

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 55th Legislature (2016)

4 HOUSE BILL 3161

 By: Hickman

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6
7 AS INTRODUCED

8 An Act relating to prisons and reformatories;
9 amending 57 O.S. 2011, Section 549.1, as last amended
10 by Section 40, Chapter 15, O.S.L. 2013 (57 O.S. Supp.
11 2015, Section 549.1), which relates to products and
12 services produced by prison industries; deleting
13 certain state agency purchasing requirement; updating
14 language; deleting prohibition that bars products and
15 services from being purchased by the general public;
 deleting certain recordkeeping requirement;
 authorizing persons and non-public entities to
 purchase products or services; deleting internal
 statutory reference; and providing an effective date.

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

17 SECTION 1. AMENDATORY 57 O.S. 2011, Section 549.1, as
18 last amended by Section 40, Chapter 15, O.S.L. 2013 (57 O.S. Supp.
19 2015, Section 549.1), is amended to read as follows:

20 Section 549.1 A. The Department of Corrections is authorized
21 to purchase in the manner prescribed by law, facilities, equipment,
22 raw materials and supplies, and to engage the supervisory personnel
23 necessary to establish and maintain for this state at the penal
24 institutions, now or hereafter under the control of the State Board

1 of Corrections, industries and agricultural programs for the
2 utilization of services of prisoners in the manufacture or
3 production of the articles or products as may be needed for the
4 construction, operation, maintenance or use of any office,
5 department, institution or agency supported in whole or in part by
6 this state and the political subdivisions thereof. Upon the request
7 of the Oklahoma Historical Society or the Oklahoma Tourism and
8 Recreation Department, the Department of Corrections shall provide
9 labor for and shall produce or manufacture articles, products or
10 materials needed for the repair, construction and maintenance of
11 historical sites and state parks including, but not limited to, the
12 production of materials and products needed for the reconstruction
13 of historic forts in the state.

14 B. All articles and services provided by the Department of
15 Corrections in the state correctional institutions, and not required
16 for use therein, shall be purchased as required by all offices,
17 departments, institutions, agencies, counties, schools, colleges,
18 universities, or political subdivisions or any agency thereof of
19 this state which are supported in whole or in part by this state, if
20 such article or service is the lowest and best bid, and no such
21 article or product may be purchased by any such office, department,
22 institution, agency, county, school, college, university, or
23 political subdivisions or agency thereof from any other source
24 ~~unless excepted from the provisions as hereinafter provided.~~

1 Purchases made by the above-described state agencies may be made by
2 submitting the proper requisition through the Office of Management
3 and Enterprise Services or by direct order to the prison industries
4 program of the Department of Corrections.

5 C. ~~If a requisition is received by the Office of Management and~~
6 ~~Enterprise Services or a direct order is received by the Prison~~
7 ~~Industries Program of the Department of Corrections from a state~~
8 ~~agency for any product or service provided by the Department of~~
9 ~~Corrections and such product or service is also available from a~~
10 ~~severely handicapped person or a qualified nonprofit agency for the~~
11 ~~severely handicapped as provided in Section 3001 et seq. of Title 74~~
12 ~~of the Oklahoma Statutes at a comparable price, then the product or~~
13 ~~service shall be purchased from such severely handicapped person or~~
14 ~~qualified nonprofit agency for the severely handicapped. If the~~
15 ~~product or service is not available within the time period required~~
16 ~~by the purchasing state agency, then such product or service shall~~
17 ~~be purchased from the Department of Corrections under the provisions~~
18 ~~of this section.~~

19 D. All offices, departments, institutions, agencies, counties,
20 cities, districts or political subdivisions, schools, colleges, or
21 universities, or any agency thereof, or any agencies of the state,
22 which are supported in whole or in part by this state, may purchase
23 the ~~goods~~ products or services produced by the prison industries of
24 the Department of Corrections through their properly authorized

1 purchasing authority, or they may place a direct order without
2 competitive bid, with the prison industries of the Department of
3 Corrections.

4 ~~E.~~ D. Not-for-profit corporations or charitable agencies
5 chartered in Oklahoma or other states may purchase such ~~goods~~
6 products and services. Units of the federal government and units of
7 government in other states may also purchase such ~~goods~~ products and
8 services. All entities which contract with the state, its political
9 units, its agencies, its public institutions, not-for-profit
10 corporations or charitable agencies chartered in Oklahoma may
11 purchase ~~goods~~ products or services from the Department of
12 Corrections which are used in the performance of such contracts.
13 Any church located in the State of Oklahoma may also purchase ~~goods~~
14 products and services produced by the prison industries of the
15 Department of Corrections. Any community action agency or council
16 of governments within this state may purchase housing components
17 produced by the prison industries of the Department of Corrections.
18 Nothing shall prohibit the Department from bidding on portions of a
19 state contract which are subcontracted by the primary contractor.

20 ~~F. Others are prohibited from purchasing such goods and~~
21 ~~services, with the exception that all surplus agricultural products~~
22 ~~may be sold on the open market or bartered and exchanged for other~~
23 ~~food, feed or seed products of comparable value. The Department of~~
24 ~~Corrections shall keep complete and accurate records of any such~~

~~barters or exchanges in such form and manner as the Office of Management and Enterprise Services may prescribe. A copy of such records shall be filed with the Office of Management and Enterprise Services no later than March 1 of each year for all barters or exchanges occurring in the previous calendar year. When practicable, the Department of Corrections may accept and process agricultural products from the public and may export the resulting products to foreign markets.~~

~~G.~~ E. Any person or non-public entity may purchase products or services produced by the prison industries of the Department of Corrections.

F. Products manufactured by the Department of Corrections shall be of styles, patterns, designs and quantities specified by the Department of Corrections except where the same have been or may be specified by the Office of Management and Enterprise Services. Products shall be provided at a fair market price for comparable quality.

~~H.~~ G. State agencies shall make maximum utilization of such products, and no similar products shall be purchased by state agencies from any other source than the Department of Corrections ~~except as provided in subsection C of this section,~~ unless the Department of Corrections certifies to the State Purchasing Director that it is not able to provide products, and no claim therefor shall be paid without such certification.

1 ~~I.~~ H. Exceptions from the mandatory provisions hereof may be
2 made in any case where, in the opinion of the Office of Management
3 and Enterprise Services, the article or product does not meet the
4 reasonable requirements of or for such offices, departments,
5 institutions or agencies, or in any case where the requisitions made
6 cannot be reasonably complied with. No such offices, departments,
7 institutions or agencies, shall be allowed to evade the intent and
8 meaning of this section by slight variations from standards adopted
9 by the Office of Management and Enterprise Services, when the
10 articles, services or products produced or manufactured by the
11 Department of Corrections, in accordance with established standards,
12 are reasonably adapted to the actual needs of such offices,
13 departments, institutions or agencies.

14 ~~J.~~ I. In the event of disagreement between the Department of
15 Corrections and the State Purchasing Director on fairness of price,
16 ability to comply to specifications, reasonableness of
17 specifications and timeliness of delivery of products the matter
18 will be resolved by the Central Purchasing Director.

19 ~~K.~~ J. The Office of Management and Enterprise Services shall
20 cooperate with the Department of Corrections in seeking to promote
21 for use in state agencies and by all other eligible customers, the
22 products manufactured and services provided by the prison
23 industries.
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1 ~~H.~~ K. The Department of Corrections shall prepare catalogs
2 containing the description of all ~~goods~~ products and services
3 provided, with the pricing of each item. Copies of such catalog
4 shall be sent by the Department of Corrections to all offices,
5 departments, institutions and agencies of this state, and shall be
6 available for distribution to all other eligible customers.

7 SECTION 2. This act shall become effective November 1, 2016.

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9 COMMITTEE REPORT BY: COMMITTEE ON CRIMINAL JUSTICE AND CORRECTIONS,
dated 02/10/2016 - DO PASS.