

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 1567

By: Rosino of the Senate

and

Bush of the House

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9 COMMITTEE SUBSTITUTE

10 An Act relating to state use; amending 74 O.S. 2021,
11 Section 3001, which relates to the State Use
12 Committee; providing entity name; modifying member of
13 Council; requiring certain meetings; directing the
14 State Purchasing Director to administer the State Use
15 Program; providing certain authority and
16 responsibilities; amending 74 O.S. 2021, Section
17 3003, which relates to definitions; modifying certain
18 definitions; amending 74 O.S. 2021, Section 3004,
19 which relates to procurement schedules; modifying
20 entity responsible for procurement schedule;
21 directing State Purchasing Director to award and
22 manage contracts to certain organizations; directing
23 deposit of certain fee; amending 74 O.S. 2021,
24 Section 3004.1, which relates to contracts;
authorizing certain contracts or awards; modifying
allowing expenditures; amending 74 O.S. 2021, Section
3004.2, which relates to the State Use Committee
Revolving Fund; allowing certain fee or levy;
amending 74 O.S. 2021, Section 3005, which relates to
fair market pricing; modifying entity responsible for
determining fair market price of certain products and
services; modifying time period for price changes to
be effective; 74 O.S. 2021, Section 3006, which
relates to distribution agency; allowing the State
Purchasing Director to contract with a third-party
for certain operations and distribution; amending 74
O.S. 2021, Section 3007, which relates to procuring a
product or service at a certain price; modifying

1 procurement source; modifying entity responsible for
2 determining fair market price; modifying procurement
3 requirements; removing certain exemption; authorizing
4 municipalities and counties to make certain purchases
5 from qualified organizations; amending 74 O.S. 2021,
6 Section 3008, which relates to exceptions; removing
7 exemption; requiring certain pricing review; allowing
8 for temporary exception under certain circumstances;
9 allowing Central Purchasing Division to prescribe
10 rules to carry out this act; amending 74 O.S. 2021,
11 Section 3009, which relates to annual reporting;
12 requiring certain report; repealing 74 O.S. 2021,
13 Sections 3010, which relate exemptions; providing for
14 codification; and providing an effective date.

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

SECTION 1. AMENDATORY 74 O.S. 2021, Section 3001, is
amended to read as follows:

Section 3001. A. There is hereby created in the Office of
Management and Enterprise Services a ~~committee~~ council to be known
as the "State Use ~~Committee~~ Council". The ~~Committee~~ Council shall
consist of seven (7) members ~~and one nonvoting member as follows:~~

1. A private citizen conversant with the employment needs of
people with ~~severe~~ disabilities who shall be appointed by and serve
at the pleasure of the Governor to act as an advocate for the
employment needs of people with ~~severe~~ disabilities;

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

1 3. The Director of the ~~Division of Services for the Blind and~~
2 ~~Visually Impaired of the State~~ Department of Rehabilitation
3 Services, or designee;

4 4. ~~The past president of Oklahoma Community-Based Providers or~~
5 ~~designee to serve for a one-year period, who may be reappointed by~~
6 ~~the succeeding president~~ One member who shall be appointed by the
7 President Pro Tempore of the Senate;

8 5. An individual or a parent or guardian of an individual with
9 ~~severe~~ disabilities who participates in vocational programming
10 through a ~~sheltered environment facility~~ qualified non-profit agency
11 for individuals with disabilities, to be ~~selected by the Committee~~
12 appointed by the Speaker of the House of Representatives;

13 6. The Director of Human Services, or designee; and

14 7. ~~A certified procurement officer from any state agency~~
15 ~~appointed by the State Purchasing Director, selected to represent~~
16 ~~the customer agencies of the State of Oklahoma; and~~

17 8. ~~As a nonvoting member, a~~ A person employed by the Office of
18 Management and Enterprise Services Central Purchasing Division as a
19 contracting officer ~~in the purchasing division~~, appointed by the
20 State Purchasing Director ~~with the advice of the Committee and~~
21 ~~designated specifically to solicit, develop, and negotiate contracts~~
22 ~~with agencies and individuals.~~

23 B. ~~The Committee shall elect from among its membership a Chair~~
24 ~~and a Vice Chair who shall both serve for a period of one (1) year.~~

1 ~~C.~~ The private ~~citizen~~ citizens on the ~~Committee~~ Council shall
2 serve for a period of two (2) years and may be reappointed by the
3 appointing authority. Any private citizen appointed pursuant to
4 this section to fill a vacancy occurring prior to the expiration of
5 the term for which the predecessor was appointed shall be appointed
6 only for the remainder of the term.

7 ~~D. Any member of the Committee shall be prohibited from voting~~
8 ~~on any issue in which the member has an interest~~ The State Use
9 Council shall meet a minimum of twice a year for the purpose of
10 exchanging ideas to market and improve the State Use Program.

11 SECTION 2. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 3001.1 of Title 74, unless there
13 is created a duplication in numbering, reads as follows:

14 The State Purchasing Director, under the supervision of the
15 Director of the Office of Management and Enterprise Services, shall
16 have authority and responsibility to administer and oversee the
17 State Use Program including but not limited to:

- 18 1. Promulgating rules relating to the program;
- 19 2. Qualification of organizations participating in the program;
- 20 3. Contracting with qualified organizations for products and
21 services to be included on the procurement schedule;
- 22 4. Determination of fair market price of all products and
23 services to be included on the procurement schedule; and
- 24 5. Designation and publication of a procurement schedule.

1 SECTION 3. AMENDATORY 74 O.S. 2021, Section 3003, is
2 amended to read as follows:

3 Section 3003. As used in ~~this act~~ Section 3001 et seq. of this
4 title:

5 1. "Blind person" means a person having a visual acuity not to
6 exceed 20/200 in the better eye, with correcting lenses, or visual
7 acuity greater than 20/200 but with limitation in the field of
8 vision such that the widest diameter of visual field subtends an
9 angle no greater than twenty (20) degrees;

10 2. "~~Committee~~ Council" means the State Use ~~Committee~~ Council;

11 3. "Qualified nonprofit agency for ~~the severely handicapped~~
12 employment of individuals with disabilities" means a nonprofit
13 agency÷

14 a. employing ~~severely disabled~~ persons with disabilities
15 who constitute at least seventy-five percent (75%) of
16 the ~~personnel~~ direct labor hours engaged in direct
17 production, manufacturing, processing and/or
18 assembling of products or services offered by the
19 agency for procurement by this state ~~and~~ or who meet
20 the definition of "~~blind person~~" blind person as
21 provided for in paragraph 1 of this section, ~~or~~

22 b. ~~which is certified as a sheltered workshop by the Wage~~
23 ~~and Hour Division of the United States Department of~~
24 ~~Labor;~~

1 4. ~~"Severely disabled person~~ Individuals with disabilities"

2 means an individual with a physical or mental disability
3 constituting a substantial handicap to employment and preventing the
4 person from engaging in normal competitive employment and/or
5 includes any blind person;

6 5. "Qualified organization" means a blind person, qualified
7 nonprofit agency for the ~~severely handicapped, or severely disabled~~
8 ~~person~~ employment of individuals with disabilities contracting to
9 supply goods or services;

10 6. "Manufactured" means goods made by manual labor;

11 7. "Produced" means to have brought into existence or created
12 from raw materials;

13 8. "Processed" means the action of taking something through an
14 established and mostly routine set of procedures or steps to
15 substantially convert a potential product from one form to another.
16 This action involves a sequence of multiple steps each requiring a
17 distinct decision-making process to evolve a potential product to
18 the next step; ~~and~~

19 9. "Assemble" means to put or fit together or put together the
20 parts of a potential product;

21 10. "Central nonprofit agency (CNA)" means a qualified 501(C)3
22 nonprofit entity meeting the qualifications in the Request for
23 Procurement (RFP) issued by the Office of Management and Enterprise

1 Services selected to administer and oversee the State Use Program;
2 and

3 11. "Procurement schedule" means a designated schedule of
4 products and services currently approved by the Office of Management
5 and Enterprise Services Central Purchasing Division as suitable to
6 procure from qualified organizations participating in the State Use
7 Program.

8 SECTION 4. AMENDATORY 74 O.S. 2021, Section 3004, is
9 amended to read as follows:

10 Section 3004. ~~The Committee~~ Office of Management and Enterprise
11 Services Central Purchasing Division shall designate and distribute
12 by regulation a schedule, hereinafter referred to as the procurement
13 schedule, of the products directly manufactured, produced, processed
14 or assembled or services directly performed, offered or provided by
15 any ~~severely disabled person~~ individual with disabilities or
16 qualified nonprofit agency for the ~~severely disabled~~ employment of
17 individuals with disabilities, as defined by this act in Section
18 3003 of this title, which the ~~Committee~~ State Purchasing Director
19 determines are suitable for procurement by the state. The products
20 and services on contract will be published on the procurement
21 schedule and will be designated as mandatory. No state agency shall
22 purchase, pursuant to Section 3007 of this title, products or
23 services purporting to be made by severely disabled persons in
24 workshops which are not certified by the Committee or by severely

1 ~~disabled individuals who are not certified by the Committee~~ The
2 Office of Management and Enterprise Services Central Purchasing
3 Division shall have the authority to qualify organizations for
4 inclusion in the State Use Program, monitor qualified organizations
5 for continued compliance to remain active in the program and remove
6 organizations from the program. Central Purchasing shall have the
7 authority to award and manage contracts to the qualified
8 organizations as well as to renegotiate or cancel contracts when
9 appropriate.

10 SECTION 5. AMENDATORY 74 O.S. 2021, Section 3004.1, is
11 amended to read as follows:

12 Section 3004.1. ~~A one percent fee of any contract for products~~
13 ~~or services of the severely disabled shall be assessed against the~~
14 ~~qualified organization and~~ The State Purchasing Director may enter
15 or award contracts for products or services to a qualified
16 organization as defined in Section 3003 of this title and assess a
17 contract management fee or levy. The contract management fee or
18 levy shall be deposited in the State Use ~~Committee~~ Council Revolving
19 Fund, as created in Section 3004.2 of this title, for the salary,
20 administrative costs, annual trainings, professional association
21 memberships, qualified agency operational improvement grants,
22 periodic economic advantage study, Annual Report development and
23 other expenses incurred by the Central Purchasing Division of the
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1 Office of Management and Enterprise Services for promoting goods and
2 services provided by qualified organizations.

3 SECTION 6. AMENDATORY 74 O.S. 2021, Section 3004.2, is
4 amended to read as follows:

5 Section 3004.2. There is hereby created in the State Treasury a
6 revolving fund for the Office of Management and Enterprise Services
7 to be designated the "State Use ~~Committee~~ Council Revolving Fund".

8 The fund shall be a continuing fund, not subject to fiscal year
9 limitations, and shall consist of all proceeds from the ~~one-percent~~
10 management fee or levy on contracts for purchases of products or
11 services of ~~the severely disabled~~ individuals with disabilities, as
12 provided in Section 3004.1 of this title. The fund shall be

13 invested in any of the types of instruments in which the State
14 Treasurer is authorized by law to invest. Interest earned shall be
15 retained by the fund. All monies accruing to the credit of the fund
16 are hereby appropriated and may be budgeted and expended by the

17 Office of Management and Enterprise Services for the salary and
18 other administrative expenses of the buyer and clerical and
19 technical support in the Central Purchasing Division of the Office
20 of Management and Enterprise Services responsible for contracts for
21 the products and services of ~~the severely disabled~~ individuals with
22 disabilities and expenses the Office incurs to support ~~Committee~~
23 State Use operations including services of the Centralized Non-
24 Profit Agency (CNA). Expenditures from the fund shall be made upon

warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

SECTION 7. AMENDATORY 74 O.S. 2021, Section 3005, is amended to read as follows:

Section 3005. The ~~Committee~~ Office of Management and Enterprise Services Central Purchasing Division shall determine the fair market price of all products and services included in the procurement schedule and shall revise such prices in accordance with changing market conditions; provided, however, a change in price shall not be effective prior to the expiration of ~~fifteen (15)~~ thirty (30) days from the date on which such change is ~~made by the Committee~~ approved. Approved fair market prices shall be reflected on State Use contracts and procurement schedules within thirty (30) days of approval and distribution.

SECTION 8. AMENDATORY 74 O.S. 2021, Section 3006, is amended to read as follows:

Section 3006. The ~~Committee~~ State Purchasing Director may ~~designate contract with~~ the: a central nonprofit agency to facilitate

1. Management of the day-to-day operations of the program;
2. The facilitation, promotion, and the distribution of orders of the state for products or services on the procurement schedule

1 among qualified nonprofit agencies for people with ~~severe~~
2 disabilities;

3 3. Scheduling and conducting annual training sessions;

4 4. Publishing the approved State Use Procurement Schedule;

5 5. Promotion of the State Use program through development and
6 distribution of program marketing material, promotion of program
7 through continued contact with current and future customers; and

8 6. All other duties assigned by the RFP through the Office of
9 Management and Enterprise Services.

10 SECTION 9. AMENDATORY 74 O.S. 2021, Section 3007, is
11 amended to read as follows:

12 Section 3007. A. Whenever the State of Oklahoma or any of its
13 agencies intends to procure any product or service included in the
14 procurement schedule, that entity shall secure the product or
15 service from a qualified nonprofit agency providing employment to
16 people with ~~severe~~ disabilities at the fair market price determined
17 by the ~~Committee~~ Office of Management and Enterprise Services
18 Central Purchasing Division, if the product or service is available
19 within the period required by the entity and meets the
20 specifications of the entity.

21 B. An agency of this state shall not evade the intent and
22 meaning of this section by slight variations from standards adopted
23 by the Office of Management and Enterprise Services Central
24 Purchasing Division.

1 C. Provided, the requirements of this section shall not apply
2 to the procurement of janitorial services by the Oklahoma State
3 Bureau of Investigation. The Bureau shall conduct background
4 investigations and national criminal history record checks on
5 companies and individuals with which it contracts to provide
6 janitorial services.

7 ~~D. When the fair market price for a product or service approved~~
8 ~~by the Committee exceeds a current market price for the same product~~
9 ~~or service, and such lower market price has been verified by the~~
10 ~~agency through compliance with the fair market analysis process~~
11 ~~approved by the Office of Management and Enterprise Services, the~~
12 ~~state use contracting officer may grant a temporary exception to a~~
13 ~~requesting agency so that the agency may purchase the product or~~
14 ~~service from the vendor offering the lower market price. The~~
15 ~~temporary exception shall automatically expire when a new fair~~
16 ~~market price is established by the State Use Committee~~ Any
17 municipality or county agency of this state is authorized to
18 purchase products and services from any qualified organization as
19 defined in Section 3003 of this title. The qualified organization
20 shall be able to meet the needs and specifications for the products
21 or services required by the purchasing body at the fair market
22 price.

23 SECTION 10. AMENDATORY 74 O.S. 2021, Section 3008, is
24 amended to read as follows:

1 Section 3008. A. Nothing in Sections 3001 et seq. of this
2 title pursuant to purchases of products and services from people
3 with ~~severe~~ disabilities shall be construed to prohibit any
4 department or agency of the state from manufacturing or supplying
5 its own products or services for its own use. ~~Procurements made~~
6 ~~pursuant to this act shall not be subject to the competitive bid~~
7 ~~requirements of the Oklahoma Central Purchasing Act, Section 85.1 et~~
8 ~~seq. of this title.~~

9 B. The Office of Management and Enterprise Services Central
10 Purchasing Division shall require an annual qualified organization
11 pricing review for all products and services approved and designated
12 on the procurement schedule. The method of the pricing review shall
13 be defined in the promulgated rules.

14 C. When the fair market price for a product or service approved
15 by the Office of Management and Enterprise Services Central
16 Purchasing Division exceeds a current market price for the same
17 product or service, and such lower market price has been verified by
18 the agency through compliance with the fair market analysis process
19 approved by the Office of Management and Enterprise Services Central
20 Purchasing Division, the State Use contracting officer may grant a
21 temporary exception to a requesting agency so that the agency may
22 purchase the product or service from the supplier offering the lower
23 market price.

SECTION 11. AMENDATORY 74 O.S. 2021, Section 3009, is amended to read as follows:

Section 3009. A. ~~The State Use Committee~~ Office of Management and Enterprise Services Central Purchasing Division shall prescribe rules to carry out the purposes of the provisions of Sections 3001 through 3009 of this title.

B. The rules shall include requirements for:

1. Publishing a catalog listing goods and services and jobs that ~~workshops~~ qualified agencies employing individuals with disabilities can provide the state, annually; and

2. Conducting a minimum of ~~six~~ two meetings per year of the State Use Council, in compliance with the Oklahoma Open Meeting Act, Section 301 et seq. of Title 25 of the Oklahoma Statutes;

~~3. Making available to contractors the minutes of all meetings;~~

~~4. Notifying contractors at least ten (10) days prior to meeting dates. Meetings shall be called by the Committee Chair; and~~

~~5. Establishing guidelines by which a vendor may file a grievance.~~

~~C. The Committee shall report any violations of the intent of the laws to the Attorney General's office within thirty (30) days of their determination of such violations.~~

~~D. C.~~ The Committee shall file an Annual Report On an annual basis, the Office of Management and Enterprise Services shall within sixty (60) days after the close of the ~~legislative~~ fiscal year,

1 transmit a strategic plan for the State Use Program ~~with~~ to the
2 President Pro Tempore of the Senate, the Speaker of the House of
3 Representatives and the Governor.

4 SECTION 12. REPEALER 74 O.S. 2021, Section 3010, is
5 hereby repealed.

6 SECTION 13. This act shall become effective November 1, 2022.

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