

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

HOUSE BILL 3129

By: Williams

AS INTRODUCED

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 Chief Information Officer and the Information Services Division, the Chief Information Officer shall have sole and exclusive authority

1 and responsibility for all acquisitions of information and
2 telecommunications technology, equipment, software, products and
3 related peripherals and services by state agencies. Public
4 construction contracts are awarded pursuant to Title 61 of the
5 Oklahoma Statutes and are not subject to the Oklahoma Central
6 Purchasing Act.

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

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

19 1. The time, manner, authentication and form of making
20 requisitions for acquisitions;

21 2. Inspection, analysis and testing of acquisitions or samples
22 bidders submit prior to contract award;
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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
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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;
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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
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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.
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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
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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
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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:
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- 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~~ Except for purchases made pursuant to
13 subparagraph d of paragraph 6 of this subsection, an
14 exemption from competitive bid requirements of the
15 Oklahoma Central Purchasing Act ~~further exempts~~ shall
16 exempt the acquisition from requisition requirements
17 of the act.

18 2. The State Purchasing Director may request additional
19 information necessary to adequately review a requisition to ensure
20 compliance with the Oklahoma Central Purchasing Act and associated
21 rules. If the State Purchasing Director determines that an
22 acquisition is not necessary, excessive or not justified, the State
23 Purchasing Director shall deny the requisition.
24

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

3 a. accepting gifts or donations in any manner authorized
4 by law, or

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

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

15 5. The State Purchasing Director may waive or increase the
16 limit authorized for a state agency acquisition made pursuant to its
17 own competitive procedures. To perfect an otherwise valid
18 acquisition inadvertently exceeding the limit due to administrative
19 error by a state agency or unforeseeable circumstances, the state
20 agency shall request a limited waiver or increase upon the discovery
21 of the error or circumstance to the State Purchasing Director. The
22 State Purchasing Director shall report requests for waivers or
23 increases, stating the amount and whether the request was granted or
24

1 denied, upon request by the Governor, President Pro Tempore of the
2 Senate or Speaker of the House of Representatives.

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

- 5 a. contracts for master custodian banks or trust
6 companies, investment managers, investment
7 consultants, and actuaries for the state retirement
8 systems, and Oklahoma Employees Insurance and Benefits
9 Board, pension fund management consultants of the
10 Oklahoma State Pension Commission and the
11 Commissioners of the Land Office, examiners, experts,
12 or consultants for the Insurance Department whose job
13 duties are tied to Market Conduct Exams, Financial
14 Exams, and Insurance Business Transfers, financial
15 institutions to act as depositories and managers of
16 the Oklahoma College Savings Plan accounts and other
17 professional services as defined in Section 803 of
18 Title 18 of the Oklahoma Statutes. When requested by
19 the Oklahoma Employees Insurance and Benefits Board or
20 the governing board of a state retirement system
21 authorized to hire investment managers, the Purchasing
22 Division shall assist in the process of selecting
23 investment managers,
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- 1 b. a state agency making such an acquisition shall notify
2 the State Purchasing Director within fifteen (15) days
3 following completion of the acquisition. A list of
4 the exempt contracts shall be provided, upon request,
5 to a member of the Appropriations and Budget Committee
6 of the House of Representatives or Appropriations
7 Committee of the Senate,
- 8 c. purchases of postage by state agencies made pursuant
9 to Sections 90.1 through 90.4 of this title,
- 10 d. a sole source acquisition made in compliance with
11 Section 85.44D.1 of this title,
- 12 e. an acquisition for design, development, communication
13 or implementation of the state employees flexible
14 benefits plan; provided, procedures used for the
15 acquisition are consistent with competitive bid
16 requirements of the Oklahoma Central Purchasing Act
17 and associated rules,
- 18 f. any acquisition of a service which the Office of
19 Management and Enterprise Services has approved as
20 qualifying for a fixed and uniform rate, subject to
21 the following:
- 22 (1) the Purchasing Division shall establish criteria
23 and guidelines for those services which may
24 qualify for a fixed and uniform rate,
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1 (2) fixed and uniform rate contracts authorized by
2 this subsection shall be limited to contracts for
3 those services furnished to persons directly
4 benefiting from such services and shall not be
5 used by a state agency to employ consultants or
6 to make other acquisitions,

7 (3) any state agency desiring to have a service
8 qualified for a fixed and uniform rate shall make
9 a request for service qualification to the State
10 Purchasing Director and submit documentation to
11 support the request. The State Purchasing
12 Director shall approve or deny the request. If
13 approved, the state agency shall establish a
14 fixed and uniform rate for the service. No
15 contracts shall be entered into by the state
16 agency until the rate has been approved by the
17 state agency in a public hearing. The proposed
18 rate shall be clearly and separately identified
19 in the agenda of the state agency for the hearing
20 and shall be openly and separately discussed
21 during such hearing. The state agency shall
22 notify the State Purchasing Director of its
23 pending consideration of the proposed rate at
24 least thirty (30) days before the state agency is
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1 to meet on the proposed rate and deliver a copy
2 of the agenda items concerning the proposed rate
3 with supporting documentation. The State
4 Purchasing Director shall communicate any
5 observation, reservation, criticism or
6 recommendation to the agency, either in person at
7 the time of the hearing or in writing delivered
8 to the state agency before or at the time of the
9 hearing. The State Purchasing Director shall
10 specifically note in the written communications
11 whether the Director has determined the rate to
12 be excessive. Any written communication
13 presented in the absence of the State Purchasing
14 Director shall be presented orally during the
15 public hearing. Whether made in person or in
16 writing, any comment made by the State Purchasing
17 Director shall be made a part of the minutes of
18 the hearing in full,

- 19 (4) within two (2) weeks after the convening of the
20 Legislature, the administrative officer of the
21 state agency shall furnish to the Speaker of the
22 House of Representatives, the President Pro
23 Tempore of the Senate and to any member of the
24 House or Senate, if requested by the member, a
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1 complete list of all of the types of services
2 paid for by uniform fixed rates, the amount of
3 the rate last approved by the agency for the
4 service and the number of contracts then in
5 existence for each type of service. Any rate
6 which has been determined to be excessive by the
7 State Purchasing Director shall be specifically
8 identified in the list by the state agency, and
9 (5) at any time, the State Purchasing Director may
10 review, suspend or terminate a contract entered
11 into pursuant to the provisions of this paragraph
12 if the Director determines the contract is not
13 necessary, is excessive or is not justified,

14 g. an acquisition for a client of the State Department of
15 Rehabilitation Services; provided, the agency develops
16 and maintains standards for such an acquisition. The
17 agency may elect to utilize the Purchasing Division
18 for an acquisition. The standards shall foster
19 economy, provide a short response time, include
20 appropriate safeguards, require written records,
21 ensure appropriate competition for economical and
22 efficient purchasing and shall be approved by the
23 State Purchasing Director,
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1 h. structured settlement agreements entered into by the
2 Attorney General's office in order to settle any
3 lawsuit involving the state, the Legislature, any
4 state agency or any employee or official of the state
5 if:

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

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

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

20 j. an acquisition by the Committee for Sustaining
21 Oklahoma's Energy Resources pursuant to a contract
22 with a local supplier for the purpose of holding a
23 special event or an exhibition throughout the state,
24 and
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1 k. contracts for the study, analysis, and planning, as
2 reasonably necessary, to aid in determining the
3 feasibility of leasing, selling, or privately managing
4 or developing the property or facilities under control
5 of the Oklahoma Tourism and Recreation Commission.
6 The Commission shall be exempt from the competitive
7 bidding requirements of the Oklahoma Central
8 Purchasing Act for the purpose of soliciting,
9 negotiating, and effectuating such a contract or
10 contracts; provided, that the State Purchasing
11 Director shall review and audit all uses of the
12 exemptions provided in this subparagraph biannually.

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

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

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

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

20 E. Cooperative contracts shall not be utilized unless the
21 purchasing cooperative and its affiliated suppliers have complied
22 with competitive bid requirements of the Oklahoma Central Purchasing
23 Act and associated rules.
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1 F. Notwithstanding any provision of the Oklahoma Central
2 Purchasing Act, in all cases where federal granted funds are
3 involved, the federal laws, rules and regulations thereto shall
4 govern to the extent necessary to inure to the benefit of such funds
5 to this state.

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

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

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

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

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

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

21 2. For each sole source ~~or sole brand~~ acquisition, the state
22 agency shall retain in the state agency's acquisition file and
23 attach to the requisition, a certification signed by the chief
24 administrative officer of the state agency, in the following form:
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1 SOLE SOURCE ~~OR SOLE BRAND~~ ACQUISITION

2 CERTIFICATION

3 STATE AGENCY _____

4 SUPPLIER NAME _____

5 SUPPLIER ADDRESS _____

6 SUPPLIER CONTACT INFORMATION _____

7 In connection with the attached requisition or contract, I
8 hereby affirm that

9 (Name of Supplier)

10 is the only business entity singularly qualified to provide the
11 acquisition, ~~or is the only brand satisfying the acquisition~~
12 ~~requirements,~~ for the following reasons:

13 _____
14 _____
15 _____
16 _____
17 _____

18 The following is a brief description of all efforts made to
19 verify that the acquisition qualifies as a sole source ~~or sole brand~~
20 acquisition:

21 _____
22 _____
23 _____
24 _____
-- _____

1 _____
2 I understand that the signing of this certification knowing ~~such~~
3 the information to be false may result in forfeiture of my position
4 and ineligibility for appointment to or employment in state service
5 for a period of five (5) years following forfeiture of position.
6

7 _____
(Chief administrative officer)

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

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

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

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

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

13 1. The Speaker of the House of Representatives and the
14 President Pro Tempore of the Senate; and

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

16 The report shall detail sole source ~~and sole brand~~ acquisitions
17 by state agencies for the month prior to the month preceding the
18 submission of the report. The report shall be titled "Monthly Sole
19 Source ~~and Sole Brand~~ Contracting Report of Oklahoma State Agencies"
20 and indicate the time period of the report. The report shall be
21 provided by the Director of the Office of Management and Enterprise
22 Services or the Director's designee. The report shall be in
23 columnar database format and shall include at least the following
24 fields of information: state agency number; state agency name; date
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1 created by the Office of Management and Enterprise Services for the
2 requisition; date of either approval or disapproval of the
3 requisition; if disapproved, the reason why such contract
4 requisition was disapproved; estimated amount of the requisition
5 acquisition; purchase order amount; purchase order number; actual
6 business name of supplier; supplier federal employer identification
7 number; and the commodity classification listing at the appropriate
8 level to distinguish between similar acquisitions. Information
9 required by this subsection shall be reported and maintained on each
10 report through the next reporting period after an acquisition is
11 made. The applicable data in the fields of information specified in
12 this subsection shall be listed even if the state agency requisition
13 is disapproved.

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

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16 59-2-9242 LRB 12/15/23
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