

1 ENGROSSED SENATE  
2 BILL NO. 1567

By: Rosino of the Senate

3 and

4 Bush of the House  
5

6 An Act relating to state use; amending 74 O.S. 2021,  
7 Section 3001, which relates to the State Use  
8 Committee; providing entity name; modifying member of  
9 Council; requiring certain meetings; directing the  
10 State Purchasing Director to administer the State Use  
11 Program; providing certain authority and  
12 responsibilities; amending 74 O.S. 2021, Section  
13 3003, which relates to definitions; modifying certain  
14 definitions; amending 74 O.S. 2021, Section 3004,  
15 which relates to procurement schedules; modifying  
16 entity responsible for procurement schedule;  
17 directing State Purchasing Director to award and  
18 manage contracts to certain organizations; directing  
19 deposit of certain fee; amending 74 O.S. 2021,  
20 Section 3004.1, which relates to contracts;  
21 authorizing certain contracts or awards; modifying  
22 allowing expenditures; amending 74 O.S. 2021, Section  
23 3004.2, which relates to the State Use Committee  
24 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  
procurement source; modifying entity responsible for  
determining fair market price; modifying procurement  
requirements; removing certain exemption; authorizing  
municipalities and counties to make certain purchases  
from qualified organizations; amending 74 O.S. 2021,  
Section 3008, which relates to exceptions; removing  
exemption; requiring certain pricing review; allowing  
for temporary exception under certain circumstances;

1       allowing Central Purchasing Division to prescribe  
2       rules to carry out this act; amending 74 O.S. 2021,  
3       Section 3009, which relates to annual reporting;  
4       requiring certain report; repealing 74 O.S. 2021,  
5       Section 3010, which relates to exemptions; providing  
6       for codification; and providing an effective date.

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

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

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

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

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

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

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

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

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

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

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

22       B. ~~The Committee shall elect from among its membership a Chair~~  
23 ~~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 Advisory Council shall meet a minimum of twice a year for the  
10 purpose of exchanging ideas to market and improve the State Use  
11 Program.

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

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

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

5. Designation and publication of a procurement schedule.

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

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

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

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

3. "Qualified nonprofit agency for ~~the severely handicapped employment of people with significant disabilities~~" means a nonprofit agency÷

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

or

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

4. ~~"Severely disabled person"~~ "Person with significant disabilities" means an individual with a physical or mental disability constituting a substantial handicap to employment and preventing the person from engaging in normal competitive employment and/or includes any blind person;

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

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

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

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

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

1        10. "Central nonprofit agency (CNA)" means a qualified 501(c)3  
2 nonprofit entity meeting the qualifications in the Request for  
3 Procurement (RFP) issued by the Office of Management and Enterprise  
4 Services selected to administer and oversee the State Use Program;  
5 and

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

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

13        Section 3004. The ~~Committee~~ Office of Management and Enterprise  
14 Services Central Purchasing Division shall designate and distribute  
15 by regulation a schedule, hereinafter referred to as the procurement  
16 schedule, of the products directly manufactured, produced, processed  
17 or assembled or services directly performed, offered or provided by  
18 any ~~severely disabled~~ person with significant disabilities or  
19 qualified nonprofit agency for the ~~severely disabled~~ employment of  
20 people with significant disabilities, as defined by this act in  
21 Section 3003 of this title, which the ~~Committee~~ State Purchasing  
22 Director determines are suitable for procurement by the state. The  
23 products and services on contract will be published on the  
24 procurement schedule and will be designated as mandatory. No state

1 ~~agency shall purchase, pursuant to Section 3007 of this title,~~  
2 ~~products or services purporting to be made by severely disabled~~  
3 ~~persons in workshops which are not certified by the Committee or by~~  
4 ~~severely disabled individuals who are not certified by the Committee~~  
5 The Office of Management and Enterprise Services Central Purchasing  
6 Division shall have the authority to qualify organizations for  
7 inclusion in the State Use Program, monitor qualified organizations  
8 for continued compliance to remain active in the program, and remove  
9 organizations from the program. Central Purchasing shall have the  
10 authority to award and manage contracts to the qualified  
11 organizations as well as to renegotiate or cancel contracts when  
12 appropriate.

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

15 Section 3004.1. ~~A one-percent fee of any contract for products~~  
16 ~~or services of the severely disabled shall be assessed against the~~  
17 ~~qualified organization and~~ The State Purchasing Director may enter  
18 or award contracts for products or services to a qualified  
19 organization as defined in Section 3003 of this title and assess a  
20 contract management fee or levy. The contract management fee or  
21 levy shall be deposited in the State Use Committee Advisory Council  
22 Revolving Fund, as created in Section 3004.2 of this title, for the  
23 salary, administrative costs, annual trainings, professional  
24 association memberships, qualified agency operational improvement

1 grants, periodic economic advantage study, Annual Report  
2 development, and other expenses incurred by the Central Purchasing  
3 Division of the Office of Management and Enterprise Services for  
4 promoting goods and services provided by qualified organizations.

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

7 Section 3004.2. There is hereby created in the State Treasury a  
8 revolving fund for the Office of Management and Enterprise Services  
9 to be designated the "State Use ~~Committee~~ Advisory Council Revolving  
10 Fund". The fund shall be a continuing fund, not subject to fiscal  
11 year limitations, and shall consist of all proceeds from the ~~one-~~  
12 ~~percent~~ management fee or levy on contracts for purchases of  
13 products or services of ~~the severely disabled~~ people with  
14 significant disabilities, as provided in Section 3004.1 of this  
15 title. The fund shall be invested in any of the types of  
16 instruments in which the State Treasurer is authorized by law to  
17 invest. Interest earned shall be retained by the fund. All monies  
18 accruing to the credit of the fund are hereby appropriated and may  
19 be budgeted and expended by the Office of Management and Enterprise  
20 Services for the salary and other administrative expenses of the  
21 buyer and clerical and technical support in the Central Purchasing  
22 Division of the Office of Management and Enterprise Services  
23 responsible for contracts for the products and services of ~~the~~  
24 ~~severely disabled~~ people with significant disabilities and expenses

1 the Office incurs to support ~~Committee~~ State Use operations  
2 including services of the Centralized Non-Profit Agency (CNA).

3 Expenditures from the fund shall be made upon warrants issued by the  
4 State Treasurer against claims filed as prescribed by law with the  
5 Director of the Office of Management and Enterprise Services for  
6 approval and payment.

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

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

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

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

24 1. Management of the day-to-day operations of the program;

1        2. The facilitation, promotion, and the distribution of orders  
2 of the state for products or services on the procurement schedule  
3 among qualified nonprofit agencies for people with ~~severe~~  
4 significant disabilities;

5        3. Scheduling and conducting annual training sessions;

6        4. Publishing the approved State Use Procurement Schedule;

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

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

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

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

23       B. An agency of this state shall not evade the intent and  
24 meaning of this section by slight variations from standards adopted

1 by the Office of Management and Enterprise Services Central  
2 Purchasing Division.

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

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

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

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

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

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

1 purchase the product or service from the supplier offering the lower  
2 market price.

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

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

9 B. The rules shall include requirements for:

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

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

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

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

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

21 ~~C. The Committee shall report any violations of the intent of~~  
22 ~~the laws to the Attorney General's office within thirty (30) days of~~  
23 ~~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, transmit a strategic plan for the State Use Program ~~with~~ to the President Pro Tempore of the Senate, the Speaker of the House of Representatives and the Governor.

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

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

Passed the Senate the 14th day of March, 2022.

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Presiding Officer of the Senate

Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
2022.

Presiding Officer of the House  
of Representatives