

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

SENATE BILL 1567

By: Rosino

AS INTRODUCED

An Act relating to state use; directing the State Purchasing Director to administer the State Use Program; amending 74 O.S. 2021, Section 3003, which relates to definitions; modifying certain definitions; amending 74 O.S. 2021, Section 3004, which relates to procurement schedules; modifying entity responsible for procurement schedule; directing Central Purchasing Director to award and manage contracts to certain organizations; directing deposit of certain fee; amending 74 O.S. 2021, Section 3004.2, which relates to the State Use Committee Revolving Fund; transferring funds into certain revolving fund by a specific date; 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; allowing Central Purchasing Division to prescribe rules to carry out this act; requiring the Office of Management and Enterprise Services to send a strategic plan to the Governor, President Pro Tempore

1 of the Senate, and the Speaker of the House of  
2 Representatives within a specific time period;  
3 repealing 74 O.S. 2021, Sections 3001, 3004.1, and  
4 3009, which relate to the State Use Committee,  
5 promotion fees, and rules; providing for  
6 codification; and providing an effective date.

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

8 SECTION 1. NEW LAW A new section of law to be codified  
9 in the Oklahoma Statutes as Section 3001.1 of Title 74, unless there  
10 is created a duplication in numbering, reads as follows:

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

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

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

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

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

8 ~~2. "Committee" means the State Use Committee;~~

9 ~~3.~~ 2. "Qualified nonprofit agency for the severely handicapped"  
10 means a nonprofit agency:

11 a. employing severely disabled persons who constitute at  
12 least seventy-five percent (75%) of the personnel  
13 engaged in direct production of products or services  
14 offered by the agency for procurement by this state  
15 and who meet the definition of "blind person" as  
16 provided for in paragraph 1 of this section, or

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

20 ~~4.~~ 3. "Severely disabled person" means an individual with a  
21 physical or mental disability constituting a substantial handicap to  
22 employment and preventing the person from engaging in normal  
23 competitive employment and includes any blind person;

1       ~~5.~~ 4. "Qualified organization" means a blind person, qualified  
2 nonprofit agency for the severely handicapped, or severely disabled  
3 person contracting to supply goods or services;

4       ~~6.~~ 5. "Manufactured" means goods made by manual labor;

5       ~~7.~~ 6. "Produced" means to have brought into existence or  
6 created from raw materials;

7       ~~8.~~ 7. "Processed" means the action of taking something through  
8 an established and mostly routine set of procedures or steps to  
9 substantially convert a potential product from one form to another.  
10 This action involves a sequence of multiple steps each requiring a  
11 distinct decision-making process to evolve a potential product to  
12 the next step; ~~and~~

13       ~~9.~~ 8. "Assemble" means to put or fit together or put together  
14 the parts of a potential product;

15       9. "Central nonprofit agency" means an entity designated as a  
16 central nonprofit agency under contract with the Office of  
17 Management and Enterprise Services pursuant to the authority of the  
18 State Purchasing Director in Section 85.5 of this title; and

19       10. "Procurement schedule" means a designated schedule of  
20 products and services currently approved by the Office of Management  
21 and Enterprise Services Central Purchasing Division as suitable to  
22 procure from qualified organizations participating in the State Use  
23 Program.

1           SECTION 3.           AMENDATORY           74 O.S. 2021, Section 3004, is

2 amended to read as follows:

3           Section 3004. ~~The Committee~~ Office of Management and Enterprise  
4 Services Central Purchasing shall designate and maintain by  
5 regulation a schedule, hereinafter referred to as the procurement  
6 schedule, of the products directly manufactured, produced, processed  
7 or assembled or services directly performed, offered or provided by  
8 any severely disabled person or qualified nonprofit agency ~~for the~~  
9 ~~severely disabled, as defined by this act in Section 3003 of this~~  
10 title, which the Committee State Purchasing Director determines are  
11 suitable for procurement by the state. ~~No state agency shall~~  
12 ~~purchase, pursuant to Section 3007 of this title, products or~~  
13 ~~services purporting to be made by severely disabled persons in~~  
14 ~~workshops which are not certified by the Committee or by severely~~  
15 ~~disabled individuals who are not certified by the Committee~~ The  
16 Office of Management and Enterprise Services Central Purchasing  
17 Division shall have the authority to qualify organizations for  
18 inclusion in the State Use Program, monitor qualified organizations  
19 for continued compliance to remain active in the program and remove  
20 organizations from the program. Central Purchasing shall have the  
21 authority to award and manage contracts to the qualified  
22 organizations as well as to renegotiate or cancel contracts when  
23 appropriate.

1       SECTION 4.       NEW LAW       A new section of law to be codified  
2 in the Oklahoma Statutes as Section 3004.1a of Title 74, unless  
3 there is created a duplication in numbering, reads as follows:

4       The State Purchasing Director may enter or award contracts for  
5 products or services to a qualified organization as defined in  
6 Section 3003 of Title 74 of the Oklahoma Statutes and assess a  
7 contract management fee or levy. The contract management fee or  
8 levy shall be deposited in the Office of Management and Enterprise  
9 Services Contract Management Revolving Fund statutorily created in  
10 Section 85.33A of Title 74 of the Oklahoma Statutes.

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

13       Section 3004.2. A. There is hereby created in the State  
14 Treasury a revolving fund for the Office of Management and  
15 Enterprise Services to be designated the "State Use Committee  
16 Revolving Fund". The fund shall be a continuing fund, not subject  
17 to fiscal year limitations, and shall consist of all proceeds from  
18 the ~~one percent~~ fee on contracts for purchases of products or  
19 services ~~of the severely disabled~~, as provided in Section 3004.1 of  
20 this title. The fund shall be invested in any of the types of  
21 instruments in which the State Treasurer is authorized by law to  
22 invest. Interest earned shall be retained by the fund. All monies  
23 accruing to the credit of the fund are hereby appropriated and may  
24 be budgeted and expended by the Office of Management and Enterprise

1 Services for the salary and other administrative expenses of the  
2 buyer and clerical and technical support in the Purchasing Division  
3 of the Office of Management and Enterprise Services responsible for  
4 contracts for the products and services of the severely disabled and  
5 expenses the Office incurs to support Committee operations.

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

10 B. Effective November 1, 2022, all funds remaining in the State  
11 Use Committee Revolving Fund shall be transferred to the Office of  
12 Management and Enterprise Services Contract Management Revolving  
13 Fund statutorily authorized in Section 85.33A of this title. Any  
14 encumbrance or obligation of the fund shall also be transferred to  
15 the Office of Management and Enterprise Services Contract Management  
16 Revolving Fund upon the effective date of this act. When the  
17 transfer is complete, the State Use Committee Revolving Fund will  
18 cease to exist.

19 SECTION 6. AMENDATORY 74 O.S. 2021, Section 3005, is  
20 amended to read as follows:

21 Section 3005. The ~~Committee~~ Office of Management and Enterprise  
22 Services Central Purchasing Division shall determine the fair market  
23 price of all products and services included in the procurement  
24 schedule and shall revise such prices in accordance with changing

1 market conditions; provided, however, a change in price shall not be  
2 effective prior to the expiration of fifteen (15) days from the date  
3 on which such change is ~~made by the Committee~~ approved.

4 SECTION 7. AMENDATORY 74 O.S. 2021, Section 3006, is  
5 amended to read as follows:

6 Section 3006. The ~~Committee~~ State Purchasing Director may  
7 ~~designate contract with~~ a central nonprofit agency ~~to facilitate~~  
8 third-party for the:

- 9 1. Management of the day to day operations of the program; or  
10 2. The facilitation of the distribution of orders of the state  
11 for products or services on the procurement schedule among qualified  
12 nonprofit agencies ~~for people with severe disabilities~~ as defined in  
13 Section 3003 of this title.

14 SECTION 8. AMENDATORY 74 O.S. 2021, Section 3007, is  
15 amended to read as follows:

16 Section 3007. A. Whenever the State of Oklahoma or any of its  
17 agencies intends to procure any product or service included in the  
18 procurement schedule, that entity shall secure the product or  
19 service from a qualified ~~nonprofit agency providing employment to~~  
20 ~~people with severe disabilities~~ organization as defined in Section  
21 3003 of this title at the fair market price determined by the  
22 ~~Committee~~ Office of Management and Enterprise Services Central  
23 Purchasing Division, if the product or service is available within  
24



1 the period required by the entity and meets the specifications of  
2 the entity.

3 B. An agency of this state shall not evade the intent and  
4 meaning of this section by slight variations from standards adopted  
5 by the Office of Management and Enterprise Services Central  
6 Purchasing Division.

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

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

1 defined in Section 3003 of this title. The qualified organization  
2 shall be able to meet the needs and specifications for the products  
3 or services required by the purchasing body at the fair market  
4 price.

5 SECTION 9. AMENDATORY 74 O.S. 2021, Section 3008, is  
6 amended to read as follows:

7 Section 3008. A. Nothing in Sections 3001 et seq. of this  
8 title pursuant to purchases of products and services from ~~people~~  
9 ~~with severe disabilities~~ a qualified organization shall be construed  
10 to prohibit any department or agency of the state from manufacturing  
11 or supplying its own products or services for its own use.

12 ~~Procurements made pursuant to this act shall not be subject to the~~  
13 ~~competitive bid requirements of the Oklahoma Central Purchasing Act,~~  
14 ~~Section 85.1 et seq. of this title.~~

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

20 C. When the fair market price for a product or service approved  
21 by the Office of Management and Enterprise Services Central  
22 Purchasing Division exceeds a current market price for the same  
23 product or service, and such lower market price has been verified by  
24 the agency through compliance with the fair market analysis process

1 approved by the Office of Management and Enterprise Services Central  
2 Purchasing Division, the State Use contracting officer may grant a  
3 temporary exception to a requesting agency so that the agency may  
4 purchase the product or service from the supplier offering the lower  
5 market price.

6 SECTION 10. NEW LAW A new section of law to be codified  
7 in the Oklahoma Statutes as Section 3009.1 of Title 74, unless there  
8 is created a duplication in numbering, reads as follows:

9 The Office of Management and Enterprise Services Central  
10 Purchasing Division, with approval by the Director of the Office of  
11 Management and Enterprise Services, shall prescribe rules to carry  
12 out the purposes of the provisions of Sections 3001.1 et seq. of  
13 Title 74 of the Oklahoma Statutes.

14 SECTION 11. NEW LAW A new section of law to be codified  
15 in the Oklahoma Statutes as Section 3009.2 of Title 74, unless there  
16 is created a duplication in numbering, reads as follows:

17 On an annual basis, the Office of Management and Enterprise  
18 Services shall transmit to the Governor, President Pro Tempore of  
19 the Senate, and the Speaker of the House of Representatives a  
20 strategic plan for the State Use Program. The plan shall be due  
21 within sixty (60) days after the close of the fiscal year.

22 SECTION 12. REPEALER 74 O.S. 2021, Sections 3001,  
23 3004.1, 3009, and 3010, are hereby repealed.

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

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