

An Act

ENROLLED SENATE
BILL NO. 1153

By: Thompson of the Senate

and

Lepak of the House

An Act relating to Department of Corrections; amending 51 O.S. 2011, Section 24A.10, as amended by Section 1, Chapter 41, O.S.L. 2015 (51 O.S. Supp. 2017, Section 24A.10), which relates to voluntarily supplied information that creates an issue with confidentiality and disclosure; modifying inclusions; amending 57 O.S. 2011, Section 549.1, as last amended by Section 40, Chapter 15, O.S.L. 2013 (57 O.S. Supp. 2017, Section 549.1), which relates to purchase of prison industries goods and services; modifying inclusions; allowing certain website; and making certain information confidential.

SUBJECT: Oklahoma Open Records Act

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

SECTION 1. AMENDATORY 51 O.S. 2011, Section 24A.10, as amended by Section 1, Chapter 41, O.S.L. 2015 (51 O.S. Supp. 2017, Section 24A.10), is amended to read as follows:

Section 24A.10. A. Any information, records or other material heretofore voluntarily supplied to any state agency, board or commission shall be subject to full disclosure pursuant to Section 24A.1 et seq. of this title.

B. If disclosure would give an unfair advantage to competitors or bidders, a public body may keep confidential records relating to:

1. Bid specifications for competitive bidding prior to publication by the public body; or
2. Contents of sealed bids prior to the opening of bids by a public body; or
3. Computer programs or software but not data thereon; or
4. Appraisals relating to the sale or acquisition of real estate by a public body prior to award of a contract; or
5. The prospective location of a private business or industry prior to public disclosure of such prospect except for records otherwise open to inspection such as applications for permits or licenses.

C. Except as set forth hereafter, the Oklahoma Department of Commerce, the Oklahoma Department of Career and Technology Education, the technology center school districts, the Oklahoma Film and Music Office, ~~and~~ institutions within the Oklahoma State System of Higher Education, and the Department of Corrections may keep confidential:

1. Business plans, feasibility studies, financing proposals, marketing plans, financial statements or trade secrets submitted by a person or entity seeking economic advice, business development or customized training from such Departments or school districts;
2. Proprietary information of the business submitted to the Department or school districts for the purpose of business development or customized training, and related confidentiality agreements detailing the information or records designated as confidential; and
3. Information compiled by such Departments or school districts in response to those submissions.

The Oklahoma Department of Commerce, the Oklahoma Department of Career and Technology Education, the technology center school districts, the Oklahoma Film and Music Office, ~~and~~ institutions within the Oklahoma State System of Higher Education, and the

Department of Corrections may not keep confidential that submitted information when and to the extent the person or entity submitting the information consents to disclosure.

D. Although they must provide public access to their records, including records of the address, rate paid for services, charges, consumption rates, adjustments to the bill, reasons for adjustment, the name of the person that authorized the adjustment, and payment for each customer, public bodies that provide utility services to the public may keep confidential credit information, credit card numbers, telephone numbers, social security numbers, bank account information for individual customers, and utility supply and utility equipment supply contracts for any industrial customer with a connected electric load in excess of two thousand five hundred (2,500) kilowatts if public access to such contracts would give an unfair advantage to competitors of the customer; provided that, where a public body performs billing or collection services for a utility regulated by the Corporation Commission pursuant to a contractual agreement, any customer or individual payment data obtained or created by the public body in performance of the agreement shall not be a record for purposes of this act.

SECTION 2. AMENDATORY 57 O.S. 2011, Section 549.1, as last amended by Section 40, Chapter 15, O.S.L. 2013 (57 O.S. Supp. 2017, Section 549.1), is amended to read as follows:

Section 549.1. A. The Department of Corrections is authorized to purchase in the manner prescribed by law, facilities, equipment, raw materials and supplies, and to engage the supervisory personnel necessary to establish and maintain for this state at the penal institutions, now or hereafter under the control of the State Board of Corrections, industries and agricultural programs for the utilization of services of prisoners in the manufacture ~~or~~, production, processing or assembly of the articles or products as may be needed for the construction, operation, maintenance or use of any office, department, institution or agency supported in whole or in part by this state and the political subdivisions thereof. Upon the request of the Oklahoma Historical Society or the Oklahoma Tourism and Recreation Department, the Department of Corrections shall provide labor for and shall produce or manufacture articles, products or materials needed for the repair, construction and maintenance of historical sites and state parks including, but not

limited to, the production of materials and products needed for the reconstruction of historic forts in the state.

B. All articles and services provided by the Department of Corrections in the state correctional institutions, and not required for use therein, shall be purchased as required by all offices, departments, institutions, agencies, counties, schools, colleges, universities, or political subdivisions or any agency thereof of this state which are supported in whole or in part by this state, if such article or service is the lowest and best bid, and no such article or product may be purchased by any such office, department, institution, agency, county, school, college, university, or political subdivisions or agency thereof from any other source unless excepted from the provisions as hereinafter provided. Purchases made by the above-described state agencies may be made by submitting the proper requisition through the Office of Management and Enterprise Services or by direct order to the prison industries program of the Department of Corrections.

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

D. All offices, departments, institutions, agencies, counties, cities, districts or political subdivisions, schools, colleges, or universities, or any agency thereof, or any agencies of the state, which are supported in whole or in part by this state, may purchase the goods or services manufactured, produced, processed or assembled by the prison industries of the Department of Corrections through their properly authorized purchasing authority, or they may place a

direct order without competitive bid, with the prison industries of the Department of Corrections.

E. Not-for-profit corporations or charitable agencies chartered in Oklahoma or other states may purchase such goods and services. Units of the federal government and units of government in other states may also purchase such goods and services. All entities which contract with the state, its political units, its agencies, its public institutions, not-for-profit corporations or charitable agencies chartered in Oklahoma may purchase goods or services from the Department of Corrections which are used in the performance of such contracts. Any church located in the State of Oklahoma may also purchase goods and services manufactured, produced, processed or assembled by the prison industries of the Department of Corrections. Any community action agency or council of governments within this state may purchase housing components produced by the prison industries of the Department of Corrections. Nothing shall prohibit the Department from bidding on portions of a state contract which are subcontracted by the primary contractor.

F. Others are prohibited from purchasing such goods and services, with the exception that all surplus agricultural products may be sold on the open market or bartered and exchanged for other food, feed or seed products of comparable value. The Department of 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. Products manufactured, produced, processed or assembled 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. 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.

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

J. In the event of disagreement between the Department of Corrections and the State Purchasing Director on fairness of price, ability to comply to specifications, reasonableness of specifications and timeliness of delivery of products the matter will be resolved by the ~~Central~~ Purchasing Director of the Office of Management and Enterprise Services.

K. The Office of Management and Enterprise Services shall cooperate with the Department of Corrections in seeking to promote for use in state agencies and by all other eligible customers, the products manufactured and services provided by the prison industries.

L. The Department of Corrections shall prepare catalogs containing the description of all goods and services provided, with the pricing of each item. Copies of such catalog shall be sent by the Department of Corrections to all offices, departments, institutions and agencies of this state, and shall be available for distribution to all other eligible customers. In lieu of preparing and distributing catalogs, the Department of Corrections may

maintain a website that contains a description of all goods and services provided, with the pricing of each item.

M. The Department of Corrections may keep confidential:

1. Business plans, feasibility studies, financing proposals, marketing plans, financial statements or trade secrets submitted by a person or entity seeking a corrections industries partnership with the Department of Corrections;

2. Proprietary information of the business submitted to the Department for the purposes of a corrections industries partnership, and related confidentiality agreements detailing the information or records designated as confidential; and

3. The Department of Corrections may not keep confidential information when and to the extent that the person or entity submitting the information consents to disclosure.

Passed the Senate the 5th day of March, 2018.

Presiding Officer of the Senate

Passed the House of Representatives the 26th day of April, 2018.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____