

**COMMITTEE AMENDMENT**  
HOUSE OF REPRESENTATIVES  
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB3129 \_\_\_\_\_  
Of the printed Bill  
Page \_\_\_\_\_ Section \_\_\_\_\_ Lines \_\_\_\_\_  
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by  
inserting in lieu thereof the following language:

**AMEND TITLE TO CONFORM TO AMENDMENTS**

Amendment submitted by: Danny Williams

Adopted: \_\_\_\_\_

\_\_\_\_\_  
Reading Clerk

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

PROPOSED COMMITTEE  
SUBSTITUTE  
FOR  
HOUSE BILL NO. 3129

By: Williams

PROPOSED COMMITTEE SUBSTITUTE

An Act relating to state government; amending 74 O.S. 2021, Sections 85.5, 85.7, as last amended by Section 1, Chapter 339, O.S.L. 2023 (74 O.S. Supp. 2023, Section 85.7), 85.33 and 85.44d.1, which relate to the Oklahoma Central Purchasing Act; modifying powers and duties of the State Purchasing Director; prohibiting state agencies from certain contracts; providing exception; removing certain fee amount; modifying sole source acquisition; removing sole brand; and providing an effective date.

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

SECTION 1. AMENDATORY 74 O.S. 2021, Section 85.5, is amended to read as follows:

Section 85.5 A. Except as otherwise provided in this section, the State Purchasing Director, under the supervision of the Director of the Office of Management and Enterprise Services, shall have sole and exclusive authority and responsibility for all acquisitions by state agencies. In order to carry out the powers and duties of the

1 Chief Information Officer and the Information Services Division, the  
2 Chief Information Officer shall have sole and exclusive authority  
3 and responsibility for all acquisitions of information and  
4 telecommunications technology, equipment, software, products and  
5 related peripherals and services by state agencies. Public  
6 construction contracts are awarded pursuant to Title 61 of the  
7 Oklahoma Statutes and are not subject to the Oklahoma Central  
8 Purchasing Act.

9 B. Every state agency shall determine its own quantitative  
10 needs for acquisitions and the general class or nature of the  
11 acquisitions. The State Purchasing Director, after consultation  
12 with the requisitioning state agency, shall have authority to  
13 determine the particular brand, model or other specific  
14 classification of each acquisition and to draft or invoke pursuant  
15 to the Oklahoma Central Purchasing Act specifications establishing  
16 the requirements for all necessary contracts or purchase orders.

17 C. The Director of the Office of Management and Enterprise  
18 Services shall have authority and responsibility to promulgate rules  
19 in connection with provisions of the Oklahoma Central Purchasing Act  
20 for:

21 1. The time, manner, authentication and form of making  
22 requisitions for acquisitions;

23 2. Inspection, analysis and testing of acquisitions or samples  
24 bidders submit prior to contract award;

1        3. The form and manner of submission for bids or proposals a  
2 bidder submits and the manner of accepting and opening bids or  
3 proposals;

4        4. The conditions under which the Office of Management and  
5 Enterprise Services shall require written contracts for  
6 acquisitions, the conditions under which acquisitions may be made on  
7 an open account basis, and the conditions and manner of negotiating  
8 such contracts;

9        5. Obtaining acquisitions produced by state institutions;

10       6. Conditions under which any of the rules herein authorized  
11 may be waived;

12       7. The amounts of and deposits on any bond or other surety  
13 required to be submitted with a bid or contract for the furnishing  
14 of acquisitions and the conditions under which such bond or other  
15 surety shall be required;

16       8. The manner and conditions of delivery, which shall include  
17 the designation of the common carrier of property to be used to  
18 transport acquisitions whenever a common carrier is used, and the  
19 acceptance, or rejection, including check of quantities, of any  
20 acquisitions;

21       9. The form of any estimate, order or other information  
22 required in connection with an acquisition;

23       10. State agency acquisitions not exceeding the acquisition  
24 threshold amount requiring competitive bid to ensure

1 competitiveness, fairness, compliance with the Oklahoma Central  
2 Purchasing Act and Section 3001 et seq. of this title, which relates  
3 to the State Use Committee. The rules shall include separate  
4 provisions based on acquisition amounts as follows:

5           a. state agencies shall make acquisitions not exceeding  
6           Twenty-five Thousand Dollars (\$25,000.00), provided  
7           the acquisition process is fair and reasonable and is  
8           conducted pursuant to rules authorized pursuant to  
9           this section, and

10          b. state agencies with certified procurement officers and  
11          internal purchasing procedures found compliant by the  
12          State Purchasing Director may make acquisitions in  
13          excess of the fair and reasonable acquisition  
14          threshold amount provided for in this section and not  
15          exceeding Two Hundred Fifty Thousand Dollars  
16          (\$250,000.00), pursuant to rules authorized by this  
17          section;

18          11. Training by the State Purchasing Director of state agency  
19 procurement officers;

20          12. Review and audit by the State Purchasing Director of state  
21 agency acquisitions;

22          13. The conditions for increasing acquisition limits for state  
23 agencies which have had a prior reduction in acquisition limit by  
24 the Director of the Office of Management and Enterprise Services;

1 14. Use of a state purchase card to make acquisitions;

2 15. Any other matter or practice which relates to the  
3 responsibilities of the State Purchasing Director;

4 16. Conditions for determination and authorization of  
5 acquisition threshold amounts of state agencies;

6 17. The form and manner of verification by suppliers that the  
7 supplier is eligible to do business in the State of Oklahoma and has  
8 obtained all necessary permits and licenses, pursuant to applicable  
9 provisions of law; and

10 18. Payment procedure rules for state agencies to adhere to  
11 regarding statewide contracts.

12 D. The State Purchasing Director shall provide training for  
13 state agency procurement officials, and other procurement staff, and  
14 is authorized to require retraining ~~of such~~ and to withdraw access  
15 to state procurement systems for procurement personnel found not to  
16 be in compliance with provisions of the Oklahoma Central Purchasing  
17 Act or associated rules. The training may include any matters  
18 related to state procurement practices. State agency purchasing  
19 officials that demonstrate proficiency shall be certified as  
20 "certified procurement officers" by the State Purchasing Director  
21 and shall be authorized to make acquisitions pursuant to provisions  
22 of the Oklahoma Central Purchasing Act and associated rules. The  
23 State Purchasing Director may assess a fee to state agencies for the  
24 training that does not exceed each state agency's pro rata share of

1 the costs the State Purchasing Director incurs to provide the  
2 training.

3 E. The State Purchasing Director shall review state agency  
4 acquisitions for the purposes of:

5 1. Ensuring state agency compliance with provisions of the  
6 Oklahoma Central Purchasing Act;

7 2. Ensuring state agency compliance with rules promulgated by  
8 the Office of Management and Enterprise Services pursuant to the  
9 Oklahoma Central Purchasing Act;

10 3. Ensuring state agency compliance with provisions of Section  
11 3001 et seq. of this title pertaining to the State Use Committee;

12 4. Reporting any acquisition by any state agency found not to  
13 be in compliance with those sections or rules to the Director of the  
14 Office of Management and Enterprise Services;

15 5. A determination by the State Purchasing Director to reduce a  
16 state agency's acquisition authority amount when the state agency is  
17 found not to be in compliance with the Oklahoma Central Purchasing  
18 Act or associated rules or requirements of the State Purchasing  
19 Director pursuant to this section; and

20 6. A determination by the State Purchasing Director to increase  
21 a state agency's acquisition authority amount after the agency cures  
22 deficiencies in connection with a prior reduction in the authority  
23 amount by the State Purchasing Director.

1 F. Based on written findings and when recommended by the State  
2 Purchasing Director, the Director of the Office of Management and  
3 Enterprise Services may:

4 1. Transmit written findings by the State Purchasing Director  
5 to the State Auditor and Inspector for further investigation,  
6 indicating purchasing procedures that do not conform to the Oklahoma  
7 Central Purchasing Act or associated rules; or

8 2. Transmit to the Attorney General or the State Auditor and  
9 Inspector for further investigation a report made by the State  
10 Purchasing Director that the Director of the Office of Management  
11 and Enterprise Services reasonably believes indicates that an action  
12 that constitutes a criminal violation pursuant to the Oklahoma  
13 Central Purchasing Act or other laws has been taken by any state  
14 agency, state agency official, bidder or supplier.

15 G. 1. Pursuant to the requirements of the Oklahoma Central  
16 Purchasing Act, the State Purchasing Director shall have authority  
17 to enter into any statewide, multistate or multigovernmental  
18 contract. The state entity designated by law, as specified in  
19 Section 1010.3 of Title 56 of the Oklahoma Statutes, shall  
20 participate in the purchase of pharmaceuticals available through  
21 such multistate or multigovernmental contracts entered into by the  
22 State Purchasing Director.

23 2. Whenever it appears advantageous to the state or to any  
24 state agency to purchase or otherwise acquire any acquisition which



1 may be offered for sale by the United States government or any  
2 agency thereof, the State Purchasing Director may execute a contract  
3 for the acquisition with the federal government or federal agency  
4 and may also utilize contracts awarded by other governmental  
5 agencies including, but not limited to, agencies of the United  
6 States of America.

7 3. The State Purchasing Director may designate, for use by  
8 state agencies, contracts described in this subsection and contracts  
9 awarded on behalf of one or more state agencies.

10 4. Prior to exercising the authority to cancel a contract, the  
11 State Purchasing Director may authorize renegotiation of an existing  
12 contract with an incumbent supplier for the purposes of obtaining  
13 more favorable terms for the state.

14 5. The State Purchasing Director shall have the authority to  
15 designate certain contracts for state agencies as statewide  
16 contracts and mandatory statewide contracts. State agencies shall  
17 not contract with a supplier outside of a statewide contract for the  
18 same products or services offered by the supplier within a statewide  
19 contract. In order to carry out the powers and duties of the Chief  
20 Information Officer and Information Services Division, the Chief  
21 Information Officer shall have the authority to designate certain  
22 information technology and telecommunication contracts as statewide  
23 contracts and mandatory statewide contracts and may negotiate  
24 consolidation contracts, enterprise agreements and high technology

1 system contracts in lieu of or in conjunction with competitive  
2 bidding procedures to reduce acquisition cost.

3 6. The State Purchasing Director may publish such  
4 specifications relating to materials, supplies, equipment and  
5 services to be acquired for the state as may best promote  
6 competition and apprise potential suppliers of the type of product  
7 desired.

8 H. 1. The State Purchasing Director may develop and test new  
9 contracting policies, procedures and innovations that hold potential  
10 for making state procurement more effective and efficient and  
11 identify, and make recommendations to the Legislature of, any  
12 appropriate changes in law. Such development and testing, proof of  
13 concept, pilot project or other similar test shall not be considered  
14 an acquisition subject to the Oklahoma Central Purchasing Act.

15 2. The State Purchasing Director is authorized to explore and  
16 investigate cost savings in energy, resource usage and maintenance  
17 contracts and to identify and negotiate contract solutions  
18 including, but not limited to, pilot projects to achieve cost  
19 savings for this state.

20 I. The State Purchasing Director shall endeavor to satisfy  
21 state agencies in terms of cost, quality and timeliness of the  
22 delivery of acquisitions by using bidders who have a record of  
23 successful past performance, promoting competition, minimizing  
24

1 administrative operating costs and conducting business with  
2 integrity, fairness and openness.

3 J. The State Purchasing Director shall undertake the following:

4 1. The use of electronic commerce pursuant to the Oklahoma  
5 Online Bidding Act for solicitation, notification and other  
6 purchasing processes;

7 2. Monitoring rules promulgated pursuant to the Oklahoma  
8 Central Purchasing Act to ensure that the rules satisfy the  
9 interests of the state, are clear and succinct and encourage  
10 efficiency in purchasing processes;

11 3. A program to identify suppliers' performance records;

12 4. Development of criteria for the use of sealed bid  
13 contracting procedures, negotiated contracting procedures, selection  
14 of types of contracts, postaward administration of purchase orders  
15 and contracts, addendums, termination of contracts and contract  
16 pricing;

17 5. Continual improvement in the quality of the performance of  
18 the Purchasing Division through training programs, management  
19 seminars, development of benchmarks and key management indicators,  
20 and development of standard provisions, clauses and forms;

21 6. The State Purchasing Director shall prescribe standardized  
22 contract forms and all other forms or certifications requisite or  
23 deemed necessary by the State Purchasing Director to effectuate the  
24

1 provisions of the Oklahoma Central Purchasing Act and associated  
2 rules;

3 7. Development of programs to improve customer relations  
4 through training, improved communications and appointment of  
5 technical representatives;

6 8. Provide for public two-way communication between procurement  
7 officers and potential bidders who have questions regarding a  
8 request for proposal or invitation to bid; and

9 9. Determine whether and to what extent information included in  
10 a bid or similar offer is confidential and reject all requests to  
11 disclose the information so designated.

12 K. The State Purchasing Director may utilize and authorize  
13 state agencies to utilize reverse auctions to obtain acquisitions.

14 L. Prior to the award of a contract to a supplier, the State  
15 Purchasing Director shall verify, pursuant to applicable provisions  
16 of law, that the supplier is eligible to do business in this state  
17 by confirming registration with the Secretary of State and franchise  
18 tax payment status pursuant to Sections 1203 and 1204 of Title 68 of  
19 the Oklahoma Statutes. The provisions of this subsection shall be  
20 applicable only if the contract amount is Two Hundred Fifty Thousand  
21 Dollars (\$250,000.00) or greater.

22 M. On an annual basis, the State Purchasing Director shall  
23 transmit to the Governor, Speaker of the House of Representatives  
24 and President Pro Tempore of the Senate a report documenting the

1 savings realized by each agency through the application of best  
2 spend practices including the collection and tracking of spend data,  
3 strategic sourcing programs and implementation of managed and  
4 mandatory statewide contracts and include in the report information  
5 regarding emergency acquisitions.

6 N. The acquisition threshold amount applicable to an  
7 acquisition made pursuant to this act or associated rules shall not  
8 apply to state agency purchases; provided, the State Purchasing  
9 Director determines the agency has subject matter experts on staff  
10 having the specialized expertise to purchase goods or services, the  
11 agency possesses the necessary legal and procurement staff to  
12 procure and monitor the contracts and provided the Director of the  
13 Office of Management and Enterprise Services shall certify that the  
14 proposed purchase does not conflict with consolidated statewide  
15 spend initiatives.

16 1. Nothing in this subsection shall give an agency authority to  
17 issue statewide, multistate or multigovernmental contracts.

18 2. Agencies making purchases pursuant to this subsection shall:

- 19 a. be responsible for contracts awarded pursuant to this  
20 subsection, which includes, but may not be limited to,  
21 contract management, protest costs, all costs  
22 connected with or incurred as a result of the  
23 contract, including legal representation,  
24

1           b.    comply with rules and policies of the Office of  
2                   Management and Enterprise Services, and

3           c.    report contracts issued pursuant to this subsection to  
4                   the Office of Management and Enterprise Services,  
5                   Central Purchasing Division, on a quarterly basis.

6           3.    Purchases made in accordance with this subsection shall be  
7           made pursuant to rules authorized by this section.

8           O.    The State Purchasing Director, with approval by the Director  
9           of the Office of Management and Enterprise Services, is authorized  
10          to make use of any state laboratories for the tests and analyses  
11          authorized in this section wherever practicable and to use private  
12          laboratories or the laboratories of another government agency if it  
13          is impracticable to use state laboratories. The State Purchasing  
14          Director is further authorized to cooperate in test and analysis  
15          programs or agreements with other states or the United States  
16          government and to accept federal funds and funds donated by private  
17          endowments or foundations for the purpose of participation in such  
18          testing programs.

19          SECTION 2.        AMENDATORY        74 O.S. 2021, Section 85.7, as  
20          last amended by Section 1, Chapter 339, O.S.L. 2023 (74 O.S. Supp.  
21          2023, Section 85.7), is amended to read as follows:

22          Section 85.7   A.   1.   Except as otherwise provided by the  
23          Oklahoma Central Purchasing Act, or associated rules:  
24

- 1           a.    every state agency shall initiate all acquisitions by  
2                   the submission of a requisition to the Purchasing  
3                   Division, and
- 4           b.    no state agency shall make an acquisition for an  
5                   amount exceeding Fifty Thousand Dollars (\$50,000.00)  
6                   or the limit determined by the State Purchasing  
7                   Director pursuant to rules authorized by Section 85.5  
8                   of this title, not to exceed Two Hundred Fifty  
9                   Thousand Dollars (\$250,000.00), without submission of  
10                  a requisition to the Purchasing Division for issuance  
11                  of a solicitation for the acquisition on behalf of the  
12                  agency. ~~Any exemption from competitive bid~~  
13                  ~~requirements of the Oklahoma Central Purchasing Act~~  
14                  ~~further exempts the acquisition from requisition~~  
15                  ~~requirements of the act.~~

16           2.    The State Purchasing Director may request additional  
17   information necessary to adequately review a requisition to ensure  
18   compliance with the Oklahoma Central Purchasing Act and associated  
19   rules. If the State Purchasing Director determines that an  
20   acquisition is not necessary, excessive or not justified, the State  
21   Purchasing Director shall deny the requisition.

22           3.    The provisions of the Oklahoma Central Purchasing Act shall  
23   not preclude a state agency from:

24

1           a.     accepting gifts or donations in any manner authorized  
2                   by law, or

3           b.     making an acquisition for itself without submitting a  
4                   requisition under this section when authorized in  
5                   writing by the State Purchasing Director.

6           4.     Any acquisition a state agency makes shall be made pursuant  
7     to the Oklahoma Central Purchasing Act and associated rules. No  
8     agency shall use split purchasing for the purpose of evading the  
9     requirement of competitive bidding or other requirement of the  
10    Oklahoma Central Purchasing Act or associated rules. Violation of  
11    this provision shall be cause for discipline of a state employee up  
12    to and including termination.

13          5.     The State Purchasing Director may waive or increase the  
14    limit authorized for a state agency acquisition made pursuant to its  
15    own competitive procedures. To perfect an otherwise valid  
16    acquisition inadvertently exceeding the limit due to administrative  
17    error by a state agency or unforeseeable circumstances, the state  
18    agency shall request a limited waiver or increase upon the discovery  
19    of the error or circumstance to the State Purchasing Director. The  
20    State Purchasing Director shall report requests for waivers or  
21    increases, stating the amount and whether the request was granted or  
22    denied, upon request by the Governor, President Pro Tempore of the  
23    Senate or Speaker of the House of Representatives.



1       6. Competitive bidding requirements of this section shall not  
2 be required for the following:

- 3           a. contracts for master custodian banks or trust  
4 companies, investment managers, investment  
5 consultants, and actuaries for the state retirement  
6 systems, and Oklahoma Employees Insurance and Benefits  
7 Board, pension fund management consultants of the  
8 Oklahoma State Pension Commission and the  
9 Commissioners of the Land Office, examiners, experts,  
10 or consultants for the Insurance Department whose job  
11 duties are tied to Market Conduct Exams, Financial  
12 Exams, and Insurance Business Transfers, financial  
13 institutions to act as depositories and managers of  
14 the Oklahoma College Savings Plan accounts and other  
15 professional services as defined in Section 803 of  
16 Title 18 of the Oklahoma Statutes. When requested by  
17 the Oklahoma Employees Insurance and Benefits Board or  
18 the governing board of a state retirement system  
19 authorized to hire investment managers, the Purchasing  
20 Division shall assist in the process of selecting  
21 investment managers,
- 22           b. a state agency making such an acquisition shall notify  
23 the State Purchasing Director within fifteen (15) days  
24 following completion of the acquisition. A list of

1 the exempt contracts shall be provided, upon request,  
2 to a member of the Appropriations and Budget Committee  
3 of the House of Representatives or Appropriations  
4 Committee of the Senate,

5 c. purchases of postage by state agencies made pursuant  
6 to Sections 90.1 through 90.4 of this title,

7 d. a sole source acquisition made in compliance with  
8 Section 85.44D.1 of this title,

9 e. an acquisition for design, development, communication  
10 or implementation of the state employees flexible  
11 benefits plan; provided, procedures used for the  
12 acquisition are consistent with competitive bid  
13 requirements of the Oklahoma Central Purchasing Act  
14 and associated rules,

15 f. any acquisition of a service which the Office of  
16 Management and Enterprise Services has approved as  
17 qualifying for a fixed and uniform rate, subject to  
18 the following:

19 (1) the Purchasing Division shall establish criteria  
20 and guidelines for those services which may  
21 qualify for a fixed and uniform rate,

22 (2) fixed and uniform rate contracts authorized by  
23 this subsection shall be limited to contracts for  
24 those services furnished to persons directly

1           benefiting from such services and shall not be  
2           used by a state agency to employ consultants or  
3           to make other acquisitions,

4           (3) any state agency desiring to have a service  
5           qualified for a fixed and uniform rate shall make  
6           a request for service qualification to the State  
7           Purchasing Director and submit documentation to  
8           support the request. The State Purchasing  
9           Director shall approve or deny the request. If  
10          approved, the state agency shall establish a  
11          fixed and uniform rate for the service. No  
12          contracts shall be entered into by the state  
13          agency until the rate has been approved by the  
14          state agency in a public hearing. The proposed  
15          rate shall be clearly and separately identified  
16          in the agenda of the state agency for the hearing  
17          and shall be openly and separately discussed  
18          during such hearing. The state agency shall  
19          notify the State Purchasing Director of its  
20          pending consideration of the proposed rate at  
21          least thirty (30) days before the state agency is  
22          to meet on the proposed rate and deliver a copy  
23          of the agenda items concerning the proposed rate  
24          with supporting documentation. The State

Purchasing Director shall communicate any observation, reservation, criticism or recommendation to the agency, either in person at the time of the hearing or in writing delivered to the state agency before or at the time of the hearing. The State Purchasing Director shall specifically note in the written communications whether the Director has determined the rate to be excessive. Any written communication presented in the absence of the State Purchasing Director shall be presented orally during the public hearing. Whether made in person or in writing, any comment made by the State Purchasing Director shall be made a part of the minutes of the hearing in full,

- (4) within two (2) weeks after the convening of the Legislature, the administrative officer of the state agency shall furnish to the Speaker of the House of Representatives, the President Pro Tempore of the Senate and to any member of the House or Senate, if requested by the member, a complete list of all of the types of services paid for by uniform fixed rates, the amount of the rate last approved by the agency for the

1 service and the number of contracts then in  
2 existence for each type of service. Any rate  
3 which has been determined to be excessive by the  
4 State Purchasing Director shall be specifically  
5 identified in the list by the state agency, and  
6 (5) at any time, the State Purchasing Director may  
7 review, suspend or terminate a contract entered  
8 into pursuant to the provisions of this paragraph  
9 if the Director determines the contract is not  
10 necessary, is excessive or is not justified,

11 g. an acquisition for a client of the State Department of  
12 Rehabilitation Services; provided, the agency develops  
13 and maintains standards for such an acquisition. The  
14 agency may elect to utilize the Purchasing Division  
15 for an acquisition. The standards shall foster  
16 economy, provide a short response time, include  
17 appropriate safeguards, require written records,  
18 ensure appropriate competition for economical and  
19 efficient purchasing and shall be approved by the  
20 State Purchasing Director,

21 h. structured settlement agreements entered into by the  
22 Attorney General's office in order to settle any  
23 lawsuit involving the state, the Legislature, any  
24

1 state agency or any employee or official of the state  
2 if:

3 (1) prior to entering into any contract for the  
4 services of an entity to administer a structured  
5 settlement agreement, the Attorney General  
6 receives proposals from at least three entities  
7 engaged in providing such services, and

8 (2) the selection of a particular entity is made on  
9 the basis of the response to the request which is  
10 the most economical and provides the most  
11 competent service which furthers the best  
12 interests of the state,

13 i. an acquisition by a state agency pursuant to a  
14 contract the State Purchasing Director enters into on  
15 behalf of a state agency or awards and designates for  
16 use by state agencies,

17 j. an acquisition by the Committee for Sustaining  
18 Oklahoma's Energy Resources pursuant to a contract  
19 with a local supplier for the purpose of holding a  
20 special event or an exhibition throughout the state,  
21 and

22 k. contracts for the study, analysis, and planning, as  
23 reasonably necessary, to aid in determining the  
24 feasibility of leasing, selling, or privately managing

1 or developing the property or facilities under control  
2 of the Oklahoma Tourism and Recreation Commission.  
3 The Commission shall be exempt from the competitive  
4 bidding requirements of the Oklahoma Central  
5 Purchasing Act for the purpose of soliciting,  
6 negotiating, and effectuating such a contract or  
7 contracts; provided, that the State Purchasing  
8 Director shall review and audit all uses of the  
9 exemptions provided in this subparagraph biannually.

10 7. Notwithstanding any other provision of law, an acquisition  
11 may be exempted from requirements of this section by the State  
12 Purchasing Director when in the State Purchasing Director's  
13 discretion unusual, time-sensitive or unique circumstances exist  
14 which make such exemption in the best and immediate interest of the  
15 state. As used in this subsection, "State Purchasing Director"  
16 shall not mean a designee. Any such acquisitions shall be described  
17 in detail and publicly posted as a data feed. The description shall  
18 include the name of the supplier, cost of the acquisition, reason  
19 for exemption and, as applicable, detailed comparison of the  
20 acquisition with comparable items, any identified cost savings  
21 resulting from the acquisition and a description of benefits to the  
22 state. The State Purchasing Director shall take no action under the  
23 provisions of this subsection prior to such public posting.

1 B. Competitively bid acquisitions shall be awarded to the  
2 lowest and best, or best value, bidder or bidders.

3 C. Bids for an amount requiring submission of requisitions to  
4 the Purchasing Division shall be evaluated by the Purchasing  
5 Division and the state agency receiving the acquisition. At a  
6 minimum, cost and technical expertise shall be considered in  
7 determining the lowest and best, or best value, bid. Further, the  
8 state agency shall present its evaluation and recommendation to the  
9 State Purchasing Director. A documented evaluation report  
10 containing the evaluations of the Purchasing Division or the state  
11 agency shall be completed prior to the contract award and such  
12 report shall be a matter of public record.

13 D. Except as otherwise specifically provided by law, the  
14 acquisition of food items or food products by a state agency from a  
15 public trust created pursuant to Sections 176 through 180.56 of  
16 Title 60 of the Oklahoma Statutes shall comply with competitive  
17 bidding requirements of this section.

18 E. Cooperative contracts shall not be utilized unless the  
19 purchasing cooperative and its affiliated suppliers have complied  
20 with competitive bid requirements of the Oklahoma Central Purchasing  
21 Act and associated rules.

22 F. Notwithstanding any provision of the Oklahoma Central  
23 Purchasing Act, in all cases where federal granted funds are  
24 involved, the federal laws, rules and regulations thereto shall



1 govern to the extent necessary to inure to the benefit of such funds  
2 to this state.

3 G. A court order requiring an acquisition by a state agency,  
4 whether or not such state agency is subject to the Oklahoma Central  
5 Purchasing Act, shall not invalidate competitive bidding procedures  
6 required by this section if such court order does not specify a  
7 specific supplier. Any such acquisition shall comply with  
8 competitive bid procedures.

9 SECTION 3. AMENDATORY 74 O.S. 2021, Section 85.33, is  
10 amended to read as follows:

11 Section 85.33 A. There is hereby created in the State Treasury  
12 a revolving fund for the Office of Management and Enterprise  
13 Services to be designated the "Registration of State Vendors  
14 Revolving Fund". The fund shall consist of any monies received from  
15 fees collected in accordance with subsection B of this section. The  
16 revolving fund shall be a continuing fund, without legislative  
17 appropriation, not subject to fiscal year limitations, and shall be  
18 under the control and management of the Office of Management and  
19 Enterprise Services. Expenditures from the Registration of State  
20 Vendors Revolving Fund shall be budgeted and expended pursuant to  
21 the laws of the state and the statutes relating to public finance.  
22 The fund shall be used to defray the costs of the Purchasing  
23 Division. Warrants for expenditures from the fund shall be drawn by  
24 the State Treasurer, based on claims signed by an authorized

1 employee or employees of the Office, and approved for payment by the  
2 Director of the Office of Management and Enterprise Services.

3 B. The Office of Management and Enterprise Services may collect  
4 a fee ~~of Twenty-five Dollars (\$25.00)~~ to register suppliers that  
5 desire to do business with this state through the Purchasing  
6 Division. The suppliers shall register separately for each  
7 commodity list. Each registration shall entitle the supplier to be  
8 on that list for one (1) year, to receive all bid notices in that  
9 classification for that period. All fees collected in accordance  
10 with this subsection shall be deposited in the revolving fund  
11 created in subsection A of this section.

12 SECTION 4. AMENDATORY 74 O.S. 2021, Section 85.44d.1, is  
13 amended to read as follows:

14 Section 85.44d.1 A. 1. A sole source acquisition is exempt  
15 from competitive bidding procedures as a sole source ~~or~~ for the  
16 requirements of this act, but a sole brand acquisition is subject to  
17 ~~such~~ the competitive bidding requirements.

18 2. For each sole source ~~or sole brand~~ acquisition, the state  
19 agency shall retain in the state agency's acquisition file and  
20 attach to the requisition, a certification signed by the chief  
21 administrative officer of the state agency, in the following form:

22 SOLE SOURCE ~~OR SOLE BRAND~~ ACQUISITION

23 CERTIFICATION

24 STATE AGENCY \_\_\_\_\_

1 SUPPLIER NAME \_\_\_\_\_

2 SUPPLIER ADDRESS \_\_\_\_\_

3 SUPPLIER CONTACT INFORMATION \_\_\_\_\_

4 In connection with the attached requisition or contract, I  
5 hereby affirm that

6 (Name of Supplier)

7 is the only business entity singularly qualified to provide the  
8 acquisition, ~~or is the only brand satisfying the acquisition~~  
9 ~~requirements,~~ for the following reasons:

10 \_\_\_\_\_  
11 \_\_\_\_\_  
12 \_\_\_\_\_  
13 \_\_\_\_\_  
14 \_\_\_\_\_

15 The following is a brief description of all efforts made to  
16 verify that the acquisition qualifies as a sole source ~~or sole brand~~  
17 acquisition:

18 \_\_\_\_\_  
19 \_\_\_\_\_  
20 \_\_\_\_\_  
21 \_\_\_\_\_  
22 \_\_\_\_\_

23 I understand that the signing of this certification knowing ~~such~~  
24 the information to be false may result in forfeiture of my position

1 and ineligibility for appointment to or employment in state service  
2 for a period of five (5) years following forfeiture of position.

3 \_\_\_\_\_  
4 (Chief administrative officer)

5 3. A court order requiring a particular acquisition, but which  
6 does not specify a brand or supplier shall not substitute for the  
7 certification required by this section or otherwise invalidate  
8 acquisition procedures required by the Oklahoma Central Purchasing  
9 Act.

10 4. Upon a determination by the Director of the Office of  
11 Management and Enterprise Services that there are reasonable grounds  
12 to believe that a violation of this section has occurred, the  
13 Director shall send findings to the Attorney General that support  
14 the determination. The Attorney General shall review the findings  
15 and determine whether to investigate or prosecute ~~the person~~ an  
16 alleged violation.

17 5. Prior to ~~approving~~ approval or disapproval of a requisition  
18 for a sole source ~~or sole brand~~ acquisition, the Purchasing Division  
19 shall require the signed certification documenting the need for a  
20 sole source ~~or sole brand~~ acquisition and shall retain the  
21 certification in accordance with state record retention  
22 requirements. The Purchasing Division may require submission of  
23 additional information relating to the requisition acquisition.

1        6. For a sole source ~~or sole brand acquisitions~~ acquisition  
2 exceeding the fair and reasonable acquisition threshold amount and  
3 not requiring submission of a requisition to the Purchasing  
4 Division, the state agency's certified procurement officer shall  
5 retain, in the acquisition file, the signed certification  
6 documenting the need for the sole source ~~or sole brand~~ acquisition  
7 in accordance with state record retention requirements.

8        B. By the fifteenth day of each month, or the first working day  
9 thereafter, the Office of Management and Enterprise Services shall  
10 provide a report to:

11        1. The Speaker of the House of Representatives and the  
12 President Pro Tempore of the Senate; and

13        2. Any member of the Legislature requesting the report.

14        The report shall detail sole source ~~and sole brand~~ acquisitions  
15 by state agencies for the month prior to the month preceding the  
16 submission of the report. The report shall be titled "Monthly Sole  
17 Source ~~and Sole Brand~~ Contracting Report of Oklahoma State Agencies"  
18 and indicate the time period of the report. The report shall be  
19 provided by the Director of the Office of Management and Enterprise  
20 Services or the Director's designee. The report shall be in  
21 columnar database format and shall include at least the following  
22 fields of information: state agency number; state agency name; date  
23 created by the Office of Management and Enterprise Services for the  
24 requisition; date of either approval or disapproval of the

1 requisition; if disapproved, the reason why such contract  
2 requisition was disapproved; estimated amount of the requisition  
3 acquisition; purchase order amount; purchase order number; actual  
4 business name of supplier; supplier federal employer identification  
5 number; and the commodity classification listing at the appropriate  
6 level to distinguish between similar acquisitions. Information  
7 required by this subsection shall be reported and maintained on each  
8 report through the next reporting period after an acquisition is  
9 made. The applicable data in the fields of information specified in  
10 this subsection shall be listed even if the state agency requisition  
11 is disapproved.

12 SECTION 5. This act shall become effective November 1, 2024.

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14 59-2-10111 LRB 02/12/24

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