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February 11, 2021

By: Standridge

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

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

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

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

B. Except as otherwise provided by this section, the acquisitions specified in this subsection shall be made in compliance with Section 85.39 of this title and purchasing card

1 program requirements but are not subject to other provisions of the
2 Oklahoma Central Purchasing Act:

3 1. Food and other products produced by state institutions and
4 agencies;

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

17 3. Department of Transportation and Transportation Commission
18 contractual services or right-of-way acquisitions, contracts awarded
19 pursuant to bids let by the Transportation Commission for the
20 maintenance or construction of streets, roads, highways, bridges,
21 underpasses, or any other transportation facilities under the
22 control of the Department of Transportation, equipment or material
23 acquisitions accruing to the Department of Transportation required
24 in Federal-Aid contracts, and acquisitions for public-service-type

1 announcements initiated by the Department of Transportation, but not
2 acquisitions for advertising, public relations or employment
3 services;

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

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

13 6. Custom harvesting by the Department of Corrections for the
14 Department or its institutions;

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

19 8. Acquisitions by the Oklahoma Municipal Power Authority;

20 9. Acquisitions by the Grand River Dam Authority;

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

1 11. Acquisitions by the Oklahoma Ordnance Works Authority, the
2 Northeast Oklahoma Public Facilities Authority or the Midwestern
3 Oklahoma Development Authority;

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

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

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

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

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

22 17. Acquisitions made by the Oklahoma Historical Society from
23 monies used to administer the White Hair Memorial;
24

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

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

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

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

22 22. Acquisitions by the Oklahoma Energy Resources Board;
23
24

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.

15 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT
16 February 11, 2021 - DO PASS
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