsection B of Section 35.6 of this title; and

~~7.~~ 6. "State agency" means any office, elected or appointed officer, bureau, board, commission, counsel, unit, division, body, authority or institution of the executive branch of state government, excluding institutions within The Oklahoma State System of Higher Education, the Oklahoma State Regents for Higher Education and the telecommunications network known as OneNet.

SECTION 19. AMENDATORY 62 O.S. 2011, Section 35.4, is amended to read as follows:

Section 35.4. ~~A. Beginning on the effective date of this act, no~~ No state agency shall expend or encumber any funds for the purchase, lease, lease-purchase, lease with option to purchase, rental or other procurement of any information technology assets without the prior written approval of the Chief Information Officer.

~~B. Beginning on the effective date of this act, no state agency shall initiate or implement an information technology planned project without the prior written approval of the Chief Information Officer.~~

SECTION 20. AMENDATORY 62 O.S. 2011, Section 35.5, as last amended by Section 62 of Enrolled Senate Bill No. 977 of the

1st Session of the 54th Oklahoma Legislature, is amended to read as follows:

Section 35.5. A. 1. ~~Not later than thirty (30) days August 26, 2011, all~~ All state agencies shall provide to the Chief Information Officer a list of information technology assets of the agency which are integral to agency-specific applications or functions and a list of information technology positions which are directly associated with the assets. The agency shall further provide the reference to federal or state statutory or constitutional provisions which require it to perform the applications or functions.

2. If the Chief Information Officer disputes the identification of assets or positions provided by a state agency as being integral to agency-specific applications or functions, the Director of the Office of Management and Enterprise Services shall make the final determination.

B. Not later than ~~December 1, 2011, and not later than~~ December 1 of each year ~~thereafter~~, the Chief Information Officer shall modify the assessment required by subsection D of Section 34.11.1 of this title to include identification of:

1. All information technology assets of all state agencies, which are not integral to agency-specific applications or functions, and the transfer of which to the Information Services Division of the Office of Management and Enterprise Services and the Chief

Information Officer would result in a cost savings to the taxpayers of this state or improved efficiency of state government operations, including all furniture, equipment, vehicles, supplies, records, current and future liabilities, fund balances, encumbrances, obligations, and indebtedness associated with the information technology assets; ~~and~~

2. All information technology positions associated with the information technology assets identified pursuant to paragraph 1 of this subsection. The assessment shall identify the amount of compensation and related liabilities for accrued sick leave, annual leave, holidays, unemployment benefits, and workers' compensation benefits for the positions;

3. The amount of savings to the taxpayers of this state resulting from the provisions of the Information Technology Consolidation and Coordination Act; and

4. Any changes in law required or any changes to the amount of state appropriations or other state funds associated with the transfer of the information technology assets or positions.

C. The information technology assets and positions of each appropriated state agency identified ~~in the assessment~~ pursuant to ~~subsection B of~~ this section ~~of appropriated state agencies~~ shall be transferred as part of the consolidation of information technology operations of the state agency to the Information Services Division of the Office of Management and Enterprise Services ~~subject to the following provisions:~~

~~1. Information technology assets identified in the assessment pursuant to the provisions of paragraph 1 of subsection B of this section of appropriated state agencies shall be transferred effective January 1, 2012~~ when determined by the Information Services Division. The costs of operation, maintenance, licensing and service of the information technology assets shall remain the responsibility of the state agency from which ~~they~~ the assets are transferred until ~~July 1, 2012~~ the state agency information technology operations are consolidated in the Information Services Division, unless otherwise agreed to by the state agency and the Information Services Division. Appropriate conveyances and other documents shall be executed to effectuate the transfer of the information technology assets and positions to the Information Services Division of the Office of Management and Enterprise Services~~; and~~

~~2. Information technology positions identified in the assessment pursuant to the provisions of paragraph 2 of subsection B of this section of appropriated state agencies shall be transferred effective February 1, 2012. Each state agency shall enter into an agreement with the Division not later than January 1, 2012, for the remainder of fiscal year 2012, specifying the terms of the transfers, including provisions for the Division to provide~~

~~information technology services to the agency and for the agency to reimburse the Division for the cost of the services. If an agreement cannot be reached, the Director of the Office of Management and Enterprise Services shall be authorized to negotiate the terms of the agreement, which shall then be entered into by the state agency and the Division~~.

D. ~~1. For modifications of the assessment required by subsection D of Section 34.11.1 of this title made in fiscal year 2013 and subsequent fiscal years, the Chief Information Officer shall identify:~~

~~a. the amount of savings to the taxpayers of this state resulting from the provisions of the Information Technology Consolidation and Coordination Act, and~~

~~b. any changes in law required or any changes to the amount of state appropriations or other state funds associated with the transfer of the information technology assets or positions.~~

~~2.~~ The Chief Information Officer shall recommend changes to the Director of the Office of Management and Enterprise Services and the Governor for inclusion in the next executive budget to be submitted to the Legislature.

E. ~~For fiscal year 2013 and subsequent fiscal years, the~~ <u>The</u> Information Services Division shall provide ~~information technology~~ <u>shared</u> services to each state agency ~~for shared services~~ and shall bill agencies for those shared services at an estimated cost to provide the services. The estimated cost shall include the full cost of the services, including materials, depreciation related to capital costs, labor, and administrative expenses of the Information Services Division of the Office of Management and Enterprise Services in connection with the operation of the data center and Information Services Division operations and shall include expenses associated with acquiring, installing, and operating information technology and telecommunications infrastructure, hardware and software for use by state agencies. The Information Services Division shall publish a schedule of costs for each ~~information technology~~ available shared service ~~provided~~ and shall enter into an agreement with each state agency for the shared services that will be provided ~~prior to providing the services. The total amount charged to a state agency for the information technology services shall not exceed the amount appropriated to that agency for such services~~ to the agency. The aggregated cost of shared services to be provided to each state agency shall be budgeted annually as a separate line item through each state agency. State agencies shall process request for payments as provided for under the agreement entered into with the Information Services Division in a timely manner ~~and when~~. If payments are deemed to be delinquent for shared services provided to a state agency, the Information Services Division may request the Division of Central Accounting and

Reporting of the Office of Management and Enterprise Services to create vouchers and process payments to the Information Services Division against the funds of the delinquent <u>state</u> agency. If the state agency for which ~~information technology~~ <u>shared</u> services were provided disputes the provision of <u>shared</u> services in accordance with its agreement with the Information Services Division, no voucher shall be processed against the funds of the delinquent agency until the dispute over services has been resolved, at which point a voucher may be processed in accordance with the terms of the dispute resolution.

F. The Information Services Division of the Office of Management and Enterprise Services shall succeed to any contractual rights, easement rights, lease rights, <u>and other similar rights</u> and responsibilities related to the information technology assets that are transferred as provided for in this section and incurred by an appropriated state agency.

SECTION 21. AMENDATORY 62 O.S. 2011, Section 35.6, as amended by Section 415, Chapter 304, O.S.L. 2012 (62 O.S. Supp. 2012, Section 35.6), is amended to read as follows:

Section 35.6. A. ~~On July 1, 2011, all~~ <u>All</u> appropriated and nonappropriated state agencies shall be required to use the following information technology services and systems operated and maintained by the Office of Management and Enterprise Services for all agency functions:

1. Data Service Center of the ~~Divisions~~ Information Services Division;

2. Networking services;

3. Communication or intercommunication systems;

4. Electronic mail systems; and

5. Data and network security systems.

B. ~~On July 1, 2011, all~~ All appropriated and nonappropriated state agencies shall be required to exclusively use the following programs, services, software and processes provided through the Integrated Central Financial System known as CORE and as implemented by the Office of Management and Enterprise Services and shall not utilize any programs, services, software or processes that are duplicative of the following:

1. Payroll;

2. Employee leave system;

3. Human resources;

4. Accounts receivable;

5. Accounts payable;

6. Purchasing system;

7. Budgeting system;

8. Enterprise Learning Management (ELM);

9. Budget request system;

10. Asset management; and

11. Projects, grants and contracts, which includes federal billing.

C. The Chief Information Officer shall have the authority to enforce the provisions of this section.

SECTION 22. AMENDATORY 62 O.S. 2011, Section 35.8, as last amended by Section 62 of Enrolled Senate Bill No. 977 of the 1st Session of the 54th Oklahoma Legislature, is amended to read as follows:

Section 35.8. A. Notwithstanding any other provision of law, the provisions of the Information Technology Consolidation and Coordination Act shall operate to maintain or increase security standards and shall not jeopardize confidentiality or compliance with state or federal laws or regulations. The State Governmental Technology Applications Review Board, with the advice of the Oklahoma Integrated Justice Information Systems Steering Committee, shall consider and approve security protocols which shall be followed by <u>employees of</u> the Information Services Division of the Office of Management and Enterprise Services <u>who are assigned to service law enforcement agencies</u>. The Board, in conjunction with the Committee, shall make recommendations to state officers and employees related to continuity of criminal justice information system security protocols.

B. Notwithstanding the provisions of Section 35.5 of this title, the transfer of information technology assets and positions of the Department of Public Safety shall occur prior to the transfer of assets and positions of other public safety agencies.

C. Unless otherwise provided for in law, the transfer of information technology assets and positions of any state agency pursuant to the Information Technology Consolidation and Coordination Act shall not act to transfer to the Information Services Division of the Office of Management and Enterprise Services or to the Chief Information Officer the duties of a state agency to keep, maintain and open to any person all records of the agency in compliance with the Oklahoma Open Records Act. Each state agency shall continue to be responsible for records created by, received by, under the authority of, or coming into the custody, control or possession of the agency including the duty to organize and categorize the records in a retrievable form and the duty to respond to requests for records, even if the records have been transmitted to or stored by the Information Services Division of the Office of Management and Enterprise Services or the Chief Information Officer.

D. State employees who are members of the Teachers' Retirement System of Oklahoma and are transferred pursuant to the Information Technology Consolidation and Coordination Act may elect to continue their participation in the Teachers' Retirement System of Oklahoma in lieu of participating in the Oklahoma Public Employees Retirement System. Any transferred employee who wishes to make such election shall do so in writing within thirty (30) days of the effective date of this act. If any transferred employee has already started participating in the Oklahoma Public Employees Retirement System, the employee may make an election to return to the Teachers' Retirement System of Oklahoma if the election is made in writing within thirty (30) days of the effective date of this act. In the event a transferred employee who has already begun participating in the Oklahoma Public Employees Retirement System elects to return to the Teachers' Retirement System of Oklahoma, the Oklahoma Public Employees Retirement System shall transfer the service credit and contributions to the Teachers' Retirement System of Oklahoma for any credit that accrued after the initial transfer. The election to continue or return to participation in the Teachers' Retirement System of Oklahoma pursuant to this subsection shall be irrevocable and shall be effective until the employment with the Office of Management and Enterprise Services is terminated.

SECTION 23. AMENDATORY 62 O.S. 2011, Section 35.9, as amended by Section 418, Chapter 304, O.S.L. 2012 (62 O.S. Supp. 2012, Section 35.9), is amended to read as follows:

Section 35.9. In addition to any other reporting requirements required by law, the Chief Information Officer shall submit quarterly progress reports to the Director of the Office of Management and Enterprise Services, the Speaker of the House of Representatives and the President Pro Tempore of the Senate. The reports shall be submitted not later than January 31, April 30, July 31 and October 31 of each year and shall include, but not be limited to, the following information:

1. The status of the ~~development~~ implementation of the plan of action required in paragraph 2 of subsection D of Section 34.11.1 of this title;

2. ~~After the plan of action is presented to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate as required in paragraph 3 of subsection D of Section 34.11.1 of this title, the status of implementation of the plan of action;~~

~~3.~~ A list of information technology assets and positions transferred to the Information Services Division of the Office of Management and Enterprise Services pursuant to the provisions of subsection C of Section 35.5 of this title;

~~4. The amount of net savings realized through the reallocation and consolidation of resources and personnel and a comparison to the standard of not less than fifteen percent (15%) of the overall statewide~~

3. After July 1, 2012, and until the information technology consolidation is completed, an annual reduction of three percent (3%) in operational information technology and telecommunications expenditures ~~made~~ realized in the aggregate by all consolidated

state agencies ~~during the fiscal year ending June 30, 2009, as set forth in subsection G of Section 34.11.1 of this title~~;

~~5.~~ 4. A list of all state agencies which are not using the shared services as required in Section 35.6 of this title;

~~6.~~ 5. A list of all exemptions or extensions granted pursuant to the provisions of Section 35.7 of this title; and

~~7.~~ 6. Any other information as deemed appropriate by the Chief Information Officer.

SECTION 24. AMENDATORY 65 O.S. 2011, Section 3-114, is amended to read as follows:

Section 3-114. A. Every agency except institutions of higher education, but specifically including any board of regents for higher education, which issues a state publication shall immediately ~~deposit~~ file the publication electronically, in compliance with provision of any applicable section of Title 62 of the Oklahoma Statutes that is related to submission of state publications. If a state publication cannot be filed electronically, a maximum of twenty-five copies shall be deposited with the Publications Clearinghouse~~; provided, the provisions of this section shall not apply to a publication which is published in an electronic format and made available to the public on the website of the issuing agency. Any agency issuing a publication which is published in an electronic format shall notify the Publications Clearinghouse and provide and maintain a link to the electronic version of the~~

~~publication~~ in lieu of the electronic filing and the agency shall include an explanation of the reason the document cannot be filed electronically.

B. Upon failure of an agency to comply with the provisions of this section, the Director of the Department of Libraries shall forward a written notice of the failure to the chief administrative officer of the agency. The notice shall state a reasonable time, not to exceed thirty (30) days, in which the agency shall fully comply. Further failure to comply shall be reported in writing to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Attorney General. The Attorney General shall immediately institute mandamus proceedings to secure compliance by the agency.

SECTION 25. AMENDATORY 74 O.S. 2011, Section 85.2, is amended to read as follows:

Section 85.2. As used in The Oklahoma Central Purchasing Act, unless the context otherwise requires:

1. "Acquisition" means items, products, materials, supplies, services, and equipment a state agency acquires by purchase, lease-purchase, lease with option to purchase, or rental pursuant to The Oklahoma Central Purchasing Act unless the items, products, supplies, services, or equipment are exempt pursuant to The Oklahoma Central Purchasing Act;

2. "Best value criteria" means evaluation criteria which may include, but is not limited to, the following:

a. the acquisition's operational cost a state agency would incur,

b. the quality of the acquisition, or its technical competency,

c. the reliability of the bidder's delivery and implementation schedules,

d. the acquisition's facilitation of data transfer and systems integration,

e. the acquisition's warranties and guarantees and the bidder's return policy,

f. the bidder's financial stability,

g. the acquisition's adherence to the state agency's planning documents and announced strategic program direction,

h. the bidder's industry and program experience and record of successful past performance with acquisitions of similar scope and complexity,

i. the anticipated acceptance by user groups, and

j. the acquisition's use of proven development methodology, and innovative use of current technologies that lead to quality results;

3. "Bid" or "proposal" means an offer a bidder submits in response to an invitation to bid or request for proposal;

4. "Bidder" means an individual or business entity that submits a bid or proposal in response to an invitation to bid or a request for proposal;

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

6. "Change order" means a unilateral written order directing a supplier to make a change;

7. "Chief administrative officer" means an individual responsible for directing the administration of a state agency. The term does not mean one or all of the individuals that make policy for a state agency;

8. "Component" means any item supplied as part of an end item or of another component;

9. ~~"Consolidation contract" means a contract for several state agencies for the purpose of purchasing computer software maintenance or hardware maintenance;~~

~~10.~~ "Contract" means a mutually binding legal relationship obligating the seller to furnish an acquisition and the buyer to pay for it. It includes all types of commitments that obligate a state agency to an expenditure of funds or action that, unless otherwise authorized, is in writing. In addition to bilateral instruments, contracts include, but are not limited to:

a. awards and notices of awards,

b. orders issued under basic ordering agreements,

c. letter contracts,

d. orders under which the contract becomes effective by written acceptance or performance, and

e. bilateral contract modifications;

~~11.~~ 10. "Contract modification" means any written change in the terms of the contract;

~~12.~~ 11. "Contracting" means purchasing, renting, leasing, or otherwise obtaining acquisitions from private sources. Contracting includes description, but not determination, of acquisitions required, selection and solicitation of sources, preparation and award of contracts, and contract administration;

~~13.~~ 12. "Contractor" means an individual or business entity entering into a contract for goods and/or services with the state as a result of a solicitation;

~~14.~~ 13. "Electronic commerce" means the use of electronic methods to enable solicitation, supplier response, notice of contract award, state agency acquisition processes, or any other function to make an acquisition;

~~15.~~ 14. "Electronic payment mechanism" means a method of electronic payment for authorized acquisitions;

~~16. "Enterprise agreement" means an agreement for computer hardware, software, and service that a supplier manufactures, develops, and designs, and that one or more state agencies use;~~

~~17.~~ 15. “Environmentally preferable products and services (EPPS)” means acquisitions that best meet the requirements as defined in the solicitation for human health and the environment;

~~18.~~ 16. "Equipment" means personal property a state agency acquires for its use which is an item or product and shall include all personal property used or consumed by a state agency that is not included within the category of materials and supplies;

~~19. "High technology system" means advanced technological equipment, software, communication lines, and services for the processing, storing, and retrieval of information by a state agency;~~

~~20.~~ 17. "Item" or "product" means some quantity or kind of such supplies, materials or equipment;

~~21.~~ 18. "Local governmental entity" means any unit of local government including, but not limited to, any school district, county, or municipality of this state;

~~22.~~ 19. "Lowest and best" means an acquisition based on criteria which include, but are not limited to, the following:

a. the lowest total purchase price,

b. the quality and reliability of the product, and

c. the consistency of the proposed acquisition with the state agency's planning documents and announced strategic program direction;

~~23.~~ 20. "Materials" or "supplies" includes all property except real property or equipment that a state agency acquires for its use or consumption;

~~24.~~ 21. "Multistate contract" or "multigovernmental contract" means an agreement entered into between two or more entities of government for acquisitions pursuant to a single contract;

~~25.~~ 22. "Nonprofessional services" means services which are predominantly physical or manual in character and may involve the supplying of products;

~~26.~~ 23. "Political subdivision" means local governmental entities and such other entities specified as political subdivisions pursuant to The Governmental Tort Claims Act;

~~27.~~ 24. "Open market contract" means a contract for a one-time acquisition not exceeding the acquisition amount requiring competitive bid pursuant to Section 85.7 of this title;

~~28.~~ 25. "Professional services" means services which are predominantly mental or intellectual in character rather than physical or manual and which do not involve the supplying of products. Professional services include services to support or improve state agency policy development, decision making, management, administration, or the operation of management systems;

~~29.~~ 26. "Purchase order" means an offer by a state agency to make an acquisition utilizing simplified procedures;

~~30.~~ 27. "Requisition" means a written request by a state agency for an acquisition;

~~31.~~ 28. "Services" or "contractual services" means direct engagement of the time and effort of a contractor for the primary purpose of performing an identifiable task rather than for the furnishing of an end item of supply;

~~32.~~ 29. "Sole brand acquisition" means an acquisition that by specification restricts the acquisition to one manufacturer or brand name;

~~33.~~ 30. "Sole source acquisition" means an acquisition which, by specification, restricts the acquisition to one supplier;

~~34.~~ 31. ”Solicitation” means a request or invitation by the State Purchasing Director or a state agency for a supplier to submit a priced offer to sell acquisitions to the state. A solicitation may be an invitation to bid, request for proposal, or a request for quotation;

~~35.~~ 32. "Split purchase" means dividing a known quantity or failing to consolidate a known quantity of an acquisition for the purpose of evading a competitive bidding requirement;

~~36.~~ 33. "State agency" includes any office, officer, bureau, board, counsel, court, commission, institution, unit, division, body or house of the executive or judicial branches of the state government, whether elected or appointed, excluding only political subdivisions of the state;

~~37.~~ <u>34.</u> "State purchase card" means an electronic transaction device used for making acquisitions;

~~38.~~ <u>35.</u> "State Purchasing Director" or "Director of Central Purchasing" includes any employee or agent of the State Purchasing Director, acting within the scope of delegated authority;

~~39.~~ <u>36.</u> "Statewide contract" means a contract for specific acquisitions for a specified period with a provision allowing the agencies and local governmental entities to place orders as the acquisitions are needed for delivery during the period specified; and

~~40.~~ <u>37.</u> "Supplier" or "vendor" means an individual or business entity that sells or desires to sell acquisitions to state agencies.

SECTION 26. AMENDATORY 74 O.S. 2011, Section 85.7c, is amended to read as follows:

Section 85.7c. A. No state agency shall enter into a contract for the acquisition of a high technology system unless the vendors proposing to supply the acquisition:

1. Provide documentation of the projected schedule of recommended or required upgrades or improvements to the high technology system over a projected three-year period following the targeted purchase date; or

2. Provide documentation that no recommended or required upgrades or improvements to the high technology system are planned over a projected three-year period following the targeted purchase date.

For purposes of this subsection, vendors shall provide documentation required for all entities which will be utilized in satisfying any phase.

B. No state agency shall enter into a contract for the acquisition of an upgrade or enhancement to a high technology system unless:

1. The vendor agrees to provide the acquisition at no charge to the state;

2. The vendor previously agreed in a contract to provide the acquisition at no additional charge to the state;

3. The state agency obtains from the vendor proposing to supply the acquisition documentation that any required or recommended upgrade will enhance or is necessary for the performance of the state agency duties and responsibilities; or

4. The vendor provides documentation that the vendor will no longer supply assistance to the state agency for the purpose of maintenance of the high technology system and the state agency documents that the functions performed by the high technology system are necessary for the performance of the state agency duties and responsibilities.

C. The ~~State Purchasing Director~~ Chief Information Officer or the procurement officer of state agencies not subject to ~~the~~ The Oklahoma Central Purchasing Act shall not process any state agency request for a high technology system acquisition unless the proposed vendor provides documentation that complies with subsections A or B of this section.

D. The ~~State Purchasing Director~~ Chief Information Officer shall provide such advice and assistance as may be required in order for state agencies to comply with the provisions of this section. For purposes of this section, "state agency" shall include all state agencies, whether or not the agency is subject to ~~the~~ The Oklahoma Central Purchasing Act or ~~not~~ any other law related to procurement of goods and services.

SECTION 27. AMENDATORY Section 6, Chapter 106, O.S.L. 2012 (74 O.S. Supp. 2012, Section 85.7h), is amended to read as follows:

Section 85.7h. A. For the purposes of this section, “open source software” means software that guarantees the user of the software use of the software for any purpose, allows unrestricted access to the respective source code, enables the use of the internal mechanisms and arbitrary portions of the software with the ability to adapt them to the needs of the user, provides the freedom to make and distribute copies of the software, and guarantees the right to modify the software with the freedom to distribute modifications of the new resulting software under the same license as the original software. "Open standards" means specifications for the encoding and transfer of computer data that is free for all to implement and use in perpetuity, with no royalty or fee, has no restrictions on the use of data stored in the format, has no restrictions on the creation of software that stores, transmits, receives, or accesses data codified in such way, has a specification available for all to read, in a human-readable format, written in commonly accepted technical language, is documented, so that anyone can write software that can read and interpret the complete semantics of any data file stored in the data format, allows any file written in that format to be identified as adhering or not adhering to the format, and provides that any encryption or obfuscation algorithms are usable in a royalty-free, nondiscriminatory manner in perpetuity, and are documented so that anyone in possession of the appropriate encryption key or keys or other data necessary to recover the original data is able to write software to access the data. "Proprietary software" means software that does not fulfill all of the guarantees provided by open source software.

B. Prior to approving software acquisition requests, the ~~Chief Information Officer shall require that the~~ purchasing entity ~~has considered~~ shall consider whether proprietary or open source software offers the most cost-effective software solution for the agency, based on consideration of all associated acquisition, support, maintenance, and training costs.

C. Whenever possible the Chief Information Officer or purchasing entity shall avoid approving requests for the acquisition of products that do not comply with open standards for interoperability or data storage.

SECTION 28. AMENDATORY Section 7, Chapter 106, O.S.L. 2012 (74 O.S. Supp. 2012, Section 85.7i), is amended to read as follows:

Section 85.7i. Notwithstanding any other section of law, the Chief Information Officer may allow a public agency to utilize duly awarded state information technology and telecommunications contracts ~~duly awarded by this state under The Oklahoma Central Purchasing Act~~ in lieu of bidding procedures, if any, otherwise applicable to such purchases by the public agency. For the purposes of this section the term "public agency" means a ~~government agency recognized~~ governmental entity specified as a political subdivision of the state pursuant to The Governmental Tort Claims Act or a state, county or local ~~government agency~~ governmental entity in its state of origin.

SECTION 29. AMENDATORY 74 O.S. 2011, Section 3104, is amended to read as follows:

Section 3104. Every agency, board, department, commission, or institution of this state shall ~~deposit a maximum of twenty-five~~

~~copies of~~ submit its annual, semiannual, or biennial reports ~~with the Publications Clearinghouse of the Department of Libraries for distribution and depository system purposes~~ as required by the provisions of Section 3-114 of Title 65 of the Oklahoma Statutes ~~and shall distribute said reports only to legislators and other parties specifically requesting said reports~~. The Publications Clearinghouse shall notify the members of the Legislature of the ~~receipt~~ submission of said reports.

SECTION 30. AMENDATORY 74 O.S. 2011, Section 3105, is amended to read as follows:

Section 3105. A. Unless otherwise provided by law, every agency, department, board, commission or institution of the State of Oklahoma shall list the following information at a prominent place near the beginning of each publication issued by them:

1. Name of the issuing agency, department, board, commission or institution;

2. Authorization for publication. If such publication is not specifically authorized by statute the name of the person or persons so authorizing shall be stated;

3. The number of copies printed or identification of the website or websites at which the publication is located;

4. ~~Name~~ If applicable, the name of the printing firm doing the printing; and

5. Assurance of compliance with Section 3-114 of Title 65 of the Oklahoma Statutes.

B. The information shall be set forth in a separate paragraph and shall conform as nearly as practical to the following applicable format:

1. If the publication is printed:

"This publication, printed by (name of printing firm) is issued by (here list the agency, department, board, commission or institution) as authorized by ______________. ______ copies have been prepared and distributed at a cost of $_______. Copies have been deposited with the Publications Clearinghouse of the Oklahoma Department of Libraries."; or

2. If the publication is located online:

"This publication is issued by (list the agency, department, board, commission or institution) as authorized by ________ and is located at the following website(s): ________. This publication has been submitted in compliance with Section 3-114 of Title 65 of the Oklahoma Statutes."

C. State promotion and informational publications produced by the Oklahoma Tourism and Recreation Department, Travel Promotion Division, and the Oklahoma Department of Commerce shall be exempt from the provisions of this section.

SECTION 31. AMENDATORY 74 O.S. 2011, Section 3106.1, is amended to read as follows:

Section 3106.1. A. Every state agency shall designate one of its employees as the publications officer for the agency and shall notify the Publications Clearinghouse of the Department of Libraries of the name of the publications officer and of the name of any new publications officer should a change occur.

B. Each publications officer of a state agency shall have the duty to ~~provide the Publications Clearinghouse with copies of all state publications of the agency~~ submit publications, upon release, in compliance with Section 3-114 of Title 65 of the Oklahoma Statutes, to compile and forward to the Publications Clearinghouse required lists of the state publications of the agency, and to provide other related information which may be requested by the Publications Clearinghouse for the collection of state publications and the depository library system.

C. ~~Upon release of a state publication by an agency, the publications officer shall deposit a maximum of twenty-five copies of the publication with the Publications Clearinghouse for record and depository system purposes.~~

~~D.~~ The publications officer shall notify the Publications Clearinghouse of the production of audiotapes, videotapes, films, filmstrips, slides, or other audiovisual publications. Every state agency shall preserve one copy of each audiovisual publication or the publications officer shall deposit one copy of each audiovisual publication with the Publications Clearinghouse for preservation.

~~E.~~ D. Every state agency including all institutions of higher education shall provide to the Publications Clearinghouse a complete list of its state publications published or submitted online during the prior calendar year in accordance with the rules of the Publications Clearinghouse.

SECTION 32. RECODIFICATION 74 O.S. 2011, Section 85.7c, as amended by Section 26 of this act, shall be recodified as Section 34.12.1 of Title 62 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 33. RECODIFICATION Section 6, Chapter 106, O.S.L. 2012 (74 O.S. Supp. 2012, Section 85.7h), as amended by Section 27 of this act, shall be recodified as Section 34.31.1 of Title 62 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 34. RECODIFICATION Section 7, Chapter 106, O.S.L. 2012 (74 O.S. Supp. 2012, Section 85.7i), as amended by Section 28 of this act, shall be recodified as Section 34.31.2 of Title 62 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 35. RECODIFICATION 74 O.S. 2011, Section 85.9E, as amended by Section 745, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2012, Section 85.9E), shall be recodified as Section 34.20.1 of

Title 62 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 36. REPEALER 62 O.S. 2011, Sections 34.11.6, 34.16, 34.17, and 34.18, as amended by Sections 343, 348, 349,and 350, Chapter 304, O.S.L. 2012 (62 O.S. Supp. 2012, Sections 34.11.6, 34.16, 34.17 and 34.18), are hereby repealed.

SECTION 37. REPEALER 74 O.S. 2011, Sections 85.7d and 85.9D, as amended by Sections 740 and 744, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2012, Sections 85.7d and 85.9D), are hereby repealed.

SECTION 38. This act shall become effective July 1, 2013.

SECTION 39. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
April 10, 2013 - DO PASS AS AMENDED