

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 58th Legislature (2021)

4 ENGROSSED SENATE
5 BILL NO. 382

By: Standridge of the Senate

and

Conley of the House

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10 An Act relating to Oklahoma Central Purchasing Act;
11 amending 74 O.S. 2011, Section 85.12, as last amended
12 by Section 11, Chapter 98, O.S.L. 2020 (74 O.S. Supp.
13 2020, Section 85.12), which relates to excluded
14 acquisitions; adding the J.D. McCarty Center to
15 exclusions; providing an effective date.

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

17 SECTION 1. AMENDATORY 74 O.S. 2011, Section 85.12, as
18 last amended by Section 11, Chapter 98, O.S.L. 2020 (74 O.S. Supp.
19 2020, Section 85.12), is amended to read as follows:

20 Section 85.12. A. The provisions of this section shall not be
21 construed to affect any law relating to fiscal or accounting
22 procedure except as they may be directly in conflict herewith; and
23 all claims, warrants, and bonds shall be examined, inspected, and
24 approved as now provided by law.

1 B. Except as otherwise provided by this section, the
2 acquisitions specified in this subsection shall be made in
3 compliance with Section 85.39 of this title and purchasing card
4 program requirements but are not subject to other provisions of the
5 Oklahoma Central Purchasing Act:

6 1. Food and other products produced by state institutions and
7 agencies;

8 2. The printing or duplication of publications or forms of
9 whatsoever kind or character by state agencies if the work is
10 performed upon their own equipment by their own employees. Pursuant
11 to this paragraph, the state agency may only use equipment owned or
12 leased by the agency and may only utilize that equipment for
13 printing services required by the agency in performing duties
14 imposed upon the agency or functions authorized to be performed by
15 the agency. Any use of the equipment by the agency pursuant to an
16 agreement or contract with any other entity resulting in delivery of
17 intermediate or finished products to the entity purchasing or using
18 the products shall be subject to the provisions of this act and
19 associated rules;

20 3. Department of Transportation and Transportation Commission
21 contractual services or right-of-way acquisitions, contracts awarded
22 pursuant to bids let by the Transportation Commission for the
23 maintenance or construction of streets, roads, highways, bridges,
24 underpasses~~7~~ or any other transportation facilities under the

1 control of the Department of Transportation, equipment or material
2 acquisitions accruing to the Department of Transportation required
3 in Federal-Aid contracts, and acquisitions for public-service-type
4 announcements initiated by the Department of Transportation, but not
5 acquisitions for advertising, public relations or employment
6 services;

7 4. Utility services regulated by a state or federal regulatory
8 commission, municipal ordinance or an Indian Tribal Council;

9 5. Acquisitions by the University Hospitals Authority. The
10 Authority shall develop standards for the acquisition of products
11 and services and may elect to utilize the Purchasing Division. The
12 standards shall foster economy and short response time and shall
13 include appropriate safeguards and record-keeping requirements to
14 ensure appropriate competition and economical and efficient
15 purchasing;

16 6. Custom harvesting by the Department of Corrections for the
17 Department or its institutions;

18 7. Subject to prior approval of the State Purchasing Director,
19 acquisitions from private prison suppliers which are subject to the
20 contracting procedures of Section 561 of Title 57 of the Oklahoma
21 Statutes;

22 8. Acquisitions by the Oklahoma Municipal Power Authority;

23 9. Acquisitions by the Grand River Dam Authority;

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1 10. Acquisitions by rural water, sewer, gas or solid waste
2 management districts created pursuant to the Rural Water, Sewer, Gas
3 and Solid Waste Management Districts Act;

4 11. Acquisitions by the Oklahoma Ordnance Works Authority, the
5 Northeast Oklahoma Public Facilities Authority or the Midwestern
6 Oklahoma Development Authority;

7 12. Expenditure of monies appropriated to the State Board of
8 Education for Local and State Supported Financial Support of Public
9 Schools, except monies allocated therefrom for the Administrative
10 and Support Functions of the State Department of Education;

11 13. Expenditure of monies appropriated to the State Department
12 of Rehabilitation Services for educational programs or educational
13 materials for the Oklahoma School for the Blind and the Oklahoma
14 School for the Deaf;

15 14. Contracts entered into by the Oklahoma Department of Career
16 and Technology Education for the development, revision or updating
17 of vocational curriculum materials, and contracts entered into by
18 the Oklahoma Department of Career and Technology Education for
19 training and supportive services that address the needs of new or
20 expanding industries;

21 15. Contracts entered into by the Oklahoma Center for the
22 Advancement of Science and Technology for professional services;

23 16. Contracts entered into by the Oklahoma Department of
24 Commerce pursuant to the provisions of Section 5066.4 of this title;

1 17. Acquisitions made by the Oklahoma Historical Society from
2 monies used to administer the White Hair Memorial;

3 18. Purchases of pharmaceuticals available through a multistate
4 or multigovernmental contract if such pharmaceuticals are or have
5 been on state contract within the last fiscal year, and the terms of
6 such contract are more favorable to the state or agency than the
7 terms of a state contract for the same products, as determined by
8 the State Purchasing Director. The state entity designated by law,
9 as specified in Section 1010.3 of Title 56 of the Oklahoma Statutes,
10 shall participate in the purchase of pharmaceuticals available
11 through such contracts;

12 19. Contracts for managed health care services entered into by
13 the state entity designated by law or the Department of Human
14 Services, as specified in paragraph 1 of subsection A of Section
15 1010.3 of Title 56 of the Oklahoma Statutes;

16 20. Acquisitions by a state agency through a General Services
17 Administration contract or other federal contract if the
18 acquisitions are not on current statewide contract or the terms of
19 the federal contract are more favorable to the agency than the terms
20 of a statewide contract for the same products;

21 21. Acquisitions of clothing for clients of the Department of
22 Human Services and acquisitions of food for group homes operated by
23 the Department of Human Services;

24 22. Acquisitions by the Oklahoma Energy Resources Board;

1 23. Acquisitions of clothing for juveniles in the custody of
2 the Office of Juvenile Affairs and acquisitions of food for group
3 homes operated by the Office of Juvenile Affairs;

4 24. State contracts for flexible benefits plans pursuant to the
5 Oklahoma State Employees Benefits Act, Section 1361 et seq. of this
6 title;

7 25. Acquisitions by the Department of Securities to
8 investigate, initiate, or pursue administrative, civil, or criminal
9 proceedings involving potential violations of the acts under the
10 Department's jurisdiction and acquisitions by the Department of
11 Securities for its investor education program;

12 26. Acquisitions for resale in and through canteens operated
13 pursuant to Section 537 of Title 57 of the Oklahoma Statutes and
14 canteens established at an institution or facility operated by the
15 Office of Juvenile Affairs;

16 27. Acquisitions by the Oklahoma Boll Weevil Eradication
17 Organization for employment and personnel services, and for
18 acquiring sprayers, blowers, traps, and attractants related to the
19 eradication of boll weevils in this state or as part of a national
20 or regional boll weevil eradication program;

21 28. Contracts entered into by the Oklahoma Indigent Defense
22 System for expert services pursuant to the provisions of subsection
23 D of Section 1355.4 of Title 22 of the Oklahoma Statutes;

1 29. Acquisitions by the Oklahoma Correctional Industries and
2 the Agri-Services programs of the Department of Corrections of raw
3 materials, component parts and other products, any equipment
4 excluding vehicles, and any services excluding computer consultant
5 services used to produce goods or services for resale and for the
6 production of agricultural products;

7 30. Contracts entered into by the Department of Human Services
8 for provision of supported living services to members of the
9 plaintiff class in Homeward Bound, Inc., et al. v. The Hisson
10 Memorial Center, et al., Case Number 85-C-437-E, United States
11 District Court for the Northern District of Oklahoma;

12 31. Contracts negotiated by the Office of Juvenile Affairs with
13 designated Youth Services Agencies and the Oklahoma Association of
14 Youth Services, or another Oklahoma nonprofit corporation whose
15 membership consists solely of Youth Services Agencies and of whom at
16 least a majority of Youth Services Agencies are members, pursuant to
17 the provisions of Section 2-7-306 of Title 10A of the Oklahoma
18 Statutes and contracts entered into by the Department of Human
19 Services pursuant to Section 1-9-110 of Title 10A of the Oklahoma
20 Statutes with designated Youth Services Agencies;

21 32. Contracts for annuities for structured settlements provided
22 for in Section 158 of Title 51 of the Oklahoma Statutes;

23 33. Subject to subsection E of this section, purchases made
24 from funds received by local offices administered by the Department

1 of Human Services or administered by the Office of Juvenile Affairs
2 for fund-raising activities and donations for the benefit of clients
3 and potential clients at the local offices where such purchases may
4 not otherwise be paid for from appropriated funds; ~~and~~

5 34. Acquisitions by the Oklahoma Historical Society for
6 restoration of historical sites and museums although the agency may
7 elect to utilize the Purchasing Division for an acquisition with
8 supplier and bid selection being the prerogative of the agency,
9 based on the supplier's documented qualifications and experience;
10 and

11 35. Acquisitions of clothing and food for patients in the care
12 of the J.D. McCarty Center for Children with Developmental
13 Disabilities.

14 C. Pursuant to the terms of a contract the State Purchasing
15 Director enters into or awards, a state agency, common school,
16 municipality, rural fire protection district, county officer or any
17 program contract, purchase, acquisition or expenditure that is not
18 subject to the provisions of the Oklahoma Central Purchasing Act,
19 may, unless acting pursuant to a contract with the state that
20 specifies otherwise, make use of statewide contracts and the
21 services of the Purchasing Division and the State Purchasing
22 Director. Any political subdivision or rural fire protection
23 district may designate the State Purchasing Director as its agent
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1 for any acquisition from a statewide contract or otherwise available
2 to the state.

3 D. The State Purchasing Director may make periodic audits of
4 the purchasing procedures of acquisitions listed in subsection B of
5 this section to ensure that the procedures are being followed.

6 E. With respect to the Department of Human Services or the
7 Office of Juvenile Affairs, as applicable, monies received by
8 fundraising activities or donations from the local office, vending
9 operations administered by employees of the agency and all other
10 nonrestricted cash and cash-equivalent items received by employees
11 of the agency shall be deposited in the agency special account
12 established for this purpose. The deposits shall be made at local
13 banking institutions approved by the State Treasurer.

14 SECTION 2. This act shall become effective November 1, 2021.
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16 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT, dated
17 04/01/2021 - DO PASS.
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