

Purchasing Reference Guide

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Introduction

This OMES Purchasing Reference Guide is an online resource to assist state staff in making and facilitating procurement-related decisions. The Guide is offered pursuant to the responsibility of the State Purchasing Director (OAC 260:115-1-4, OAC 260:115-1-5, 74 O.S. § 85.5) to issue directives, instructions or written communications to state agencies regarding required procurement practices and procedures to ensure compliance with the Central Purchasing Act, procurement rules and other matters relating to state agency acquisitions and procurement.

Although every effort has been made to assure the information in this guide is correct, the information is not warranted as to accuracy and is not a substitute for, or intended as, legal advice. A particular state agency may be subject to additional procurement requirements specific to the agency; those requirements are outside the scope of this Guide. In addition to the official published version, Oklahoma statutes may be accessed at OSCN. Always consult counsel for a tailored legal interpretation with respect to a particular Acquisition.

How To Use This Guide

Information Contained in this Guide:

- entirety of the Central Purchasing Act;
- other procurement-related statutes in Title 74;
- IT procurement-related statutes;
- Oklahoma Correctional Industries procurement-related statute;
- entirety of OMES procurement-related administrative rules;
- references to associated PIM's;
- summaries of caselaw related to state procurement and
- summaries of Attorney General opinions related to state procurement.

Structure of this Guide:

- procurement statutes with hyperlinked cross-references below each statute to associated administrative rules, caselaw, Attorney General opinions and PIM's;
- procurement-related administrative rules;
- caselaw summaries and
- Attorney General Opinion summaries.

Glossary of Capitalized Terms in this Guide:

Except as listed below, capitalized terms are defined in statutes or rules contained in this Guide.

1. **CIO** means Chief Information Officer;
2. **IT** means information technology and telecommunications;
3. **OMES** means the Office of Management and Enterprise Services;
4. **PIM** means Procurement Information Memorandums;
5. **RFP** means Request for Proposal.

To avoid confusion, references to the State Board of Public Affairs or Office of Public Affairs, in caselaw and Attorney General opinions summarized in this Guide, have been changed to the name of the successor agency, OMES, of which the Purchasing Division, (Central Purchasing), is a part.

Procurement-Related Information Not Contained in this Guide:

- Construction and Properties statutes and rules ([61 OS 101](#) and [61 OS 201](#) and OAC 260:65 and OAC 260:95);
- Surplus Property Act statutes and rules ([74 OS 62.1](#) and OAC 260:105 and OAC 260:80);
- [OMES Central Purchasing forms](#)
- Exemptions and cooperative purchasing authority located in statutes outside the Central Purchasing Act and
- Procurement-related ethics rules.

Oklahoma Central Purchasing Act

74 O.S. § 85.1. Short Title

Sections 85.1 through 85.44E of this title shall be known and may be cited as the "Oklahoma Central Purchasing Act".

74 O.S. § 85.12. Act Not to Affect Nonconflicting Procedures – Acquisitions Excluded- Periodic Audits - DHS or OJA Agency Special Account

1. The provisions of this section shall not be construed to affect any law relating to fiscal or accounting procedure except as they may be directly in conflict herewith; and all claims, warrants, and bonds shall be examined, inspected, and approved as now provided by law.
2. Except as otherwise provided by this section, the acquisitions specified in this subsection shall be made in compliance with [Section 85.39](#) of this title and purchasing card program requirements but are not subject to other provisions of the Oklahoma Central Purchasing Act:¹
 - a. Food and other products produced by state institutions and agencies;
 - b. The printing or duplication of publications or forms of whatsoever kind or character by state agencies if the work is performed upon their own equipment by their own employees. Pursuant to this paragraph, the state agency may only use equipment owned or leased by the agency and may only utilize that equipment for printing services required by the agency in performing duties imposed upon the agency or functions authorized to be performed by the agency. Any use of the equipment by the agency pursuant to an agreement or contract with any other entity resulting in delivery of intermediate or finished products to the entity purchasing or using the products shall be subject to the provisions of this act and associated rules;
 - c. Department of Transportation and Transportation Commission contractual services or right-of-way acquisitions, contracts awarded pursuant to bids let by the Transportation Commission for the maintenance or construction of streets, roads, highways, bridges, underpasses or any other transportation facilities under the control of the Department of Transportation, equipment or material

¹ An acquisition may be exempt from the Central Purchasing Act but the acquisition may remain subject to statutory and rule requirements relating to the State Use program and the Oklahoma Correctional Industries program.

acquisitions accruing to the Department of Transportation required in Federal-Aid contracts and acquisitions for public-service-type announcements initiated by the Department of Transportation, but not acquisitions for advertising, public relations or employment services;

- d.** Utility services regulated by a state or federal regulatory commission, municipal ordinance or an Indian Tribal Council;
- e.** Acquisitions by the University Hospitals Authority. The Authority shall develop standards for the acquisition of products and services and may elect to utilize the Purchasing Division. The standards shall foster economy and short response time and shall include appropriate safeguards and record-keeping requirements to ensure appropriate competition and economical and efficient purchasing;
- f.** Custom harvesting by the Department of Corrections for the Department or its institutions;
- g.** Subject to prior approval of the State Purchasing Director, acquisitions from private prison suppliers which are subject to the contracting procedures of [Section 561 of Title 57](#) of the Oklahoma Statutes;
- h.** Acquisitions by the Oklahoma Municipal Power Authority;
- i.** Acquisitions by the Grand River Dam Authority;
- j.** Acquisitions by rural water, sewer, gas or solid waste management districts created pursuant to the Rural Water, Sewer, Gas and Solid Waste Management Districts Act;
- k.** Acquisitions by the Oklahoma Ordnance Works Authority, the Northeast Oklahoma Public Facilities Authority or the Midwestern Oklahoma Development Authority;
- l.** Expenditure of monies appropriated to the State Board of Education for Local and State Supported Financial Support of Public Schools, except monies allocated therefrom for the Administrative and Support Functions of the State Department of Education;
- m.** Expenditure of monies appropriated to the State Department of Rehabilitation Services for educational programs or educational materials for the Oklahoma School for the Blind and the Oklahoma School for the Deaf;
- n.** Contracts entered into by the Oklahoma Department of Career and Technology Education for the development, revision or updating of vocational curriculum materials, and contracts entered into by the Oklahoma Department of Career and Technology Education for training and supportive services that address the needs of new or expanding industries;
- o.** Contracts entered into by the Oklahoma Center for the Advancement of Science and Technology for professional services;
- p.** Contracts entered into by the Oklahoma Department of Commerce pursuant to the provisions of [Section 5066.4](#) of this title;
- q.** Acquisitions made by the Oklahoma Historical Society from monies used to administer the White Hair Memorial;
- r.** Purchases of pharmaceuticals available through a multistate or multigovernmental contract if such pharmaceuticals are or have been on state contract within the last fiscal year, and the terms of such contract are more favorable to the state or agency than the terms of a state contract for the same products, as determined by the State Purchasing Director. The state entity designated by law, as

- specified in Section 1010.3 of Title 56 of the Oklahoma Statutes, shall participate in the purchase of pharmaceuticals available through such contracts;
- s. Contracts for managed health care services entered into by the state entity designated by law or the Department of Human Services, as specified in paragraph 1 of subsection A of Section 1010.3 of Title 56 of the Oklahoma Statutes;
 - t. Acquisitions by a state agency through a General Services Administration contract or other federal contract if the acquisitions are not on current statewide contract or the terms of the federal contract are more favorable to the agency than the terms of a statewide contract for the same products;
 - u. Acquisitions of clothing for clients of the Department of Human Services and acquisitions of food for group homes operated by the Department of Human Services;
 - v. Acquisitions by the Oklahoma Energy Resources Board;
 - w. Acquisitions of clothing for juveniles in the custody of the Office of Juvenile Affairs and acquisitions of food for group homes operated by the Office of Juvenile Affairs;
 - x. State contracts for flexible benefits plans pursuant to the Oklahoma State Employees Benefits Act, Section 1361 et seq. of this title;
 - y. Acquisitions by the Department of Securities to investigate, initiate, or pursue administrative, civil or criminal proceedings involving potential violations of the acts under the Department's jurisdiction and acquisitions by the Department of Securities for its investor education program;
 - z. Acquisitions for resale in and through canteens operated pursuant to [Section 537 of Title 57](#) of the Oklahoma Statutes and canteens established at an institution or facility operated by the Office of Juvenile Affairs;
 - aa. Acquisitions by the Oklahoma Boll Weevil Eradication Organization for employment and personnel services, and for acquiring sprayers, blowers, traps and attractants related to the eradication of boll weevils in this state or as part of a national or regional boll weevil eradication program;
 - ab. Contracts entered into by the Oklahoma Indigent Defense System for expert services pursuant to the provisions of subsection D of [Section 1355.4 of Title 22](#) of the Oklahoma Statutes;
 - ac. Acquisitions by the Oklahoma Correctional Industries and the Agri-Services programs of the Department of Corrections of raw materials, component parts and other products, any equipment excluding vehicles, and any services excluding computer consultant services used to produce goods or services for resale and for the production of agricultural products;
 - ad. Contracts entered into by the Department of Human Services for provision of supported living services to members of the plaintiff class in *Homeward Bound, Inc., et al. v. The Hissom Memorial Center, et al.*, Case Number 85-C-437-E, United States District Court for the Northern District of Oklahoma;
 - ae. Contracts negotiated by the Office of Juvenile Affairs with designated Youth Services Agencies and the Oklahoma Association of Youth Services, or another Oklahoma nonprofit corporation whose membership consists solely of Youth Services Agencies and of whom at least a majority of Youth Services Agencies are members, pursuant to the provisions of [Section 2-7-306 of Title 10A](#) of the Oklahoma Statutes and contracts entered into by the Department of Human Services pursuant to [Section 1-9-110 of Title 10A](#) of the Oklahoma Statutes with designated Youth Services Agencies;
 - af. Contracts for annuities for structured settlements provided for in Section 158 of Title 51 of the Oklahoma Statutes;
 - ag. Subject to subsection E of this section, purchases made from funds received by local offices administered by the Department of Human Services or administered by the Office of Juvenile Affairs for fund-raising activities and donations for the benefit of clients and potential clients at the local offices where such purchases may not otherwise be paid for from appropriated funds;
 - ah. Acquisitions by the Oklahoma Historical Society for restoration of historical sites and museums although the agency may elect to utilize the Purchasing Division for an acquisition with supplier and bid selection being the prerogative of the agency, based on the supplier's documented qualifications and experience; and
 - ai. Acquisitions of clothing and food for patients in the care of the J.D. McCarty Center for Children with Developmental Disabilities.
3. Pursuant to the terms of a contract the State Purchasing Director enters into or awards, a state agency, common school, municipality, rural fire protection district, county officer or any program contract,

purchase, acquisition or expenditure that is not subject to the provisions of the Oklahoma Central Purchasing Act, may, unless acting pursuant to a contract with the state that specifies otherwise, make use of statewide contracts and the services of the Purchasing Division and the State Purchasing Director. Any political subdivision or rural fire protection district may designate the State Purchasing Director as its agent for any acquisition from a statewide contract or otherwise available to the state.

4. The State Purchasing Director may make periodic audits of the purchasing procedures of acquisitions listed in subsection B of this section to ensure that the procedures are being followed.
5. With respect to the Department of Human Services or the Office of Juvenile Affairs, as applicable, monies received by fundraising activities or donations from the local office, vending operations administered by employees of the agency and all other nonrestricted cash and cash-equivalent items received by employees of the agency shall be deposited in the agency special account established for this purpose. The deposits shall be made at local banking institutions approved by the State Treasurer.

74 O.S. § 85.12b. Lease, Charter or Contract for Use of Aircraft

All agencies or departments of this state shall lease, charter or contract for the use of any aircraft pursuant to the provisions of the Oklahoma Central Purchasing Act, except for use of aircraft owned and operated by another state agency.

74 O.S. § 85.17A. State Agencies Shall Reciprocate Bidding Preference – Awarding Contracts

1. State agencies shall not discriminate against bidders from states or nations outside Oklahoma, except as provided by this section. State agencies shall reciprocate the bidding preference given by other states or nations to bidders domiciled in their jurisdictions for acquisitions pursuant to the Oklahoma Central Purchasing Act. The Purchasing Division shall provide to certified procurement officers information regarding the reciprocity provided by other states. This information shall be used by state agencies in evaluating bids.
2. For purposes of awarding contracts state agencies shall:
 - a. Give preference to goods and services that have been manufactured or produced in this state if the price, fitness, availability and quality are otherwise equal;
 - b. Give preference to goods and services from another state over foreign goods or services if goods or services manufactured or produced in this state are not equal in price, fitness, availability or quality; and
 - c. Add a percent increase to the bid of a nonresident bidder equal to the percent, if any, of the preference given to the bidder in the state in which the bidder resides.

74 O.S. § 85.2. Definitions

As used in the Oklahoma Central Purchasing Act, unless the context otherwise requires:

1. “Acquisition” means items, products, materials, supplies, services, and equipment a state agency acquires by purchase, lease-purchase, lease with option to purchase, rental or value provided to the state pursuant to the Oklahoma Central Purchasing Act unless the items, products, supplies, services, or equipment are exempt pursuant to the Oklahoma Central Purchasing Act or authority exercised by the Chief Information Officer;

2. "Best value criteria" means evaluation criteria which may include, but is not limited to, the following:
 - a. the acquisition's operational cost a state agency would incur,
 - b. the quality of the acquisition, or its technical competency,
 - c. the reliability of the bidder's delivery and implementation schedules,
 - d. the acquisition's facilitation of data transfer and systems integration,
 - e. the acquisition's warranties and guarantees and the bidder's return policy,
 - f. the bidder's financial stability,
 - g. the acquisition's adherence to the state agency's planning documents and announced strategic program direction,
 - h. the bidder's industry and program experience and record of successful past performance with acquisitions of similar scope and complexity,
 - i. the anticipated acceptance by user groups, and
 - j. the acquisition's use of proven development methodology, and innovative use of current technologies that lead to quality results;
3. "Bid" or "proposal" means an offer a bidder submits in response to an invitation to bid or request for proposal;
4. "Bidder" means an individual or business entity that submits a bid or proposal in response to an invitation to bid or a request for proposal;
5. "Business entity" means individuals, partnerships, business trusts, cooperatives, associates, corporations, limited liability companies or any other firm, group or concern which functions as a separate entity for business purposes;
6. "Chief administrative officer" means an individual responsible for directing the administration of a state agency. The term does not mean one or all of the individuals that make policy for a state agency;
7. "Component" means any item supplied as part of an end item or of another component;
8. "Contract" means a mutually binding legal relationship obligating the seller to furnish an acquisition and the buyer to pay for it or provide a potential financial incentive in lieu of payment. It includes all types of commitments that obligate a state agency to an expenditure of funds or action that, unless otherwise authorized, is in writing. In addition to bilateral instruments, contracts include, but are not limited to:
 - a. awards,
 - b. orders issued under basic ordering agreements,
 - c. letter agreements, and
 - d. orders under which the contract becomes effective by written acceptance or performance;
9. "Contracting" means obtaining acquisitions from private sources. Contracting includes description, but not determination, of acquisitions required, selection and solicitation of sources, preparation and award of contracts, and contract administration;
10. "Electronic commerce" means the use of electronic methods to enable solicitation, supplier response, contract award, state agency acquisition processes, or any other function to make an acquisition;
11. "Electronic payment mechanism" means a method of electronic payment for authorized acquisitions;
12. "Environmentally preferable products and services (EPPS)" means acquisitions that best meet the requirements as defined in the solicitation for human health and the environment;
13. "Local governmental entity" means any unit of local government including, but not limited to, any school district, county or municipality of this state;
14. "Lowest and best" means an acquisition based on criteria which include, but are not limited to, the following:
 - a. the lowest total purchase price,
 - b. the quality and reliability of the product, and
 - c. the consistency of the proposed acquisition with the state agency's planning documents and announced strategic program direction;
15. "Multistate contract" or "multigovernmental contract" means an agreement entered into between two or more entities of government for acquisitions pursuant to a single contract;

16. "Nonprofessional services" means services which are predominantly physical or manual in character and may involve the supplying of products;
17. "Open market contract" means a contract for a one-time acquisition not exceeding the acquisition amount, requiring a competitive bid pursuant to [Section 85.7](#) of this title;
18. "Political subdivision" means local governmental entities and such other entities specified as political subdivisions pursuant to The Governmental Tort Claims Act;
19. "Professional services" means services which are predominantly mental or intellectual in character rather than physical or manual and which do not involve the supplying of products. Professional services include services to support or improve state agency policy development, decision making, management, administration or the operation of management systems;
20. "Purchase order" means an offer by a state agency to make an acquisition utilizing simplified procedures;
21. "Purchasing cooperative" means an association of public entities working together to provide leverage in achieving best value and/or the best terms in contracts awarded through a competitive bidding process;
22. "Requisition" means a written request by a state agency for an acquisition;
23. "Sole brand acquisition" means an acquisition that by specification restricts the acquisition to one manufacturer or brand name;
24. "Sole source acquisition" means an acquisition which, by specification, restricts the acquisition to one supplier;
25. "Solicitation" means a request or invitation by the State Purchasing Director or a state agency for a supplier to submit a priced offer to sell one or more acquisitions to the state. A solicitation may be an invitation to bid, request for proposal or a request for quotation;
26. "Split purchase" means dividing a known quantity or failing to consolidate a known quantity of an acquisition for the purpose of evading a competitive bidding requirement;
27. "State agency" includes any office, officer, bureau, board, counsel, court, commission, department, institution, unit, division, body or house of the executive or judicial branches of the state government, whether elected or appointed, excluding only political subdivisions of the state;
28. "State purchase card" means a type of commercial card that allows state agencies to take advantage of existing credit card infrastructure to make electronic payments for acquisitions;
29. "State Purchasing Director" includes any employee or agent of the State Purchasing Director, acting within the scope of delegated authority;
30. "Statewide contract" means a contract for specific acquisitions for a specified period with a provision allowing some or all state agencies and local governmental entities to place orders as the acquisitions are needed for delivery during the period specified; and
31. "Supplier" or "vendor" means an individual or business entity that provides or desires to provide acquisitions to state agencies.

74 O.S. § 85.22. Certification Attached to Competitive Bid

Any competitive bid submitted to this state or contract executed by the state for an acquisition in excess of the fair and reasonable acquisition threshold amount shall contain a certification, dated and in substantially the following form:

1. I certify:
 - a. I am the duly authorized agent of _____, for the purpose of certifying facts pertaining to the existence of collusion among and between bidders and suppliers and state officials or employees, as

well as facts pertaining to the giving or offering of things of value to government personnel in return for special consideration in connection with the prospective acquisition;

- b. I am fully aware of the facts and circumstances surrounding the acquisition or making of the bid to which this statement relates and have been personally and directly involved in events leading to the acquisition or submission of such bid; and
- c. Neither the business entity that I represent in this certification nor anyone subject to the business entity's direction or control has been a party:
 1. to any collusion among bidders or suppliers in restraint of freedom of competition by agreement to bid or contract at a fixed price or to refrain from bidding or contracting,
 2. to any collusion with any state official or employee as to quantity, quality or price in the prospective contract, or as to any other terms of such prospective contract, nor
 3. to any discussions between bidders or suppliers and any state official concerning exchange of money or other thing of value for special consideration in connection with the prospective contract.
2. I certify, if awarded the contract, whether competitively bid or not, neither the business entity I represent nor anyone subject to the business entity's direction or control has paid, given or donated or agreed to pay, give or donate to any officer or employee of this state any money or other thing of value, either directly or indirectly, in procuring the contract to which this statement relates.

74 O.S. § 85.3. Purchasing Division - State Purchasing Director - Employees - Encouragement of Certain Purchases - Conflict of Interest

1. There is hereby created and established in the Office of Management and Enterprise Services a Purchasing Division, the administrative head of which shall be the State Purchasing Director.
2. The Director of the Office of Management and Enterprise Services shall hire the State Purchasing Director. The State Purchasing Director shall:
 - a. Have a thorough knowledge of office practices and buying procedures in volume purchasing; and
 - b. Be a graduate of an accredited college or university with at least five (5) years' experience in commercial or governmental purchasing, or, in lieu of such education, have at least ten (10) years' experience in commercial or governmental purchasing.
3. The State Purchasing Director, with the approval of the Director of the Office of Management and Enterprise Services, may employ such personnel as may be necessary to exercise authority and perform duties under the Oklahoma Central Purchasing Act.
4. All activities of any state agency, department, or institution relating to purchasing shall be under the direction of the Purchasing Division unless otherwise provided by the Oklahoma Central Purchasing Act.
5. The Purchasing Division shall provide qualified personnel to assist the purchasing activities of state agencies, departments, and institutions, as required by the Oklahoma Central Purchasing Act.
6. Each state agency, department, and institution shall designate personnel to coordinate its purchasing functions with the Purchasing Division.
7. The Purchasing Division may, if the needs of a state agency, department, or institution are such as to so require, employ, and establish a buyer within a state agency. The state agency shall pay all expenses incurred for any buyer required to be placed within its agency.
8. Except as provided in [Section 34.36 of Title 62](#) of the Oklahoma Statutes, no state agency subject to the Oklahoma Central Purchasing Act shall have or maintain a purchasing section without the prior approval in writing of the Purchasing Division unless otherwise provided in the Oklahoma Central Purchasing Act nor shall such purchasing section perform purchasing functions for another state agency.
9. The Purchasing Division shall make acquisitions from industries operated by the Department of Corrections pursuant to the provisions of [Section 549.1 of Title 57](#) of the Oklahoma Statutes.

10. None of the personnel authorized by this section shall:

- a. Sell to or otherwise provide acquisitions to any state agency subject to the Oklahoma Central Purchasing Act;
- b. Be employees, partners, associates, officers, or stockholders in or with any business entity that sells to or otherwise provides acquisitions to any state agency subject to the Oklahoma Central Purchasing Act;
- c. Be employed in any of the positions authorized by this section if a spouse or child owns any stock in any business entity which sells to or otherwise provides acquisitions to any agency subject to the Oklahoma Central Purchasing Act;
- d. Be employed in any of the positions authorized by this section if a relative within the third degree of consanguinity or affinity sells to or otherwise provides acquisitions to any state agency subject to the Oklahoma Central Purchasing Act or is interested in any business entity which does so, except that such relative, excluding a spouse or child, may own Twenty-five Thousand Dollars (\$25,000.00) worth or less, or one percent (1%) or less, whichever amount is the lesser amount, of the stock of a corporation or any business entity which sells to or otherwise provides acquisitions to any state agency subject to the Oklahoma Central Purchasing Act; or
- e. Violate applicable rules of the Ethics Commission promulgated pursuant to Article XXIX of the Oklahoma Constitution that relate to accepting gifts from a vendor or a vendor's agent.

74 O.S. § 85.33. Registration of State Vendors Revolving Fund

1. There is hereby created in the State Treasury a revolving fund for the Office of Management and Enterprise Services to be designated the "Registration of State Vendors Revolving Fund". The fund shall consist of any monies received from fees collected in accordance with subsection B of this section. The revolving fund shall be a continuing fund, without legislative appropriation, not subject to fiscal year limitations, and shall be under the control and management of the Office of Management and Enterprise Services. Expenditures from the Registration of State Vendors Revolving Fund shall be budgeted and expended pursuant to the laws of the state and the statutes relating to public finance. The fund shall be used to defray the costs of the Purchasing Division. Warrants for expenditures from the fund shall be drawn by the State Treasurer, based on claims signed by an authorized employee or employees of the Office, and approved for payment by the Director of the Office of Management and Enterprise Services.
2. The Office of Management and Enterprise Services may collect a fee of Twenty-five Dollars (\$25.00) to register suppliers that desire to do business with this state through the Purchasing Division. The suppliers shall register separately for each commodity list. Each registration shall entitle the supplier to be on that list for one (1) year, to receive all bid notices in that classification for that period. All fees collected in accordance with this subsection shall be deposited in the revolving fund created in subsection A of this section.

74 O.S. § 85.33A. Contract Management Revolving Fund

1. There is hereby created in the State Treasury a revolving fund for the Office of Management and Enterprise Services to be designated the "Contract Management Revolving Fund". The fund shall consist of any monies received from fees, levies or rebates the Office receives in accordance with subsection B of this section. The revolving fund shall be a continuing fund, without legislative appropriation, not subject to fiscal year limitations, and shall be under the control and management of the Office of Management and Enterprise Services. Expenditures from the Contract Management Revolving Fund shall be budgeted and expended pursuant to the laws of the state and the statutes relating to public finance. The fund shall be used to defray the costs of the Purchasing Division. Warrants for expenditures from the fund shall be drawn by the State Treasurer, based on claims signed by an authorized employee or employees of the Office, and approved for payment by the Director of the Office of Management and Enterprise Services.

2. The State Purchasing Director may enter into or award contracts that provide a contract management fee, levy or rebate to the Office of Management and Enterprise Services. The State Purchasing Director shall ensure that a contract that provides a management fee, levy or rebate provides value to acquiring agencies exceeding open market acquisition costs.

74 O.S. § 85.39. Development and Promulgation of Internal Purchasing Procedures

1.
 - a. Each state agency shall develop internal purchasing procedures for acquisitions by the state agency. Procedures shall, at a minimum, include provisions for the state agency's needs assessment, funding, routing, review, audits, monitoring and evaluations. Following development, the state agency shall submit the procedures to the State Purchasing Director for approval.
 - b. The State Purchasing Director shall review the procedures submitted pursuant to paragraph 1 of this subsection to determine compliance with the Oklahoma Central Purchasing Act, rules promulgated pursuant thereto, Sections 3001 through 3010 of this title and provisions of paragraph 1 of this subsection. The State Purchasing Director shall notify the state agency that the procedures are in compliance or indicate revisions necessary to bring the procedures into compliance.
2. A state agency shall not make acquisitions exceeding the fair and reasonable acquisition threshold amount, unless the State Purchasing Director provides notice of compliance.
3. Each state agency shall maintain a document file for each acquisition the state agency makes which shall include, at a minimum, justification for the acquisition, supporting documentation, copies of all contracts, if any, pertaining to the acquisition, evaluations, written reports if required by contract and any other information the State Purchasing Director requires be kept.

74 O.S. § 85.3a. Exempted Entities – Participation in Advisory Committee

1. Compliance with the provisions of the Oklahoma Central Purchasing Act shall not be required of:
 - a. County government;
 - b. The Oklahoma State Regents for Higher Education, the institutions, centers, or other constituent agencies of The Oklahoma State System of Higher Education;
 - c. The telecommunications network known as OneNet;
 - d. The Department of Public Safety gun range;
 - e. The State Treasurer for the following purchases:
 1. services including, but not limited to, legal services to assist in the administration of the Uniform Unclaimed Property Act, as provided in [Section 668 of Title 60](#) of the Oklahoma Statutes, and
 2. software, hardware and associated services to assist in the administration of funds and securities held by the state, as provided in [Section 71.2 of Title 62](#) of the Oklahoma Statutes;
 - f. Statutorily allowed interagency agreements between state agencies;
 - g. The Oklahoma Department of Veterans Affairs, in accordance with [Section 63.22 of Title 72](#) of the Oklahoma Statutes;
 - h. The Oklahoma Military Department for the purchases of heraldry items including, but limited to, medals, badges and other military accoutrements;
 - i. A transaction, wholly funded by monies other than state-derived funds, in which a state agency functions only as a pass-through conduit to fund an acquisition that is required by the funding source for the benefit of another entity or individuals and the state agency does not retain ownership of any part of the acquisition as a result of the transaction; or
 - j. The Secretary of State when selecting a vendor for publication of the Oklahoma Statutes in accordance with [Section 13 of Title 75](#) of the Oklahoma Statutes.
2. The State Purchasing Director may form an advisory committee consisting of representatives from entities exempted from the provisions of the Oklahoma Central Purchasing Act. The purpose of the

committee shall be to allow committee members to provide input into the development of shared state purchasing contracts, collaboratively participate in the integration of their purchasing platforms or electronic purchasing catalogs, analyze solutions that may be used by state government to meet the purchasing needs of the entities, explore joint purchases of general use items that result in mutual procurement of quality goods and services at the lowest reasonable cost and explore flexibility, administrative relief and transformation changes through utilization of procurement technology.

3. At the invitation of the State Purchasing Director entities exempted from the provisions of the Oklahoma Central Purchasing Act shall participate in the advisory committee referenced in subsection B of this section.
4. The State Purchasing Director may invite representatives of political subdivisions, and local common education entities to participate as members of the advisory committee.

74 O.S. § 85.40. Travel Expenses Incurred by Vendor Included in Contract Award

Suppliers that may incur travel expenses pursuant to an acquisition by a state agency from the supplier shall include travel expenses in the total acquisition price in the supplier's bid, proposal, or quotation. A state agency shall not pay any supplier travel expenses in addition to the total price of the acquisition.

74 O.S. § 85.41. Contracts for Professional Services - Compliance with Act

1. A state agency that acquires professional services shall comply with the provisions of this section.
2. The state agency may evaluate the performance of the professional services provided pursuant to all professional services contracts exceeding the fair and reasonable acquisition threshold amount. The performance evaluation shall indicate the quality of service or work product of the supplier. The state agency shall retain the evaluation in the document file the state agency maintains for the acquisition pursuant to [Section 85.39](#) of this title. If the evaluation indicates deficiencies with the supplier's work, the state agency shall send a copy of the evaluation to the State Purchasing Director.
3. If the work product of the contract is a report subject to disclosure under state or federal law or regulation, the state agency shall file the report with the State Librarian and Archivist.
4. A state agency shall administer, monitor and audit the professional services contract and may be required to report the status of an unfinished professional services contract to the State Purchasing Director.
5. A professional services contract shall include an audit clause which provides that all items of the supplier that relate to the professional services are subject to examination by the state agency, the State Auditor and Inspector and the State Purchasing Director.
6. Except for a contract renewal, the final product of the professional services contract is a written proposal, report or study, the professional services contract shall require the supplier to certify that the supplier has not previously provided the state agency or another state agency with a final product that is a substantial duplication of the final product of the proposed contract.

74 O.S. § 85.41A. Emergency Acquisitions

1. Emergency acquisitions shall be made in compliance with [Section 85.39 of Title 74](#) of the Oklahoma Statutes regarding internal purchasing procedures, [Section 85.5a of Title 74](#) of the Oklahoma Statutes regarding the purchasing card program and applicable rules but are not subject to other provisions of the Oklahoma Central Purchasing Act. The following are emergency acquisitions:
 - a. An acquisition declared as an emergency by a state agency;
 - b. An acquisition to alleviate a serious environmental emergency if, upon receiving a request from the Chair of the Corporation Commission and after having examined the facts and circumstances of

the case, the Governor certifies in writing the existence of a serious environmental emergency. For the purposes of this subsection, "serious environmental emergency" means a situation within the jurisdiction of the Commission:

1. in which serious damage to the environment will quickly occur if immediate action is not taken and the damage will be so significant that the urgent need for action outweighs the need for competitive bids, or
 2. a situation in which human life or safety is in imminent danger or significant property interests are threatened with imminent destruction;
 - c. An acquisition of livestock through a market agency, dealer, commission house or livestock auction market bonded or licensed under federal or state law for the acquisition or collection of semen or embryos, and for the placement of embryos into recipient livestock;
 - d. An acquisition by a state agency pursuant to a contract with the United States Army Corps of Engineers for emergency response or to protect the public health, safety or welfare;
 - e. An acquisition declared by the Office of Management and Enterprise Services (OMES) Risk Management Administrator pursuant to [Section 85.58A of Title 74](#) of the Oklahoma Statutes; or
 - f. A condition certified by the Governor as an emergency.
2. Notwithstanding a state agency's exemption from requisition and competitive bidding requirements, a state agency making an emergency acquisition shall timely provide the Purchasing Division within OMES all information required by the State Purchasing Director.

74 O.S. § 85.42. Certain Contracts Prohibited - Contract Limitations - Certain Contracts Allowed

1.
 - a. Except as otherwise provided for in this section or other applicable law, any agency, whether or not such agency is subject to the Oklahoma Central Purchasing Act, is prohibited from entering into a sole source contract or a contract for professional services with or for the services of any person, who has terminated employment with or who has been terminated by that agency for one (1) year after the termination date of the employee from the agency. The provisions of this subsection shall not prohibit an agency from hiring or rehiring such person as a state employee.
 - b. Any chief administrative officer of an agency, whether or not such agency is subject to the Oklahoma Central Purchasing Act, shall not enter into any contract for nonprofessional or professional services for the purpose of or which would result in the circumvention of the full-time equivalent employee limitation established by law for such agency.
2. Each contract entered into by any person or firm with the State of Oklahoma shall include a statement certifying that no person who has been involved in any manner in the development of that contract while employed by the state shall be employed to fulfill any of the services provided for under the contract. This subsection shall not preclude faculty and staff of the institutions within The State System of Higher Education from negotiating and participating in research grants and educational contracts. Nor shall this subsection apply to Oklahoma Department of Commerce personnel who contract to provide services to the Oklahoma Capital Investment Board.
3. As used in this section, person is defined as any state official or employee of a department, board, bureau, commission, agency, trusteeship, authority, council, committee, trust, school district, fair board, court, executive office, advisory group, task force, study group, supported in whole or in part by public funds or entrusted with the expenditure of public funds or administering or operating public property, and all committees, or subcommittees thereof, judges, justices and state legislators.
4. Notwithstanding anything to the contrary in this section, the following sole source or professional services contracts are allowed at any time:
 - a. A contract for professional services at any time with a person who is a qualified interpreter for the deaf; and
 - b. A contract between a business entity that is a part-time certified court reporter and the Administrative Office of the Courts, on behalf of the district courts, or the Office of the Attorney General.

5. Provided the provisions specified in subsection B of this section are satisfied, the following professional services contracts are allowed:
 - a. The Department of Transportation, Oklahoma Water Resources Board, Department of Environmental Quality, Oklahoma Tourism and Recreation Department, the Oklahoma Turnpike Authority and the Oklahoma Department of Agriculture, Food, and Forestry may contract with a person who has retired from state service;
 - b. To maintain public health infrastructure and preparedness, the State Department of Health and city-county health departments may contract with a physician assistant, registered nurse, advanced practice nurse, nurse midwife, registered dietician, occupational therapist, physical therapist or speech-language pathologist who has retired from state service; and
 - c. The Department of Mental Health and Substance Abuse Services may contract with a physician, registered nurse, registered pharmacist or person meeting the definition of a licensed mental health professional, as defined in Title 43A of the Oklahoma Statutes, who has separated and/or retired from state service.

74 O.S. § 85.43. Annual Report of Acquisitions Exceeding Acquisition Threshold

1. Each chief administrative officer of a state agency shall submit to the State Purchasing Director by November 1 of each year a report listing all acquisitions exceeding the agency's acquisition threshold amount for the preceding fiscal year and identify the following:
 - a. Professional services contracts;
 - b. Nonprofessional services contracts;
 - c. Sole source and sole brand acquisitions; and
 - d. Contracts for the leasing of personal property other than a lease acquisition utilizing a statewide contract.
2. The report shall contain:
 - a. The name of the supplier;
 - b. A description of each acquisition;
 - c. The purchase price of the acquisition; and
 - d. The total amount expended to date for the preceding fiscal year for the acquisition.
3. The state agency shall additionally submit the report to the State Auditor and Inspector and, upon request, to any member of the Appropriations and Budget Committee of the House of Representatives or Appropriations Committee of the Senate.
4. The State Auditor and Inspector shall review the report for compliance with statutes and rules or other provisions of law applicable to sole source and sole brand acquisitions.

74 O.S. § 85.44B. Payment for Contracted Products or Services - Payment for Acquisition from the Federal Government or Agency

1. Payment for products or services pursuant to a contract executed by a state agency, whether or not such state agency is subject to the Oklahoma Central Purchasing Act shall be made only after products or services have been accepted as satisfactory. This section shall not prohibit the payment of membership dues or payment for subscriptions to magazines, periodicals or books or for payment to vendors providing subscription services.
2. If the State Purchasing Director approves an acquisition from the federal government or agency and determines that the regulations of the federal government or agency handling the acquisition require that partial or full payment be made before the acquisition will be delivered, the State Purchasing Director, upon requisition by the requesting party, shall have a state warrant drawn against the funds of the acquiring state agency payable to the United States of America or its proper agency. The warrant

shall be in such amount as may be necessary to meet the terms and conditions of the acquisition without requiring a certificate showing that the acquisition has actually been delivered to the state agency in whose behalf the purchase is being negotiated.

74 O.S. § 85.44C. Contract for the State or State Agency to Furnish Material or Equipment

Whether or not a state agency is subject to the Oklahoma Central Purchasing Act, no agency shall enter into any contract which provides for the state or state agency to furnish material or equipment to be used by the supplier contracting with the state in the performance of the contract if the contract allows the vendor or service provider to acquire ownership of the material or equipment during or after the term of the contract in any manner other than through competitive bidding or a public sale procedure.

74 O.S. § 85.44D.1. Sole Source Acquisition or Sole Brand Acquisition - Certification - Report

1. a. A sole source acquisition is exempt from competitive bidding procedures as a sole source or requirements of this act, but a sole brand acquisition is subject to such competitive bidding requirements.
- b. For each sole source or sole brand acquisition, the state agency shall retain in the state agency's acquisition file and attach to the requisition a certification signed by the chief administrative officer of the state agency, in the following form:

SOLE SOURCE OR SOLE BRAND ACQUISITION
CERTIFICATION STATE AGENCY

ADDRESS _____ SUPPLIER NAME _____
CONTACT INFORMATION _____ SUPPLIER _____

In connection with the attached requisition or contract, I hereby affirm that _____ (Name of Supplier) is the only business entity singularly qualified to provide the acquisition, or is the only brand satisfying the acquisition requirements, for the following reasons: _____

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

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

administrative officer) (Chief

- c. A court order requiring a particular acquisition, but which does not specify a brand or supplier shall not substitute for the certification required by this section or otherwise invalidate acquisition procedures required by the Oklahoma Central Purchasing Act.
- d. Upon a determination by the Director of the Office of Management and Enterprise Services that there are reasonable grounds to believe that a violation of this section has occurred, the Director

shall send findings to the Attorney General that support the determination. The Attorney General shall review the findings and determine whether to investigate or prosecute the person.

- e. Prior to approving a requisition for a sole source or sole brand acquisition, the Purchasing Division shall require the signed certification documenting the need for a sole source or sole brand acquisition and shall retain the certification in accordance with state record retention requirements.
 - f. For a sole source or sole brand acquisitions exceeding the fair and reasonable acquisition threshold amount and not requiring submission of a requisition to the Purchasing Division, the state agency's certified procurement officer shall retain, in the acquisition file, the signed certification documenting the need for the sole source or sole brand acquisition in accordance with state record retention requirements.
2. By the fifteenth day of each month, or the first working day thereafter, the Office of Management and Enterprise Services shall provide a report to:
 - a. The Speaker of the House of Representatives and the President Pro Tempore of the Senate; and
 - b. Any member of the Legislature requesting the report.

The report shall detail sole source and sole brand acquisitions by state agencies for the month prior to the month preceding the submission of the report. The report shall be titled "Monthly Sole Source and Sole Brand Contracting Report of Oklahoma State Agencies" and indicate the time period of the report.

The report shall be provided by the Director of the Office of Management and Enterprise Services or the Director's designee. The report shall be in columnar database format and shall include at least the following fields of information: state agency number; state agency name; date created by the Office of Management and Enterprise Services for the requisition; date of either approval or disapproval of the requisition; if disapproved, the reason why such contract requisition was disapproved; estimated amount of the requisition acquisition; purchase order amount; purchase order number; actual business name of supplier; supplier federal employer identification number; and the commodity classification listing at the appropriate level to distinguish between similar acquisitions. Information required by this subsection shall be reported and maintained on each report through the next reporting period after an acquisition is made.

The applicable data in the fields of information specified in this subsection shall be listed even if the state agency requisition is disapproved.

74 O.S. § 85.44E. Disabled Veteran Businesses

1. Disabled Veteran Businesses.

As used in this section:

- a. "Service-disabled veteran" means any individual that is disabled as certified by the appropriate federal agency responsible for the administration of veterans' affairs; and
 - b. "Service-disabled veteran business" means a business:
 1. not less than fifty-one percent (51%) of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than fifty-one percent (51%) of the stock of which is owned by one or more service-disabled veterans, and
 2. the management and daily business operations of which are controlled by one or more service-disabled veterans.
2. In awarding contracts for the performance of any job or service, all agencies, departments, institutions and other entities of this state and of each political subdivision of this state shall give a three-percentage point bonus preference to service-disabled veteran businesses doing business as Oklahoma firms, corporations or individuals, or which maintain Oklahoma offices or places of business.

3. In implementing the provisions of subsection B of this section, the following shall apply:
 - a. The Director of the Office of Management and Enterprise Services shall have the goal of three percent (3%) of all such contracts described in subsection B of this section to be awarded to such veterans; and
 - b. If an insufficient number of such veterans doing business in this state submit a bid or proposal for a contract by an agency, department, institution or other entity of the state or a political subdivision, such goal shall not be required and the provisions of paragraph 1 of this subsection shall not apply.
4. The Director of the Office of Management and Enterprise Services may promulgate rules in order to implement the provisions of this section.

74 O.S. § 85.5. Powers and Duties of State Purchasing Director

1. 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 and responsibility for all acquisitions of information and telecommunications technology, equipment, software, products and related peripherals and services by state agencies. Public construction contracts are awarded pursuant to Title 61 of the Oklahoma Statutes and are not subject to the Oklahoma Central Purchasing Act.
2. Every state agency shall determine its own quantitative needs for acquisitions and the general class or nature of the acquisitions. The State Purchasing Director, after consultation with the requisitioning state agency, shall have authority to determine the particular brand, model or other specific classification of each acquisition and to draft or invoke pursuant to the Oklahoma Central Purchasing Act specifications establishing the requirements for all necessary contracts or purchase orders.
3. The Director of the Office of Management and Enterprise Services shall have authority and responsibility to promulgate rules in connection with provisions of the Oklahoma Central Purchasing Act for:
 - a. The time, manner, authentication, and form of making requisitions for acquisitions;
 - b. Inspection, analysis and testing of acquisitions or samples bidders submit prior to contract award;
 - c. The form and manner of submission for bids or proposals a bidder submits and the manner of accepting and opening bids or proposals;
 - d. The conditions under which the Office of Management and Enterprise Services shall require written contracts for acquisitions, the conditions under which acquisitions may be made on an open account basis, and the conditions and manner of negotiating such contracts;
 - e. Obtaining acquisitions produced by state institutions;
 - f. Conditions under which any of the rules herein authorized may be waived;
 - g. The amounts of and deposits on any bond or other surety required to be submitted with a bid or contract for the furnishing of acquisitions and the conditions under which such bond or other surety shall be required;
 - h. The manner and conditions of delivery, which shall include the designation of the common carrier of property to be used to transport acquisitions whenever a common carrier is used, and the acceptance, or rejection, including check of quantities, of any acquisitions;
 - i. The form of any estimate, order or other information required in connection with an acquisition;
 - j. State agency acquisitions not exceeding the acquisition threshold amount requiring competitive bid to ensure competitiveness, fairness, compliance with the Oklahoma Central Purchasing Act and

Section 3001 et seq. of this title, which relates to the State Use Committee. The rules shall include separate provisions based on acquisition amounts as follows:

1. state agencies shall make acquisitions not exceeding Twenty-five Thousand Dollars (\$25,000.00), provided the acquisition process is fair and reasonable and is conducted pursuant to rules authorized pursuant to this section, and
 2. state agencies with certified procurement officers and internal purchasing procedures found compliant by the State Purchasing Director may make acquisitions in excess of the fair and reasonable acquisition threshold amount provided for in this section and not exceeding Two Hundred Fifty Thousand Dollars (\$250,000.00), pursuant to rules authorized by this section;
 - k. Training by the State Purchasing Director of state agency procurement officers;
 - l. Review and audit by the State Purchasing Director of state agency acquisitions;
 - m. The conditions for increasing acquisition limits for state agencies which have had a prior reduction in acquisition limit by the Director of the Office of Management and Enterprise Services;
 - n. Use of a state purchase card to make acquisitions;
 - o. Any other matter or practice which relates to the responsibilities of the State Purchasing Director;
 - p. Conditions for determination and authorization of acquisition threshold amounts of state agencies;
 - q. The form and manner of verification by suppliers that the supplier is eligible to do business in the State of Oklahoma and has obtained all necessary permits and licenses, pursuant to applicable provisions of law; and
 - r. Payment procedure rules for state agencies to adhere to regarding statewide contracts.
4. The State Purchasing Director shall provide training for state agency procurement officials, and other procurement staff, and is authorized to require retraining of such procurement personnel found not to be in compliance with provisions of the Oklahoma Central Purchasing Act or associated rules. The training may include any matters related to state procurement practices. State agency purchasing officials that demonstrate proficiency shall be certified as "certified procurement officers" by the State Purchasing Director and shall be authorized to make acquisitions pursuant to provisions of the Oklahoma Central Purchasing Act and associated rules. The State Purchasing Director may assess a fee to state agencies for the training that does not exceed each state agency's pro rata share of the costs the State Purchasing Director incurs to provide the training.
5. The State Purchasing Director shall review state agency acquisitions for the purposes of:
- a. Ensuring state agency compliance with provisions of the Oklahoma Central Purchasing Act;
 - b. Ensuring state agency compliance with rules promulgated by the Office of Management and Enterprise Services pursuant to the Oklahoma Central Purchasing Act;
 - c. Ensuring state agency compliance with provisions of Section 3001 et seq. of this title pertaining to the State Use Committee;
 - d. Reporting any acquisition by any state agency found not to be in compliance with those sections or rules to the Director of the Office of Management and Enterprise Services;
 - e. A determination by the State Purchasing Director to reduce a state agency's acquisition authority amount when the state agency is found not to be in compliance with the Oklahoma Central Purchasing Act or associated rules or requirements of the State Purchasing Director pursuant to this section; and
 - f. A determination by the State Purchasing Director to increase a state agency's acquisition authority amount after the agency cures deficiencies in connection with a prior reduction in the authority amount by the State Purchasing Director.
6. Based on written findings and when recommended by the State Purchasing Director, the Director of the Office of Management and Enterprise Services may:
- a. Transmit written findings by the State Purchasing Director to the State Auditor and Inspector for further investigation, indicating purchasing procedures that do not conform to the Oklahoma Central Purchasing Act or associated rules; or
 - b. Transmit to the Attorney General or the State Auditor and Inspector for further investigation a report made by the State Purchasing Director that the Director of the Office of Management and Enterprise Services reasonably believes indicates that an action that constitutes a criminal violation pursuant

to the Oklahoma Central Purchasing Act or other laws has been taken by any state agency, state agency official, bidder or supplier.

- 7. a.** Pursuant to the requirements of the Oklahoma Central Purchasing Act, the State Purchasing Director shall have authority to enter into any statewide, multistate or multigovernmental contract. The state entity designated by law, as specified in Section 1010.3 of Title 56 of the Oklahoma Statutes, shall participate in the purchase of pharmaceuticals available through such multistate or multigovernmental contracts entered into by the State Purchasing Director.
- b.** Whenever it appears advantageous to the state or to any state agency to purchase or otherwise acquire any acquisition which may be offered for sale by the United States government or any agency thereof, the State Purchasing Director may execute a contract for the acquisition with the federal government or federal agency and may also utilize contracts awarded by other governmental agencies including, but not limited to, agencies of the United States of America.
- c.** The State Purchasing Director may designate, for use by state agencies, contracts described in this subsection and contracts awarded on behalf of one or more state agencies.
- d.** Prior to exercising the authority to cancel a contract, the State Purchasing Director may authorize renegotiation of an existing contract with an incumbent supplier for the purposes of obtaining more favorable terms for the state.
- e.** The State Purchasing Director shall have the authority to designate certain contracts for state agencies as statewide contracts and mandatory statewide contracts. In order to carry out the powers and duties of the Chief Information Officer and Information Services Division, the Chief Information Officer shall have the authority to designate certain information technology and telecommunication contracts as statewide contracts and mandatory statewide contracts and may negotiate consolidation contracts, enterprise agreements and high technology system contracts in lieu of or in conjunction with competitive bidding procedures to reduce acquisition cost.
- f.** The State Purchasing Director may publish such specifications relating to materials, supplies, equipment and services to be acquired for the state as may best promote competition and apprise potential suppliers of the type of product desired.
- 8. a.** The State Purchasing Director may develop and test new contracting policies, procedures and innovations that hold potential for making state procurement more effective and efficient and identify, and make recommendations to the Legislature of, any appropriate changes in law. Such development and testing, proof of concept, pilot project or other similar test shall not be considered an acquisition subject to the Oklahoma Central Purchasing Act.
- b.** The State Purchasing Director is authorized to explore and investigate cost savings in energy, resource usage and maintenance contracts and to identify and negotiate contract solutions including, but not limited to, pilot projects to achieve cost savings for this state.
- 9.** The State Purchasing Director shall endeavor to satisfy state agencies in terms of cost, quality and timeliness of the delivery of acquisitions by using bidders who have a record of successful past performance, promoting competition, minimizing administrative operating costs and conducting business with integrity, fairness and openness.

- 10.**The State Purchasing Director shall undertake the following.
 - a.** The use of electronic commerce pursuant to the Oklahoma Online Bidding Act for solicitation, notification and other purchasing processes;
 - b.** Monitoring rules promulgated pursuant to the Oklahoma Central Purchasing Act to ensure that the rules satisfy the interests of the state, are clear and succinct and encourage efficiency in purchasing processes;
 - c.** A program to identify suppliers' performance records;
 - d.** Development of criteria for the use of sealed bid contracting procedures, negotiated contracting procedures, selection of types of contracts, postaward administration of purchase orders and contracts, addendums, termination of contracts and contract pricing;
 - e.** Continual improvement in the quality of the performance of the Purchasing Division through training programs, management seminars, development of benchmarks and key management indicators, and development of standard provisions, clauses and forms;
 - f.** The State Purchasing Director shall prescribe standardized contract forms and all other forms or certifications requisite or deemed necessary by the State Purchasing Director to effectuate the provisions of the Oklahoma Central Purchasing Act and associated rules;
 - g.** Development of programs to improve customer relations through training, improved communications and appointment of technical representatives;
 - h.** Provide for public two-way communication between procurement officers and potential bidders who have questions regarding a request for proposal or invitation to bid; and
 - i.** Determine whether and to what extent information included in a bid or similar offer is confidential and reject all requests to disclose the information so designated.
- 11.**The State Purchasing Director may utilize and authorize state agencies to utilize reverse auctions to obtain acquisitions.
- 12.**Prior to the award of a contract to a supplier, the State Purchasing Director shall verify, pursuant to applicable provisions of law, that the supplier is eligible to do business in this state by confirming registration with the Secretary of State and franchise tax payment status pursuant to Sections [1203](#) and [1204](#) of Title 68 of the Oklahoma Statutes. The provisions of this subsection shall be applicable only if the contract amount is Two Hundred Fifty Thousand Dollars (\$250,000.00) or greater.
- 13.**On an annual basis, the State Purchasing Director shall transmit to the Governor, Speaker of the House of Representatives and President Pro Tempore of the Senate a report documenting the savings realized by each agency through the application of best spend practices including the collection and tracking of spend data, strategic sourcing programs and implementation of managed and mandatory statewide contracts and include in the report information regarding emergency acquisitions.
- 14.**The acquisition threshold amount applicable to an acquisition made pursuant to this act or associated rules shall not apply to state agency purchases; provided, the State Purchasing Director determines the agency has subject matter experts on staff having the specialized expertise to purchase goods or services, the agency possesses the necessary legal and procurement staff to procure and monitor the contracts and provided the Director of the Office of Management and Enterprise Services shall certify that the proposed purchase does not conflict with consolidated statewide spend initiatives.
 - a.** Nothing in this subsection shall give an agency authority to issue statewide, multistate, or multi- governmental contracts.
 - b.** Agencies making purchases pursuant to this subsection shall:
 - 1.** be responsible for contracts awarded pursuant to this subsection, which includes, but may not be limited to, contract management, protest costs, all costs connected with or incurred as a result of the contract, including legal representation,
 - 2.** comply with rules and policies of the Office of Management and Enterprise Services, and
 - 3.** report contracts issued pursuant to this subsection to the Office of Management and Enterprise Services, Central Purchasing Division, on a quarterly basis.
 - c.** Purchases made in accordance with this subsection shall be made pursuant to rules authorized by this section.

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

74 O.S. § 85.5.1. Privatization Projects

1. Privatization Projects. The Office of Management and Enterprise Services shall establish a repository of the best privatization practices, have expertise to select projects or services for privatization, be capable of rapid evaluation and response to privatization proposals and have the ability to oversee the contracting for privatization opportunities.
2. The Director of the Office of Management and Enterprise Services shall report legislative recommendations as the Director deems necessary to further implement the provisions of this section.

74 O.S. § 85.58L. Creation of Risk Management Political Subdivision Participation Revolving Fund

1. There is hereby created in the State Treasury a revolving fund for the Office of Management and Enterprise Services, to be designated the "Risk Management Political Subdivision Participation Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of any monies transferred thereto by an act of the Legislature and any fees collected by the Office of Management and Enterprise Services and deposited pursuant to law. All monies accruing to the credit of said fund shall be expended by the Office of Management and Enterprise Services for the purposes specified by this section and the salaries and administrative expenses of support staff responsible for administering the fund and expenses the Office incurs to support program operations. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.
2. Within the Risk Management Political Subdivision Participation Revolving Fund, there is hereby created the Conservation District Protection Account. The account shall be set apart as a separate, permanent and perpetual account not subject to fiscal year limitations and shall consist of:
 - a. All fees and other monies received pursuant to Section [85.58I](#) of this title; and
 - b. Interest attributable to investment of monies in the account.
3.
 - a. The monies deposited in the Risk Management Political Subdivision Participation Revolving Fund shall at no time become monies of any other state agency. Except as otherwise authorized by this subsection, no monies from the Risk Management Political Subdivision Participation Revolving Fund shall be transferred for any purpose to any other state agency or be used for the purpose of contracting with any other state agency or reimbursing any other state agency for any expense.
 - b. Monies in the Risk Management Political Subdivision Participation Revolving Fund shall only be expended for:
 1. the purposes specified by this section, and
 2. costs incurred by the Comprehensive Professional Risk Management Program for the administration of duties this section specifies and expenses the Department incurs to support program operations.
4. Any costs incurred by the Office of Management and Enterprise Services pursuant to the provisions of this section shall not exceed the actual expenditures made by the Office of Management and Enterprise Services to implement the provisions of this section.

5. Payment of claims from the Risk Management Political Subdivision Participation Revolving Fund shall not become or be construed to be an obligation of this state. No claims submitted for reimbursement or payment from the fund shall be paid with state monies.

74 O.S. § 85.58M. Levy and Collection of Fee for Insurance Coverage - Failure to Pay Fees

1. The Office of Management and Enterprise Services shall levy and collect reasonable fees and premiums from state agencies and other entities as provided by law covered by the Comprehensive Professional Risk Management Program for the purpose of providing insurance coverage.
2. All fees and premiums shall be promptly paid when due. Fees and premiums collected in accordance with the provisions of this section shall be deposited in the appropriate risk management fund.
3. If a state agency fails to pay the insurance fees and premiums within forty-five (45) days of due date, the Office of Management and Enterprise Services shall consider the invoice delinquent. The Office of Management and Enterprise Services shall pay the invoice from monies available to the delinquent agency for the general operations of the agency which are not specifically prohibited for such use by federal or state law. If funds of the delinquent agency are not available to pay the invoice in full, the Office of Management and Enterprise Services shall submit claims as necessary to pay the invoice as soon as funds are available from the funds of the delinquent agency.

74 O.S. § 85.58N. Creation of Quick Settlement Account

The Special Agency Account Board shall create in the official depository of the State Treasury an agency special account for the Office of Management and Enterprise Services to be designated as the "Quick Settlement Account". The purpose of the account shall be the payment of liability claims against the state after a determination by the Risk Management Administration that such payments are in the best interest of the state, are in accordance with the laws and regulations governing the Comprehensive Professional Risk Management Program, and are in an amount not exceeding Ten Thousand Dollars (\$10,000.00). No monies shall be expended from the Quick Settlement Account except as provided for in this section.

The Office of Management and Enterprise Services shall transfer funds as necessary from the Risk Management Revolving Fund to the Quick Settlement Account, provided that the maximum sum held in the Quick Settlement Account shall not exceed Ten Thousand Dollars (\$10,000.00), excluding funds in transit. Expenditures from the Quick Settlement Account shall be exempt from the provisions of The Oklahoma Central Purchasing Act.

74 O.S. § 85.58P. Risk Management Public Transit Revolving Fund

There is hereby created in the State Treasury a revolving fund for the Office of Management and Enterprise Services, to be designated the "Risk Management Public Transit Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of any monies transferred thereto by an act of the Legislature and any fees collected by the Office of Management and Enterprise Services in accordance with the provisions of Section [85.58O](#) of this title. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Office of Management and Enterprise Services for the purposes of the Comprehensive Professional Risk Management Program provided for in Section [85.58A](#) of this title, including the salaries and administrative expenses of support staff responsible for administering the fund and expenses the Office incurs to support program operations. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

74 O.S. § 85.58Q. Purchase of Blanket Bond for State Officers and Employees - Definition - Bond Exclusive

The Purchasing Division of the Office of Management and Enterprise Services is directed to purchase from the lowest bidder a surety contract or contracts in the form known as a "blanket bond" to cover all elective state officers, appointive officers, and employees in the manner provided in this section. No other bond shall be acceptable as surety for any elected or appointed officer or employee of this state in lieu of said blanket bond. For purposes of Sections 85.26 through 85.31 of this title, a "blanket bond" is defined as a public employees' blanket position bond which covers all employees up to the penalty of the bond for each employee and the full penalty of the bond is always in force during its term and no restoration is necessary and there is no additional premium after a loss is paid.

74 O.S. § 85.58R. Elective State Officers - Blanket Bond

Each elective state officer shall, before entering office, give surety in an amount and upon terms and conditions as may be specified and provided by this act. Such blanket bond shall be furnished by a company duly qualified under the insurance laws of this state. The blanket bond shall be payable to the State of Oklahoma and, whenever possible, conditioned on the faithful performance of the duties of the individuals covered by the provisions of this act during their employment or term of office and that they will properly account for all monies and property received by virtue of their position or employment.

74 O.S. § 85.58S. Classification of Officers and Employees for Coverage Under Bond

1. For purposes of this act, each head of a department, institution, agency, commission, authority or other body of state government shall determine and classify the officers or employees under his jurisdiction and control who are required to give surety to the state, having due regard for the duties and responsibilities of any such office or employment and shall require such surety in such amounts and upon such terms and conditions as may be specified and provided by this act.
2. In determining which officers or employees shall be bonded, the head of the department, agency, institution, commission, authority or other body of state government may make such determination by classes of employees with due regard to the duties and responsibilities of officers and employees falling within such class.

74 O.S. § 85.58T. Schedule of Amounts of Surety Required

The amount of surety required for each state officer or employee pursuant to Sections 85.26 through 85.31 of this title is as follows:

DEPARTMENT	AMOUNT OF BOND
Office of the State Treasurer	\$300,000.00
Oklahoma Employment Security Commission	\$150,000.00
Central Services Division of the Office of Management and Enterprise Services	100,000.00
Insurance Commission	100,000.00

Office of the State Auditor and Inspector	50,000.00
Finance Division of the Office of Management and Enterprise Services	50,000.00
Bank Commissioner	50,000.00
Commissioners of the Land Office	50,000.00
Oklahoma Securities Commission	50,000.00
Oklahoma Tax Commission	50,000.00
Department of Human Services	50,000.00
Oklahoma Public Employment Retirement System	50,000.00
Corporation Commission	50,000.00
State Board of Education	50,000.00
Finance Division	150,000.00
All Others	25,000.00
Department of Transportation	25,000.00
Boards of Regents of Oklahoma Universities and Colleges	50,000.00
Office of Attorney General	10,000.00
The University Hospitals	50,000.00
All Other State Departments, Agencies, Institutions, Commissions, Authorities, and other bodies of state government	10,000.00

Provided, however, that nothing in The Oklahoma Central Purchasing Act shall prohibit any head of a department, institution, agency, commission, authority or other body of state government from requiring the Central Purchasing Division to purchase increased amounts of blanket bond coverage for his or her employees up to a total maximum coverage of Fifty Thousand Dollars (\$50,000.00) when the listed amount is deemed inadequate. The cost of increased coverage shall be borne by the department, institution, agency, commission, authority or other body of state government requesting the increased coverage.

74 O.S. § 85.58U. Statutorily Required Bonds

Whenever, by any presently existing law of this state or by any law hereafter enacted, any officer or employee is required to furnish bond as a prerequisite to employment, such requirement as to terms, conditions, penalty, amount or quality or type of surety shall be and is hereby deemed and defined to mean the furnishing of a bond or surety contract in the manner and amount under the provisions and requirements of this act.

74 O.S. § 85.58V. Purchasing Division to Purchase All Bonds - Payment of Premiums - Approval

1. Whenever any officer, statutory board, commission, committee, department, authority, or any state agent or agency by whatever name called, is authorized by any law of this state to purchase any official bond, surety bond, blanket bond, or surety contract upon any state officer or employee, the authority is hereby transferred and conferred upon the Purchasing Division of the Office of Management and Enterprise Services. The authority shall be exercised by the Purchasing Division in the manner pursuant to the provisions and requirements prescribed by Section [85.58A](#) of this title.
2. The premium for a bond will be invoiced to the Purchasing Division and paid for by legislative appropriation set aside for that specific purpose.
3. If the legislative appropriation is insufficient to meet the cost of a bond, the State Purchasing Director in conjunction with the State Risk Administrator shall assess each entity covered by the bond a pro rata share of the excess cost amount.
4. A blanket bond shall be approved as to form and legal sufficiency by the general counsel of the Office of Management and Enterprise Services and shall be filed with the Director of the Office of Management and Enterprise Services.

74 O.S. § 85.5a. State Purchase Card

1. Except for the state fleet card, the state purchase card program administered by the Purchasing Division is the only card program authorized for use by state agencies.
2. On a monthly basis the State Purchasing Director and institutions of higher education shall provide to the Director of the Office of Management and Enterprise Services (OMES) a complete listing in electronic format of all transactions paid by a state purchase card. The list shall contain the name of the purchaser and purchasing agency, amount of purchase and all available descriptions of items purchased.
3. Upon receipt of the list described in subsection B of this section, the Director of the OMES shall allow the public access to the list in searchable format through its website defined in [Section 46 of Title 62](#) of the Oklahoma Statutes.
4. The State Purchasing Director may authorize the use of a state purchase card for acquisitions within the following parameters:
 - a. No limit on the amount of the transaction for the following:
 1. purchases from statewide contracts and from contracts awarded by the State Purchasing Director for the benefit of a state agency,
 2. utilities,
 3. interagency payments,
 4. emergency acquisitions; provided, requirements to establish an emergency pursuant to Section 5 of this act or other applicable statute or rule have been met, and
 5. professional services as defined in [Section 803 of Title 18](#) of the Oklahoma Statutes; and
 - b. For any other transaction with a state purchase card, the transaction shall not exceed the greater of Five Thousand Dollars (\$5,000.00) or the limit determined by the State Purchasing Director, not to exceed the fair and reasonable acquisition threshold amount.
5. The State Purchasing Director may authorize personnel of the Department of Commerce, upon a finding by the Secretary of Commerce that such personnel have a legitimate need therefore, to utilize a state purchase card for acquisitions for programs, functions or services essential to the mission of the agency while traveling on Department of Commerce business in foreign locations with transaction limits not to exceed Thirty-five Thousand Dollars (\$35,000.00). The purchase cardholders are required to sign a purchase card agreement prior to becoming a cardholder and to attend purchase card procedure training. The Department of Commerce will conduct quarterly internal auditing on all purchase card transactions associated with business and travel in foreign locations.

74 O.S. § 85.6. Grade and Quality of Acquisition

State agencies shall have the right to question the grade and quality of any acquisition delivered to the agency. The procuring agency shall determine whether the acquisition meets the grade and quality specified in the contract and take remedial action with the appropriate supplier if the acquisition does not.

74 O.S. § 85.7. Competitive Bid Procedures

1. a. Except as otherwise provided by the Oklahoma Central Purchasing Act, or associated rules:
 1. every state agency shall initiate all acquisitions by the submission of a requisition to the Purchasing Division, and
 2. no state agency shall make an acquisition for an amount exceeding Fifty Thousand Dollars (\$50,000.00) or the limit determined by the State Purchasing Director pursuant to rules authorized by [Section 85.5](#) of this title, not to exceed Two Hundred Fifty Thousand Dollars (\$250,000.00), without submission of a requisition to the Purchasing Division for issuance of a solicitation for the acquisition on behalf of the agency. Any exemption from competitive bid requirements of the Oklahoma Central Purchasing Act further exempts the acquisition from requisition requirements of the act.
- b. The State Purchasing Director may request additional information necessary to adequately review a requisition to ensure compliance with this act and associated rules. If the State Purchasing Director determines that an acquisition is not necessary, excessive or not justified, the State Purchasing Director shall deny the requisition.
- c. The provisions of this act shall not preclude a state agency from:
 1. accepting gifts or donations in any manner authorized by law, or
 2. making an acquisition for itself without submitting a requisition under this section when authorized in writing by the State Purchasing Director.
- d. Any acquisition a state agency makes shall be made pursuant to this act and associated rules. No agency shall use split purchasing for the purpose of evading the requirement of competitive bidding or other requirement of this act or associated rules. Violation of this provision shall be cause for discipline of a state employee up to and including termination.
- e. The State Purchasing Director may waive or increase the limit authorized for a state agency acquisition made pursuant to its own competitive procedures. To perfect an otherwise valid acquisition inadvertently exceeding the limit due to administrative error by a state agency or unforeseeable circumstances, the state agency shall request a limited waiver or increase upon the discovery of the error or circumstance to the State Purchasing Director. The State Purchasing Director shall report requests for waivers or increases, stating the amount and whether the request was granted or denied, upon request by the Governor, President Pro Tempore of the Senate or Speaker of the House of Representatives.
- f. Competitive bidding requirements of this section shall not be required for the following:
 1. contracts for master custodian banks or trust companies, investment managers, investment consultants, and actuaries for the state retirement systems, and Oklahoma Employees Insurance and Benefits Board, pension fund management consultants of the Oklahoma State Pension Commission and the Commissioners of the Land Office, examiners, experts, or consultants for the Insurance Department whose job duties are tied to Market Conduct Exams, Financial Exams, and Insurance Business Transfers, financial institutions to act as depositories and managers of the Oklahoma College Savings Plan accounts and other professional services as defined in [Section 803 of Title 18](#) of the Oklahoma Statutes. When requested by the Oklahoma Employees Insurance and Benefits Board or the governing board of a state retirement system

- authorized to hire investment managers, the Purchasing Division shall assist in the process of selecting investment managers,
2. a state agency making such an acquisition shall notify the State Purchasing Director within fifteen (15) days following completion of the acquisition. A list of the exempt contracts shall be provided, upon request, to a member of the Appropriations and Budget Committee of the House of Representatives or Appropriations Committee of the Senate,
 3. purchases of postage by state agencies made pursuant to Sections 90.1 through 90.4 of this title,
 4. a sole source acquisition made in compliance with [Section 85.44D.1](#) of this title,
 5. an acquisition for design, development, communication or implementation of the state employees flexible benefits plan; provided, procedures used for the acquisition are consistent with competitive bid requirements of this act and associated rules,
 6. any acquisition of a service which the Office of Management and Enterprise Services has approved as qualifying for a fixed and uniform rate, subject to the following:
 - a. the Purchasing Division shall establish criteria and guidelines for those services which may qualify for a fixed and uniform rate,
 - b. fixed and uniform rate contracts authorized by this subsection shall be limited to contracts for those services furnished to persons directly benefiting from such services and shall not be used by a state agency to employ consultants or to make other acquisitions,
 - c. any state agency desiring to have a service qualified for a fixed and uniform rate shall make a request for service qualification to the State Purchasing Director and submit documentation to support the request. The State Purchasing Director shall approve or deny the request. If approved, the state agency shall establish a fixed and uniform rate for the service. No contracts shall be entered into by the state agency until the rate has been approved by the state agency in a public hearing. The proposed rate shall be clearly and separately identified in the agenda of the state agency for the hearing and shall be openly and separately discussed during such hearing. The state agency shall notify the State Purchasing Director of its pending consideration of the proposed rate at least thirty (30) days before the state agency is to meet on the proposed rate and deliver a copy of the agenda items concerning the proposed rate 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,
 - d. 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 service and the number of contracts then in existence for each type of service. Any rate which has been determined to be excessive by the State Purchasing Director shall be specifically identified in the list by the state agency, and
 - e. at any time, the State Purchasing Director may review, suspend or terminate a contract entered into pursuant to the provisions of this paragraph if the Director determines the contract is not necessary, is excessive or is not justified,
 7. an acquisition for a client of the State Department of Rehabilitation Services; provided, the agency develops and maintains standards for such an acquisition. The agency may elect to utilize the Purchasing Division for an acquisition. The standards shall foster economy, provide a short response time, include appropriate safeguards, require written records, ensure

- appropriate competition for economical and efficient purchasing and shall be approved by the State Purchasing Director,
8. structured settlement agreements entered into by the Attorney General's office in order to settle any lawsuit involving the state, the Legislature, any state agency or any employee or official of the state if:
 - a. prior to entering into any contract for the services of an entity to administer a structured settlement agreement, the Attorney General receives proposals from at least three entities engaged in providing such services, and
 - b. the selection of a particular entity is made on the basis of the response to the request which is the most economical and provides the most competent service which furthers the best interests of the state,
 9. an acquisition by a state agency pursuant to a contract the State Purchasing Director enters into on behalf of a state agency or awards and designates for use by state agencies,
 10. an acquisition by the Committee for Sustaining Oklahoma's Energy Resources pursuant to a contract with a local supplier for the purpose of holding a special event or an exhibition throughout the state.
 - g. Notwithstanding any other provision of law, an acquisition may be exempted from requirements of this section by the State Purchasing Director when in the State Purchasing Director's discretion unusual, time-sensitive or unique circumstances exist which make such exemption in the best and immediate interest of the state. As used in this subsection, "State Purchasing Director" shall not mean a designee. Any such acquisitions shall be described in detail and publicly posted as a data feed. The description shall include the name of the supplier, cost of the acquisition, reason for exemption and, as applicable, detailed comparison of the acquisition with comparable items, any identified cost savings resulting from the acquisition and a description of benefits to the state. The State Purchasing Director shall take no action under the provisions of this subsection prior to such public posting.
 2. Competitively bid acquisitions shall be awarded to the lowest and best, or best value, bidder or bidders.
 3. Bids for an amount requiring submission of requisitions to the Purchasing Division shall be evaluated by the Purchasing Division and the state agency receiving the acquisition. At a minimum, cost and technical expertise shall be considered in determining the lowest and best, or best value, bid. Further, the state agency shall present its evaluation and recommendation to the State Purchasing Director. A documented evaluation report containing the evaluations of the Purchasing Division or the state agency shall be completed prior to the contract award and such report shall be a matter of public record.
 4. Except as otherwise specifically provided by law, the acquisition of food items or food products by a state agency from a public trust created pursuant to [Sections 176 through 180.56 of Title 60](#) of the Oklahoma Statutes shall comply with competitive bidding requirements of this section.
 5. Cooperative contracts shall not be utilized unless the purchasing cooperative and its affiliated suppliers have complied with competitive bid requirements of this act and associated rules.
 6. Notwithstanding any provision of this act, in all cases where federal granted funds are involved, the federal laws, rules and regulations thereto shall govern to the extent necessary to inure to the benefit of such funds to this state.
 7. A court order requiring an acquisition by a state agency, whether or not such state agency is subject to this act, shall not invalidate competitive bidding procedures required by this section if such court order does not specify a specific supplier. Any such acquisition shall comply with competitive bid procedures.

74 O.S. § 85.58O - Insurance Coverage for Public Transit Vehicles Obtained by Community Action Agencies or Substate Planning District

1. The Risk Management Administrator, pursuant to the provisions of this section and [Section 85.58A of Title 74](#) of the Oklahoma Statutes, may obtain or provide insurance coverage for any public transit vehicle obtained by a community action agency or a substate planning district through the Department of Transportation pursuant to a federal grant and may obtain or provide indemnity coverage for any

- official or employee of the community action agency or a substate planning district for any errors and omissions or liability risks arising from the performance of official duties pursuant to law.
2. The Risk Management Administrator, pursuant to the provisions of this section and [Section 85.58A of Title 74](#) of the Oklahoma Statutes, may obtain or provide insurance coverage for any building used for public transit services or for storage of public transit vehicles if the public transit vehicles are obtained as provided in subsection A of this section. If a public transit vehicle obtained as provided for in subsection A of this section is housed in a building with any department or unit of local governmental entities, the Risk Management Administrator may also obtain or provide building or structure insurance coverage for such department or unit in such building.
 3. The Risk Management Administrator is authorized to determine eligibility criteria for participation pursuant to this section in the Risk Management Program for a community action agency or a substate planning district or for officers or employees of a community action agency or a substate planning district. In addition, the Risk Management Administrator is authorized to establish equipment and safety standards for the vehicles or buildings to be covered by the Risk Management Program pursuant to this section.
 4. Requests for the insurance or indemnity coverage provided pursuant to the provisions of this section shall be submitted in writing to the Risk Management Administrator by the community action agency or a substate planning district. Any community action agency or a substate planning district meeting eligibility criteria shall be approved for participation in the Risk Management Program by the Risk Management Administrator if the officers and employees and the vehicles and buildings used by the participating community action agency or a substate planning district meet the equipment and safety standards and eligibility requirements established by the Risk Management Administrator.
 5. Any insurance or indemnity coverage shall be obtained or provided solely from funds available in the shared risk pool authorized by Section 3 of this act. Any coverage limits shall be based on the liquidity of the shared risk pool resulting from the annual payments made pursuant to [Section 85.58M of Title 74](#) of the Oklahoma Statutes and any interest accrued thereon, after deduction of such sums as may be necessary to pay all overhead and administrative expenses associated with administering the pool.
 6. Any limited indemnity coverage provided for errors and omissions pursuant to the provisions of this section shall only cover errors or omissions made by an official or employee of a community action agency or a substate planning district provided for in subsection A of this section occurring on or after the effective date of this act.
 7. Notwithstanding the provisions of the Governmental Tort Claims Act, the State of Oklahoma is not liable, directly or indirectly, for the errors and omissions of any official or employee of any community action agency or a substate planning district provided for in subsection A of this section in the performance of official duties pursuant to law. The State of Oklahoma is not liable, directly or indirectly, for the negligence of any community action agency or a substate planning district provided for in subsection A of this section.
 8. In providing risk management services for any community action agency or a substate planning district provided for in subsection A of this section or official or employee of the community action agency or a substate planning district, it is the intention of the Legislature to provide coverage solely to the extent of assets in the shared risk pool created by Section 3 of this act.
 9. Any liability insurance coverage obtained or provided shall include expenses for legal services obtained or provided by the Risk Management Administrator.

Minority Business Enterprise Assistance

74 O.S. § 85.45. Short Title

Sections 2 through 10 of this act shall be known and may be cited as the "Oklahoma Minority Business Enterprise Assistance Act".

74 O.S. § 85.45a. Intent of Legislature

It is recognized by this state that the preservation and expansion of the American economic system of private enterprise is through free competition, but it is also recognized that the security and well-being brought about by such competition cannot be realized unless the actual and potential capacity of minority business enterprises is encouraged and developed. Therefore, it is the intent of the Legislature that the state ensure that minority business enterprises are not underrepresented in the area of procurement of state contracts for construction, services, equipment and goods. It is further the intent that this state provide for the aggressive solicitation of minority business enterprises, provide a feasibility study on a Small Business Surety Bond Guaranty Program, provide other programs targeted for assisting minority business enterprises in qualifying for state bids, and establish a percentage preference bid program for minority business enterprises who desire to participate in such program.

74 O.S. § 85.45b. Definitions

For purposes of the Oklahoma Minority Business Enterprise Assistance Act:

1. "Minority" means a person who is a lawful resident of the State of Oklahoma and who is:
 - a. Black (a person having origins in any of the black racial groups of Africa),
 - b. Hispanic (a person of Mexican, Puerto Rican, Cuban, Central or South American descent),
 - c. Asian American (a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands), or
 - d. American Indian and Alaskan Native (a person having origins in any of the original peoples of North America);
2. "Minority business enterprise" means a small business concern, as defined pursuant to Section 3 of the Small Business Act and implementing regulations, which is owned and controlled by one or more minorities and is authorized to do and is doing business under the laws of this state, paying all taxes duly assessed, and domiciled within this state. "Owned and controlled" means a business:
 - a. which is at least fifty-one percent (51%) owned by one or more minorities or, in the case of a publicly owned business, at least fifty-one percent (51%) of all classes or types of the stock is owned by one or more minorities, and
 - b. whose management and daily business operations are controlled by one or more such individuals;
3. "Office" means the Office of Management and Enterprise Services; and
4. "Person" means an individual, sole proprietorship, partnership, association, or corporation.

74 O.S. § 85.45c. Competitive Bids - Minority Business Enterprise Preference Program - Department of Transportation Exemption

1. For competitive bids submitted to the state pursuant to the Oklahoma Central Purchasing Act or pursuant to the Public Competitive Bidding Act of 1974 by certified minority businesses, the State Purchasing Director shall prepare and implement a bid-preference program. The program shall require that a percentage be added to the price of the lowest bid and if the certified minority business enterprise submits a bid that falls between the lowest bid plus the percentage, it shall receive the contract.

Provided however, in no instance shall the minority business enterprise be entitled to both a minority bid preference under this act and the preference for state-produced goods pursuant to Section 85.32 of this title.

2. The minority business enterprise preference program shall be implemented on the following schedule:
 - a. For the 1988-1989 fiscal year, the State Purchasing Director shall certify the percent of funds expended on state contracts which have been awarded to minority business enterprises certified pursuant to Section 7 of this act. If the State Purchasing Director certifies that a minimum of ten percent (10%) of the funds expended on state contracts were expended on contracts awarded to minority business enterprises certified pursuant to Section 7 of this act then the minority percentage bid preference shall be zero. If the percentage of such funds expended on minority business

enterprises is less than ten percent (10%) then a five percent (5%) bid preference shall go into effect; and

- b. For each following fiscal year, the State Purchasing Director shall certify the percent of funds expended on state contracts which have been awarded to minority business enterprises. When the State Purchasing Director certifies that a minimum of ten percent (10%) of the funds expended on state contracts are expended on contracts awarded to minority business enterprises then the percentage bid preference shall remain at that preference level for a period of one (1) year. After that one-year period, unless the minority bid preference level is zero, the State Purchasing Director shall reduce by one percent (1%) each year the bid preference level unless the required percent of funds expended on state contracts awarded to minority business enterprises decreases below the ten percent (10%) minimum. At that time, the State Purchasing Director shall increase the percentage bid preference one percent (1%) each year to a maximum of five percent (5%) to attain the minimum ten percent (10%) goal of the program. Each year the State Purchasing Director may increase or decrease the bid percentage level in compliance with this section to maintain the minimum ten percent (10%) goal of the program.
3. The Department of Transportation is exempted from the provisions of the Minority Business Enterprise Assistance Act.

74 O.S. § 85.45d. Placement of Award in Event of Inability to Award Contract

In the event that the State Purchasing Director is unable to award a contract pursuant to the provisions of Section 5 of this act, the award may be placed pursuant to the normal competitive bid and award provisions.

74 O.S. § 85.45e. Minority Business Enterprise - Application for Certification to Participate in Minority Bid Preference Program

1. Any minority business enterprise that desires to participate in the minority bid preference program and to bid upon any state contract within the purview of the State Purchasing Director of the Office of Management and Enterprise Services or any other state contract to be let by any state agency not subject to The Oklahoma Central Purchasing Act shall first apply to the State Purchasing Director of the Office of Management and Enterprise Services for certification.

2. The State Purchasing Director of the Office of Management and Enterprise Services shall certify a business which meets the eligibility requirement of this section to qualify as a minority business enterprise. To qualify as a minority business enterprise, the business shall:
 - a. Be a minority business enterprise;
 - b. Submit any documentary evidence required by the rules and regulations of the Office of Management and Enterprise Services to support its status as a minority business enterprise;
 - c. Sign an affidavit stating that it is a minority business enterprise;
 - d. Be qualified to bid pursuant to the provisions of The Oklahoma Central Purchasing Act.; and
 - e. Present:
 1. an application including the entire business history of the operation,
 2. birth certificates for all minority principals,
 3. if Native American, tribal registration card/certificate,
 4. current resumes on all principals, key managers and other key personnel,
 5. a current financial statement,
 6. proof of investment by principals,
 7. loan agreements,
 8. lease/rental agreement for space, equipment,
 9. evidence of latest bond,
 10. if the applicant is a sole proprietor, he shall also include: a copy of a bank signature card,
 11. if the applicant is a partnership a copy of the partnership agreement shall also be included, and
 12. if the applicant is a corporation it shall also include: articles of organization, corporation bylaws, copies of all stock certificates, minutes of the first corporate organizational meeting, bank resolution on all company accounts, and a copy of the latest U.S. corporate tax return.
3. The State Purchasing Director of the Office of Management and Enterprise Services shall prepare and maintain a list of certified minority business enterprises.
4. The State Purchasing Director of the Office of Management and Enterprise Services may deny certification to any minority business enterprise in accordance with the provisions of this act and the rules and regulations of the Office of Management and Enterprise Services. Any person adversely affected by an order of the State Purchasing Director of the Office of Management and Enterprise Services denying certification as a minority business enterprise may appeal as provided in the Administrative Procedures Act.

74 O.S. § 85.45f. Report

On or before July 15 of each year, the State Purchasing Director shall submit a report to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate on the status of the percentile of state funds expended on contracts awarded to minority business in the preceding fiscal year and provide any report, statistic or information concerning the compliance of the Office of Management and Enterprise Services with the Oklahoma Minority Business Enterprise Assistance Act.

74 O.S. § 85.45g. Award of Contract to Minority Business Enterprise

If a minority business enterprise is awarded a contract by this state pursuant to the Oklahoma Minority Business Enterprise Assistance Act, said business shall not assign the rights of the contract to any other business without prior written approval of the State Purchasing Director of the Office of Management and Enterprise Services verifying that such business is also a minority business enterprise certified as such by the Office of Management and Enterprise Services. Any such assignment made without the prior written approval of the State Purchasing Director of the Office of Management and Enterprise Services shall be deemed unlawful pursuant to paragraph 5 of subsection A of [Section 85.45h](#) of this title. Such unlawful assignment shall be voidable by the Office of Management and Enterprise Services.

74 O.S. § 85.45h. Unlawful Acts

1. It shall be unlawful for a person to:
 - a. Knowingly and with intent to defraud, fraudulently obtain, retain, attempt to obtain or retain, or aid another in fraudulently obtaining or retaining or attempting to obtain or retain, certification as a minority business enterprise for the purposes of this act.
 - b. Knowingly and willfully make a false statement with the intent to defraud, whether by affidavit, report, or other representation, to a state official or employee for the purpose of influencing the certification or denial of certification of any entity as a minority business enterprise.
 - c. Knowingly and willfully obstruct, impede, or attempt to obstruct or impede any state official or employee who is investigating the qualifications of a business entity which has requested certification as a minority business enterprise.
 - d. Knowingly and willfully with intent to defraud, fraudulently obtain, attempt to obtain, or aid another person in fraudulently obtaining or attempting to obtain, public monies to which the person is not entitled under this act.
 - e. Knowingly and willfully assign any contract awarded pursuant to the Oklahoma Minority Business Enterprise Assistance Act to any other business enterprise without prior written approval of the State Purchasing Director pursuant to [Section 85.45g](#) of this title.
2. Any person convicted of violating any provision of the Oklahoma Minority Business Enterprise Assistance Act shall be guilty of a felony, punishable by imprisonment in the State Penitentiary for not more than five (5) years, or a fine of not more than Ten Thousand Dollars (\$10,000.00), or by both such imprisonment and fine.
3. If a contractor, subcontractor, supplier, subsidiary, principal or affiliate thereof, has been found to have violated this act and that violation occurred within three (3) years of another violation of this act, the Office of Management and Enterprise Services shall prohibit that contractor, subcontractor, supplier, subsidiary, or affiliate thereof, from entering into a state project or state contract and from further bidding to a state entity, and from being a subcontractor to a contractor for a state entity and from being a supplier to a state entity.

74 O.S. § 85.45i. Studies

No later than December 31, 1994, each municipality with a population of three hundred thousand (300,000) or more according to the latest Federal Decennial Census shall conduct a study to determine the disparity, if any, in minority business contracts awarded by such municipality, and to determine the feasibility of the establishment of a percentage preference bid program that provides for a minimum of five percent (5%) of the funds expended on municipal contracts to be awarded to minority business enterprises as certified by the Oklahoma State Purchasing Director under the Oklahoma Minority Business Enterprise Assistance Act, Sections [85.45](#) through [85.45h](#) of Title 74 of the Oklahoma Statutes.

Oklahoma State Recycling and Recycled Materials Procurement Act

74 O.S. § 85.50. Short Title

This act shall be known and may be cited as the "Oklahoma State Recycling and Recycled Materials Procurement Act".

74 O.S. § 85.51. Definitions

As used in the Oklahoma State Recycling and Recycled Materials Procurement Act:

1. "Office" means the Office of Management and Enterprise Services;
2. "Paper recycling" means the processing of scrap paper or other such recoverable waste paper into reusable products. Such collection and recycling of recoverable waste paper shall be done in an environmentally acceptable manner;

3. "State public entity" means the State Legislature, any bureau, agency, board, commission, or authority of the state, the office of the Governor, the judiciary, or any state university, school district, or county of the state which is supported in whole or in part by state funds;
4. "Recoverable waste paper" generated by businesses or consumers, which has served its intended use and has been separated from solid waste for purposes of collection and recycling, shall include, but is not limited to, such paper as computer cards, computer print-out papers, copy paper, white office papers, colored office papers, corrugated boxes, newspapers, envelope coatings, bindery trimmings, printing scrap and butt rolls. Mill broke repulped internally within a paper manufacturing facility shall not be considered recoverable waste paper;
5. "Director" means the Director of the Office of Management and Enterprise Services;
6. "Division" means the Purchasing Division of the Office of Management and Enterprise Services;
7. "Recycled paper products" means all paper products manufactured from recoverable waste paper with not less than ten percent (10%) of their total weight consisting of waste paper.
8. "Products manufactured with recycled materials" means products that contain at least a minimum percentage of specified materials recovered from the recycling of post-consumer products as defined in rules and regulations promulgated by the Division;
9. "Recyclable materials" means materials or products which are capable of being recycled, including but not limited to paper, glass, plastics, metals, automobile oil, and batteries. Refuse-derived fuel or other material that is destroyed by incineration is not a recyclable material; and
10. "Uncoated" means not coated with plastic, clay, or other material used to create a glossy finish.

74 O.S. § 85.52. Intent of Legislature - Implementation of Act - Exemptions

1. It is the intent of the Legislature that all state public entities comply with the provisions of the Oklahoma State Recycling and Recycled Materials Procurement Act. All political subdivisions of this state are encouraged to collect and recycle recoverable waste paper and recyclable materials to the greatest extent possible. The Office of Management and Enterprise Services shall coordinate recycling efforts among the state public entities. The Director of the Office of Management and Enterprise Services shall adopt such rules, regulations, and orders as are necessary for the implementation of the Oklahoma State Recycling and Recycled Materials Procurement Act. The rules and regulations at a minimum shall establish procedures for:
 - a. The identification, handling, hauling, storing, safety factors, and disposition of recoverable waste paper and recyclable materials;
 - b. The separation of recoverable waste paper and recyclable materials from solid waste generated by state public entities;
 - c. A system for the collection of recoverable waste paper and recyclable materials from solid waste generated by state public entities;
 - d. Assuring that the recoverable waste paper and recyclable materials are made available to private industries for collection and recycling at the greatest economic value and to the greatest extent feasible. The Office may execute multiple contracts as necessary for purposes including but not limited to serving other government entities and different geographic areas of the state. In addition to the preference provisions of [Section 85.53](#) of this title, rules and regulations governing availability of recyclable materials shall give preference to private recyclable materials industries that operate in Oklahoma, and that will employ residents of the state to handle, transport and sort such materials;
 - e. The purchase of uncoated office paper and printed paper whenever practicable; and
 - f. Separating for the purpose of recycling all recyclable materials including but not limited to lead acid batteries, waste oil and major appliances that are generated as solid waste by state public entities.
2. All state public entities shall comply with the procedures and systems established pursuant to the Oklahoma State Recycling and Recycled Materials Procurement Act.
3. a. The Director may exempt any single activity or facility of any state public entity from compliance with rules promulgated pursuant to the Oklahoma State Recycling and Recycled Materials Procurement

Act if the Director determines there is a lack of market availability or that it is not economically feasible to follow and comply with the procedures and systems established by the Director.

- b. The exemption shall be for a period not in excess of one (1) year, but additional exemptions may be granted for periods not to exceed one (1) year.
- c. The Director shall make public all exemptions together with the reasons for granting such exemptions.

74 O.S. § 85.53. Legislative Intent - Preferences - Specifications

1. It is the intent of the Legislature that all state public entities procure products or materials with the recycled content levels required or specified by rules promulgated pursuant to the provisions of this section when such products or materials are available.
2. By July 1, 1993, the Division when accepting bids for state purchases of supplies, equipment and materials shall give preference to the suppliers of paper products or products manufactured with recycled materials if:
 - a. The price for recycled products and materials is not substantially higher than the price for nonrecycled products and materials. The Office of Management and Enterprise Services shall establish by rule the annual percentage over and above the price of nonrecycled products and materials which will be allowed for the purchase of recycled products and materials; and
 - b. The quality and grade requirements are otherwise comparable.
3. By July 1, 1993, any state public entity not subject to The Central Purchasing Act when accepting bids for purchases of supplies, equipment and materials, shall give preference to the suppliers of recycled paper products and products manufactured from recycled materials if:
 - a. The price for recycled products and materials is not substantially higher than the price for nonrecycled products and materials. The price paid for recycled products and materials shall not exceed the percentage over the price for nonrecycled products and materials established by the Office; and
 - b. The quality and grade requirements are otherwise comparable.
4. The Purchasing Division and any state public entity not subject to The Central Purchasing Act shall ensure, to the greatest extent economically practical and possible, that the recycled or recovered content of all paper purchased by the Division or agency, measured as a proportion, by weight, of paper products purchased in a calendar year, is not less than the following:
 - a. By 1995, ten percent (10%) of all purchased paper;
 - b. By 1997, twenty-five percent (25%) of all purchased paper; and
 - c. By 1999, forty percent (40%) of all purchased paper.
5.
 - a. By July 1, 1993, the Division shall promulgate rules and implement a program for extending state procurement specifications to products manufactured with recycled materials and identifying recycled products.
 - b. By July 1, 1993, any state public entity not subject to The Central Purchasing Act shall implement a program for extending agency procurement specifications to products manufactured with recycled materials.
6. In writing specifications under this section, the Office and any other state public entity shall incorporate requirements relating to the recyclability and ultimate disposition of products and, wherever possible, shall write the specifications so as to minimize the amount of solid waste generated by the state. All specifications under this section shall discourage the purchase of single-use, disposable products and require, whenever practical, the purchase of multiple-use, durable products.
7. For materials that are not otherwise recycled, the Division and each state public entity not subject to The Central Purchasing Act shall, to the extent practicable, enter into agreements to purchase products made from recyclable materials from vendors who agree to purchase like materials separated from solid waste generated by the state for reuse or use as a raw material in manufacturing.

74 O.S. § 85.54. Review of Procurement Specifications - Duties of Director

1. The Purchasing Division shall review the procurement specifications currently used by the Office of Management and Enterprise Services in order to eliminate, wherever economically feasible, discrimination against the procurement of recycled paper and other products manufactured with recycled materials.
2. The Division shall establish purchasing practices which, to the maximum extent economically feasible, assure purchase of recycled paper products.
3. The Director of the Office of Management and Enterprise Services shall review and incorporate, where appropriate, guidelines published in the Federal Register.
4. The Director shall promulgate rules to encourage recycling and conservation of purchased products.

74 O.S. § 85.55. Duties of Public Entities - Intent of Legislature

1. Each state public entity whether or not subject to the Central Purchasing Act shall:
 - a. Be subject to the rules promulgated by the Purchasing Division regarding the purchase of recycled products;
 - b. Establish management practices in accordance with the provisions of the Oklahoma State Recycling and Recycled Materials Procurement Act; and
 - c. Report by November 1 of each year to the Director of Central Services the following:
 1. the total amount of waste paper and other recyclable materials sold during the previous fiscal year,
 2. the amount of procured recycled paper products and other products manufactured with recycled materials, and
 3. the total amount of monies collected and expended to implement the Oklahoma State Recycling and Recycled Materials Procurement Act.
2. It is the intention of the Legislature that all state public entities and other governmental subdivisions of this state aggressively pursue procurement practices that encourage solid waste reduction and development of markets for recyclable materials and compost and shall, whenever practical, procure products containing recycled materials.

74 O.S. § 85.55a. Maintenance of Clearinghouse of Information - Agreements with Purchasing Agents

1. The Office of Management and Enterprise Services shall maintain a clearinghouse of information regarding products made from recycled paper products and products manufactured with recycled materials for purchase by state public entities. The clearinghouse shall include information concerning the availability, price and quality of products made from recycled paper products and products manufactured with recycled materials. The clearinghouse shall also include information concerning vendors and other persons willing to purchase recyclable materials from state public entities. The Office shall develop a mechanism to make this information available to all state public entities.
2. The Office may enter into agreements with purchasing agents of any other state, local governments, or the federal government under which any of the parties may agree to participate in, administer, sponsor or conduct purchasing transactions under a joint contract for the purchase of materials, supplies, equipment, permanent personal property, miscellaneous capital or contractual services consistent with this act.
3. The Office may cooperate with purchasing agents and other interested parties of any other state, local governments, or the federal government to develop uniform purchasing specifications on a regional or national level to facilitate cooperative interstate purchasing transactions.

74 O.S. § 85.56. State Recycling Revolving Fund - Use of Revenues From Sale of Waste Materials

1. There is hereby created in the State Treasury a revolving fund for the Office of Management and Enterprise Services, to be designated the "State Recycling Revolving Fund". The fund shall be administered in accordance with standard revolving fund procedures. The Office shall direct to the

State Recycling Revolving Fund any federal or private grants which may qualify. The Office shall have the authority to expend monies from the fund for the purpose of implementing the Oklahoma State Recycling and Recycled Materials Procurement Act and to defray expenses the Office incurs to support recycling operations.

2. Revenues received from the sale of waste materials which can be recycled through any recycling programs operated by the Office shall be used to implement the Oklahoma State Recycling and Recycled Materials Procurement Act and to defray expenses the Office incurs to support recycling operations.

74 O.S. § 85.57. Employment of Disabled Workers, Inmates of Jails and Correctional Institutions, and Retired Persons

The Office of Management and Enterprise Services, whenever possible, shall contract with, employ or utilize the services of the disabled workers, inmates of county jails, and the Department of Corrections and the retired as a labor force in the identification, handling, hauling, and storage of materials and products which can be recycled.

Online Bidding Act

74 O.S. § 85.45o. Short Title

Sections 1 through 5 of this act shall be known and may be cited as the "Oklahoma Online Bidding Act".

74 O.S. § 85.45p. Intent

The intent of the Oklahoma Online Bidding Act is:

1. To provide increased economy in state government procurement activities and to maximize to the fullest extent practicable the purchasing value of state monies while ensuring that procurements are the most advantageous to state agencies;
2. To foster effective broad-based competition for state procurement within the free enterprise system;
3. To modernize state statutes governing state government procurement and permit the continued development of explicit and thoroughly considered procurement policies and practices;
4. To ensure the fair and equitable treatment of all persons who deal with state government procurement processes and to promote increased public confidence in state government procurement procedures; and
5. To provide an ongoing funding source for new and innovative electronic procurement practices that would otherwise not be possible due to previous funding practices and guidelines.

74 O.S. § 85.45q. Definitions

As used in the Oklahoma Online Bidding Act:

1. "Construction" shall be defined as provided by [Section 202 of Title 61](#) of the Oklahoma Statutes for online bids subject to the Public Facilities Act;
2. "Procurement" means buying, purchasing, renting, leasing, or otherwise acquiring any goods, services, construction, or information services. The term also means all functions that pertain to the obtaining of any goods, services, construction, or information services including, but not limited to, the description of requirements, selection, and solicitation of sources, negotiation, preparation and award of contracts, and all phases of contract administration;
3. "State agencies" or "agencies" shall be defined as state agency is defined in [Section 85.2](#) of this title for online bids subject to the Oklahoma Central Purchasing Act or as defined by [Section 202 of Title 61](#) of the Oklahoma Statutes for online bids subject to the Public Facilities Act;

4. "Online bidding" means an electronic procurement process in which state agencies receive bids over the Internet in a real-time, competitive bidding event; and
5. "Solicitation" shall be defined as provided in [Section 85.2](#) of this title.

74 O.S. § 85.45r. Online Bidding Process Provisions

1. When a state agency determines that online bidding is more advantageous than other procurement methods provided by the laws of this state, the agency may use online bidding to obtain bids as authorized by the Oklahoma Central Purchasing Act or the Public Facilities Act for purchases or acquisitions as defined in [Section 85.2](#) of this title.
2. The online bidding process shall provide:
 - a. A designated opening and closing date and time. At the opening date and time, state agencies shall begin accepting online bids. Online bids shall be accepted until the designated closing date and time, except as provided by paragraph 6 of this subsection;
 - b. The posting of all online bids electronically and updating of bids on a real-time basis by state agencies;
 - c. The authorization for state agencies to require bidders to register before the opening date and time and, as part of that registration, require bidders to agree to any terms, conditions or other requirements;
 - d. The authorization for state agencies to also require potential bidders to prequalify as bidders and to restrict solicitations to prequalified online bidders for bids submitted pursuant to the Public Facilities Act;
 - e. The retention of the authority of state agencies to determine the criteria that will be used as the basis for making awards; and
 - f. The authorization for the State Purchasing Director, under the Oklahoma Central Purchasing Act or the State Facilities Director under the Public Facilities Act, in the event the state agency determines that a significant error or event occurred that affected the electronic receipt of any online bid by the agency, to determine it is in the best interest of the state to allow the agency to accept an electronic bid after the specified official closing date and time.
3. The provisions of the Oklahoma Online Bidding Act shall not apply to bid or proposal sealing or opening provisions found in any state law other than the Oklahoma Central Purchasing Act or the Public Facilities Act.
4. All bids submitted through the online bidding process pursuant to the Oklahoma Online Bidding Act are subject to the same public disclosure laws that govern bids received pursuant to sealed bid procurement procedures pursuant to the Oklahoma Central Purchasing Act or the Public Facilities Act.
5. All remedies available to state agencies and suppliers through the sealed bid process pursuant to the Oklahoma Central Purchasing Act or the Public Facilities Act are also available to state agencies and online bidders in an online bidding process.

74 O.S. § 85.45s. Rules of Implementation

The Director of the Office of Management and Enterprise Services shall promulgate rules to implement the Oklahoma Online Bidding Act.

State Use Committee

74 O.S. § 3001 .1. Authority of State Purchasing Director

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

1. Promulgating rules relating to the program;

2. Qualification of organizations participating in the program;
3. Contracting with qualified organizations for products and services to be included on the procurement schedule;
4. Determination of fair market price of all products and services to be included on the procurement schedule; and
5. Designation and publication of a procurement schedule.

74 O.S. § 3001. Creation of State Use Advisory Council - Members - Officers - Terms

1. There is hereby created in the Office of Management and Enterprise Services an advisory council to be known as the "State Use Advisory Council". The Council shall consist of seven (7) members:
 - a. A private citizen conversant with the employment needs of people with significant disabilities who shall be appointed by and serve at the pleasure of the Governor to act as an advocate for the employment needs of people with significant disabilities;
 - b. The Director of the Office of Management and Enterprise Services or designee;
 - c. The Director of the Department of Rehabilitation Services, or designee;
 - d. One member who shall be a state use provider who shall be appointed by the President Pro Tempore of the Senate;
 - e. An individual or a parent or guardian of an individual with significant disabilities who participates in vocational programming through a qualified nonprofit agency for individuals with disabilities, to be appointed by the Speaker of the House of Representatives;
 - f. The Director of Human Services, or designee; and
 - g. A person employed by the Office of Management and Enterprise Services Central Purchasing Division as a contracting officer, appointed by the State Purchasing Director.
2. The private citizens on the Council shall serve for a period of two (2) years and may be reappointed by the appointing authority. Any private citizen appointed pursuant to this section to fill a vacancy occurring prior to the expiration of the term for which the predecessor was appointed shall be appointed only for the remainder of the term. The State Use Advisory Council shall meet a minimum of twice a year for the purpose of exchanging ideas to market and improve the State Use Program.

74 O.S. § 3003. Definitions

As used in Section 3001 et seq. of this title:

1. "Blind person" means a person having a visual acuity not to exceed 20/200 in the better eye, with correcting lenses, or visual acuity greater than 20/200 but with limitation in the field of vision such that the widest diameter of visual field subtends an angle no greater than twenty (20) degrees;
2. "Council" means the State Use Advisory Council;
3. "Qualified nonprofit agency for the employment of people with significant disabilities" means a nonprofit agency employing persons with significant disabilities who constitute at least seventy-five percent (75%) of the direct labor hours engaged in direct production, manufacturing, processing and/or assembling of products or services offered by the agency for procurement by this state or who meet the definition of blind person as provided for in paragraph 1 of this section, or which is certified as a sheltered workshop by the Wage and Hour Division of the United States Department of Labor;
4. "Person with significant disabilities" means an individual with a physical or mental disability constituting a substantial handicap to employment and preventing the person from engaging in normal competitive employment and/or includes any blind person;
5. "Qualified organization" means a blind person or qualified nonprofit agency for the employment of people with significant disabilities contracting to supply goods or services;
6. "Manufactured" means goods made by manual labor;
7. "Produced" means to have brought into existence or created from raw materials;
8. "Processed" means the action of taking something through an established and mostly routine set of procedures or steps to substantially convert a potential product from one form to another. This action

involves a sequence of multiple steps each requiring a distinct decision-making process to evolve a potential product to the next step;

9. "Assemble" means to put or fit together or put together the parts of a potential product;
10. "Central nonprofit agency (CNA)" means a qualified 501(c)3 nonprofit entity meeting the qualifications in the Request for Procurement (RFP) issued by the Office of Management and Enterprise Services selected to administer and oversee the State Use Program; and
11. "Procurement schedule" means a designated schedule of products and services currently approved by the Office of Management and Enterprise Services Central Purchasing Division as suitable to procure from qualified organizations participating in the State Use Program.

74 O.S. § 3004. Procurement Schedule

The Office of Management and Enterprise Services Central Purchasing Division shall designate and distribute by regulation a schedule, hereinafter referred to as the procurement schedule, of the products directly manufactured, produced, processed or assembled or services directly performed, offered or provided by any person with significant disabilities or qualified nonprofit agency for the employment of people with significant disabilities, as defined in Section 3003 of this title, which the State Purchasing Director determines are suitable for procurement by the state. The products and services on contract will be published on the procurement schedule and will be designated as mandatory. The Office of Management and Enterprise Services Central Purchasing Division shall have the authority to qualify organizations for inclusion in the State Use Program, monitor qualified organizations for continued compliance to remain active in the program, and remove organizations from the program. Central Purchasing shall have the authority to award and manage contracts to the qualified organizations as well as to renegotiate or cancel contracts when appropriate.

74 O.S. § 3004.1. Contract Management Fee or Levy

The State Purchasing Director may enter or award contracts for products or services to a qualified organization as defined in Section 3003 of this title and assess a contract management fee or levy. The contract management fee or levy shall be deposited in the State Use Advisory Council Revolving Fund, as created in Section 3004.2 of this title, for the salary, administrative costs, annual trainings, professional association memberships, qualified agency operational improvement grants, periodic economic advantage study, Annual Report development, and other expenses incurred by the Central Purchasing Division of the Office of Management and Enterprise Services for promoting goods and services provided by qualified organizations.

74 O.S. § 3004.2. Creation of State Use Advisory Council Revolving Fund

There is hereby created in the State Treasury a revolving fund for the Office of Management and Enterprise Services to be designated the "State Use Advisory Council Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all proceeds from the management fee or levy on contracts for purchases of products or services of people with significant disabilities, as provided in Section 3004.1 of this title. The fund shall be invested in any of the types of instruments in which the State Treasurer is authorized by law to invest. Interest earned shall be retained by the fund. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Office of Management and Enterprise Services for the salary and other administrative expenses of the buyer and clerical and technical support in the Central Purchasing Division of the Office of Management and Enterprise Services responsible for contracts for the products and services of people with significant disabilities and expenses the Office incurs to support State Use operations including services of the Centralized Non-Profit Agency (CNA). Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

74 O.S. § 3005. Determination of Fair Market Price

The Office of Management and Enterprise Services Central Purchasing Division shall determine the fair market price of all products and services included in the procurement schedule and shall revise such prices in accordance with changing market conditions; provided, however, a change in price shall not be effective prior to the expiration of thirty (30) days from the date on which such change is approved. Approved fair market prices shall be reflected on State Use contracts and procurement schedules within thirty (30) days of approval and distribution.

74 O.S. § 3006. Contract with a Central Nonprofit Agency

The State Purchasing Director may contract with a central nonprofit agency to facilitate:

1. Management of the day-to-day operations of the program;
2. The facilitation, promotion, and the distribution of orders of the state for products or services on the procurement schedule among qualified nonprofit agencies for people with significant disabilities;
3. Scheduling and conducting annual training sessions;
4. Publishing the approved State Use Procurement Schedule;
5. Promotion of the State Use Program through development and distribution of program marketing material, promotion of program through continued contact with current and future customers; and
6. All other duties assigned by the RFP through the Office of Management and Enterprise Services.

74 O.S. § 3008. Exceptions. Competitive Bid Requirement Not Applicable - Annual Pricing Review

1. Nothing in Section 3001 et seq. of this title pursuant to purchases of products and services from people with significant disabilities shall be construed to prohibit any department or agency of the state from manufacturing or supplying its own products or services for its own use. Procurements made pursuant to Section 3001 et seq. of this title shall not be subject to the competitive bid requirements of the Oklahoma Central Purchasing Act, Section 85.1 et seq. of this title.
2. The Office of Management and Enterprise Services Central Purchasing Division shall require an annual qualified organization pricing review for all products and services approved and designated on the procurement schedule. The method of the pricing review shall be defined in the promulgated rules.
3. When the fair market price for a product or service approved by the Office of Management and Enterprise Services Central Purchasing Division exceeds a current market price for the same product or service and such lower market price has been verified by the agency through compliance with the fair market analysis process approved by the Office of Management and Enterprise Services Central Purchasing Division, the State Use contracting officer may grant a temporary exception to a requesting agency so that the agency may purchase the product or service from the supplier offering the lower market price.

74 O.S. § 3009. Rules – Requirements – Annual Strategic Plan to Legislature

1. The Office of Management and Enterprise Services Central Purchasing Division shall prescribe rules to carry out the purposes of the provisions of Sections 3001 through 3009 of this title.
2. The rules shall include requirements for:
 - a. Publishing a catalog listing goods and services and jobs that qualified agencies employing people with significant disabilities can provide the state, annually; and
 - b. Conducting a minimum of two meetings per year of the State Use Council, in compliance with the Oklahoma Open Meeting Act, Section 301 et seq. of Title 25 of the Oklahoma Statutes
3. On an annual basis, the Office of Management and Enterprise Services shall, within sixty (60) days after the close of the fiscal year, transmit a strategic plan for the State Use Program to the President Pro Tempore of the Senate, the Speaker of the House of Representatives and the Governor.

Supplier Diversity Initiative

74 O.S. § 85.45j.11. Short Title, Purpose, Registration, Qualification, Reporting, and Promulgation of Rules

1. There is hereby created the "Oklahoma Supplier Diversity Initiative", which shall be a state-sponsored supplier diversity program to provide a resource for state agencies and private businesses to utilize diverse firms in procurement opportunities to encourage growth in the economy of the state. The program shall provide convenience for qualified and certified small business enterprises and minority business enterprises in contracting projects in underserved areas.
2. The program shall allow diverse business enterprises to register with the Office of Management and Enterprise Services and allow registered vendors to be automatically notified of opportunities to do business with the state for specific commodities. The program shall provide for simplified vendor registration processes.
3. The program shall authorize the Oklahoma Department of Commerce to develop a diversity certification program to qualify and certify diverse business enterprises for the state.
4. To qualify for the program, businesses shall have less than five hundred total employees, an annual revenue equal to or less than Twenty-five Million Dollars (\$25,000,000.00) and be certified as one of the following:
 - a. An Oklahoma Department of Transportation Disadvantaged Business Enterprise;
 - b. Any of the following entities certified by the United States Small Business Administration:
 1. Woman-Owned Small Business,
 2. Minority-Business Enterprise,
 3. Small Disadvantaged Business,
 4. Service-disabled Veteran-Owned Small Business,
 5. HUBZone Small Business Concern, and
 6. 8(a) Business Development Program;
 - c. A Native American-owned Business; or
 - d. A Veteran-Owned Business.
5. The Central Purchasing Division of the Office of Management and Enterprise Services shall:
 - a. Amend the vendor registration process to require diversity certification check off and size standard information; and
 - b. Create a search tool for all state agencies and public or private entities to utilize to obtain contact information for diverse firms for the purpose of promoting procurement opportunities within the state.
6. On or before September 1 of each year, the State Purchasing Director shall submit a report to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate on the status of the percentile of state funds expended on contracts awarded to a certified Oklahoma Department of Transportation Disadvantaged Business Enterprise and all of the entities certified by the United States Small Business Administration mentioned in subsection D of this section in the preceding fiscal year. The report may include related economic impacts when applicable. The report, statistics or other information concerning the participation in the program shall be retained by the Office of Management and Enterprise Services.
7. The Oklahoma Department of Commerce shall promulgate rules to create and administer the Oklahoma Supplier Diversity Initiative.

Travel By State Employees

74 O.S. § 85.45l. Trip Optimizer System Use Requirements

1. Each state agency, board, commission or other entity organized within the executive department of state government shall use the Trip Optimizer system of the Office of Management and Enterprise Services in computing the optimum method and cost for travel by state employees using a motor

vehicle where the travel will exceed one hundred (100) miles per day and the employee is not driving a state-owned or -leased dedicated vehicle. For purposes of this section, "dedicated vehicle" means a vehicle that has been assigned to the employee.

2. The provisions of this section shall be used to determine the most cost-effective method of travel by motor vehicles, whether such vehicles are owned by the agency, leased by the agency or by the employee, and shall be applicable for purposes of determining the maximum authorized amount of any travel reimbursement for employees of such agencies related to vehicle usage.
3. A nonappropriated state agency, that employs persons who use personal vehicles as part of their regular duties and who are reimbursed for travel expenses by the agency shall not be required to utilize the Trip Optimizer system with regard to the travel expenses of such employees. As used in this section, "nonappropriated state agency" means an entity within the executive branch of government that does not receive any of its funding through the annual legislative appropriations process.
4. The maximum authorized amount of travel reimbursement related to vehicle usage shall be the lowest cost option as determined by the Trip Optimizer system. All travel claims submitted for reimbursement shall include the results of the Trip Optimizer system indicating the lowest cost option for travel by the state employee.
5. State employees may be exempt from the reimbursement requirements of the Trip Optimizer system, provided the state employees utilize a personally owned vehicle and seek reimbursement according to the schedule referenced in subsection F of this section.
6. The Office of Management and Enterprise Services shall publish a schedule of reimbursement rates for state employee travel. The schedule may apply to exemptions claimed under subsection E of this section. The schedule may categorize reimbursement rates by type of vehicle and shall not exceed standard mileage reimbursement rates as established by the Internal Revenue Service.
7. In providing a calculation of rates, the Trip Optimizer system shall account for the distance that an employee must travel to pick up a rental or state fleet vehicle.
8. In providing a calculation of rates, the Trip Optimizer system shall account for the long-term rate discounts offered through the state's purchasing contract for vehicle rentals.

74 O.S. § 85.45k. Creation of State Travel Office

1. There is hereby created the State Travel Office within the Purchasing Division of the Office of Management and Enterprise Services.
2. All state agencies and departments of this state may make arrangements for all air travel on scheduled commercial airlines for state employees required to travel in the course of their official duties and for all other persons traveling at state expense through the State Travel Office, except when the state agency determines that:
 - a. The air travel services can be secured at a cost less than that which can be secured by the State Travel Office; or
 - b. The air travel originates from a location outside the state and it would be impractical to arrange for the air travel through the State Travel Office; or
 - c. The air travel is necessitated by an emergency and time does not permit utilization of the State Travel Office's services; or
 - d. The air travel is part of a package arrangement made by the organization scheduling the meeting or conference.
3. All claims made for reimbursement shall contain a statement showing the reason for the exemption.
4. The State Travel Office shall promulgate rules and contract specifications to which the contract travel agencies shall be subject. The rules and specifications shall be drawn with the intent of obtaining the lowest available fares for scheduled commercial air travel.
5. At the end of each month the contract travel agencies shall furnish a statement, if requested, in a form approved by the State Travel Office, showing certain details of all travel arrangements handled to each state agency for which the contract travel agencies have furnished their services and shall also furnish copies of the statements to the State Travel Office.

IT Procurement Related Statutes in Title 62

62 O.S. § 34.11.1. Chief Information Officer

1. There is hereby created the position of Chief Information Officer who shall be appointed by the Governor. The Chief Information Officer, in addition to having authority over the Information Services Division of the Office of Management and Enterprise Services, shall also serve as Secretary of Information Technology and Telecommunications or successor cabinet position and shall have jurisdictional areas of responsibility related to information technology and telecommunications systems of all state agencies as provided for in state law. The salary of the Chief Information Officer shall not be less than One Hundred Thirty Thousand Dollars (\$130,000.00) or more than One Hundred Sixty Thousand Dollars (\$160,000.00).
2. Any person appointed to the position of Chief Information Officer shall meet the following eligibility requirements:
 - a. A baccalaureate degree in Computer Information Systems, Information Systems or Technology Management, Business Administration, Finance, or other similar degree;
 - b. A minimum of ten (10) years of professional experience with responsibilities for management and support of information systems and information technology, including seven (7) years of direct management of a major information technology operation;
 - c. Familiarity with local and wide-area network design, implementation, and operation;
 - d. Experience with data and voice convergence service offerings;
 - e. Experience in developing technology budgets;
 - f. Experience in developing requests for proposal and administering the bid process;
 - g. Experience managing professional staff, teams, and consultants;
 - h. Knowledge of telecommunications operations;
 - i. Ability to develop and set strategic direction for information technology and telecommunications and to manage daily development and operations functions;
 - j. An effective communicator who is able to build consensus;
 - k. Ability to analyze and resolve complex issues, both logical and interpersonal;
 - l. Effective verbal and written communications skills and effective presentation skills, geared toward coordination and education;
 - m. Ability to negotiate and defuse conflict; and
 - n. A self-motivator, independent, cooperative, flexible and creative.
3. The salary and any other expenses for the Chief Information Officer shall be budgeted as a separate line item through the Office of Management and Enterprise Services. The operating expenses of the Information Services Division shall be set by the Chief Information Officer and shall be budgeted as a separate line item through the Office of Management and Enterprise Services. The Office of Management and Enterprise Services shall provide adequate office space, equipment and support necessary to enable the Chief Information Officer to carry out the information technology and telecommunications duties and responsibilities of the Chief Information Officer and the Information Services Division.
4. a. Within twelve (12) months of appointment, the first Chief Information Officer shall complete an assessment, which shall be modified annually pursuant to [Section 35.5](#) of this title, of the implementation of the transfer, coordination, and modernization of all information technology and telecommunication systems of all state agencies in the state as provided for in the Oklahoma Information Services Act. The assessment shall include the information technology and telecommunications systems of all institutions within The Oklahoma State System of Higher Education, the Oklahoma State Regents for Higher Education and the telecommunications

network known as OneNet as assembled and submitted by the Oklahoma Higher Education Chief Information Officer, as designated by the Oklahoma State Regents for Higher Education.

- b.** Within twelve (12) months of appointment, the first Chief Information Officer shall issue a report setting out a plan of action which will include the following:
 - 1.** define the shared service model organization structure and the reporting relationship of the recommended organization,
 - 2.** the implementation of an information technology and telecommunications shared services model that defines the statewide infrastructure environment needed by most state agencies that is not specific to individual agencies and the shared applications that are utilized across multiple agencies,
 - 3.** define the services that shall be in the shared services model under the control of the Information Services Division of the Office of Management and Enterprise Services,
 - 4.** define the roadmap to implement the proposed shared services model. The roadmap shall include recommendations on the transfer, coordination, and modernization of all information technology and telecommunication systems of all the state agencies in the state,
 - 5.** recommendations on the reallocation of information technology and telecommunication resources and personnel,
 - 6.** a cost benefit analysis to support the recommendations on the reallocation of information technology and telecommunication resources and personnel,
 - 7.** a calculation of the net savings realized through the reallocation and consolidation of information technology and telecommunication resources and personnel after compensating for the cost of contracting with a private consultant as authorized in paragraph 4 of this subsection, implementing the plan of action, and ongoing costs of the Information Services Division of the Office of Management and Enterprise Services, and
 - 8.** the information required in subsection B of [Section 35.5](#) of this title.
- c.** The plan of action report shall be presented to the Governor, Speaker of the House of Representatives, and the President Pro Tempore of the State Senate.
- d.** The Chief Information Officer may contract with a private consultant or consultants to assist in the assessment and development of the plan of action report as required in this subsection.
- 5.** The Chief Information Officer shall be authorized to employ personnel, fix the duties and compensation of the personnel, not otherwise prescribed by law, and otherwise direct the work of the personnel in performing the function and accomplishing the purposes of the Information Services Division of the Office of Management and Enterprise Services.

- 6.** The Information Services Division of the Office of Management and Enterprise Services shall be responsible for the following duties:
- a.** Formulate and implement the information technology strategy for all state agencies;
 - b.** Define, design, and implement a shared services statewide infrastructure and application environment for information technology and telecommunications for all state agencies;
 - c.** Direct the development and operation of a scalable telecommunications infrastructure that supports data and voice communications reliability, integrity, and security;
 - d.** Supervise the applications development process for those applications that are utilized across multiple agencies;
 - e.** Provide direction for the professional development of information technology staff of state agencies and oversee the professional development of the staff of the Information Services Division of the Office of Management and Enterprise Services;
 - f.** Evaluate all technology and telecommunication investment choices for all state agencies;
 - g.** Create a plan to ensure alignment of current systems, tools, and processes with the strategic information technology plan for all state agencies;
 - h.** Set direction and provide oversight for the support and continuous upgrading of the current information technology and telecommunication infrastructure in the state in support of enhanced reliability, user service levels, and security;
 - i.** Direct the development, implementation, and management of appropriate standards, policies and procedures to ensure the success of state information technology and telecommunication initiatives;
 - j.** Recruit, hire and transfer the required technical staff in the Information Services Division of the Office of Management and Enterprise Services to support the services provided by the Division and the execution of the strategic information technology plan;
 - k.** Establish, maintain, and enforce information technology and telecommunication standards;
 - l.** Delegate, coordinate, and review all work to ensure quality and efficient operation of the Information Services Division of the Office of Management and Enterprise Services;
 - m.** Create and implement a communication plan that disseminates pertinent information to state agencies on standards, policies, procedures, service levels, project status, and other important information to customers of the Information Services Division of the Office of Management and Enterprise Services and provide for agency feedback and performance evaluation by customers of the Division;
 - n.** Develop and implement training programs for state agencies using the shared services of the Information Services Division of the Office of Management and Enterprise Services and recommend training programs to state agencies on information technology and telecommunication systems, products and procedures;
 - o.** Provide counseling, performance evaluation, training, motivation, discipline, and assign duties for employees of the Information Services Division of the Office of Management and Enterprise Services;
 - p.** For all state agencies, approve the purchasing of all information technology and telecommunication services and approve the purchase of any information technology and telecommunication product except the following:
 - 1.** a purchase less than or equal to Five Thousand Dollars (\$5,000.00) if such product is purchased using a state purchase card and the product is listed on either the Approved Hardware or Approved Software list located on the Office of Management and Enterprise Services website, or
 - 2.** a purchase over Five Thousand Dollars (\$5,000.00) and less than or equal to Twenty-five Thousand Dollars (\$25,000.00) if such product is purchased using a state purchase card, the product is listed on an information technology or telecommunications statewide contract, and the

- product is listed on either the Approved Hardware or Approved Software list located on the Office of Management and Enterprise Services website;
- q. Develop and enforce an overall infrastructure architecture strategy and associated roadmaps for desktop, network, server, storage, and statewide management systems for state agencies;
 - r. Effectively manage the design, implementation and support of complex, highly available infrastructure to ensure optimal performance, on-time delivery of features, and new products, and scalable growth;
 - s. Define and implement a governance model for requesting services and monitoring service level metrics for all shared services; and
 - t. Create the budget for the Information Services Division of the Office of Management and Enterprise Services to be submitted to the Legislature each year.
 7. The State Governmental Technology Applications Review Board shall provide ongoing oversight of the implementation of the plan of action required in subsection D of this section. Any proposed amendments to the plan of action shall be approved by the Board prior to adoption.
 8.
 - a. The Chief Information Officer shall act as the Information Technology and Telecommunications Purchasing Director for all state agencies and shall be responsible for the procurement of all information technology and telecommunication software, hardware, equipment, peripheral devices, maintenance, consulting services, high technology systems, and other related information technology, data processing, telecommunication and related peripherals and services for all state agencies. The Chief Information Officer shall establish, implement, and enforce policies and procedures for the procurement of information technology and telecommunication software, hardware, equipment, peripheral devices, maintenance, consulting services, high technology systems, and other related information technology, data processing, telecommunication and related peripherals and services by purchase, lease-purchase, lease with option to purchase, lease and rental for all state agencies. The procurement policies and procedures established by the Chief Information Officer shall be consistent with The Oklahoma Central Purchasing Act.
 - b. The Chief Information Officer, or any employee or agent of the Chief Information Officer acting within the scope of delegated authority, shall have the same power and authority regarding the procurement of all information technology and telecommunication products and services as outlined in paragraph 1 of this subsection for all state agencies as the State Purchasing Director has for all acquisitions used or consumed by state agencies as established in The Oklahoma Central Purchasing Act. Such authority shall, consistent with the authority granted to the State Purchasing Director pursuant to [Section 85.10 of Title 74](#) of the Oklahoma Statutes, include the power to designate financial or proprietary information submitted by a bidder confidential and reject all requests to disclose the information so designated, if the Chief Information Officer requires the bidder to submit the financial or proprietary information with a bid, proposal, or quotation.
 9. The Information Services Division of the Office of Management and Enterprise Services and the Chief Information Officer shall be subject to The Oklahoma Central Purchasing Act for the approval and purchase of equipment and products not related to information and telecommunications technology, equipment, software, products and related peripherals and services and shall also be subject to the requirements of the Public Competitive Bidding Act of 1974, the Oklahoma Lighting Energy Conservation Act and the Public Building Construction and Planning Act when procuring data processing, information technology, telecommunication, and related peripherals and services and when constructing information technology and telecommunication facilities, telecommunication networks and supporting infrastructure. The Chief Information Officer shall be authorized to delegate all or some of the procurement of information technology and telecommunication products and services and construction of facilities and telecommunication networks to another state entity if the Chief Information Officer determines it to be cost-effective and in the best interest of the state. The Chief Information Officer shall have authority to designate information technology and telecommunication contracts as statewide contracts and mandatory statewide contracts pursuant to [Section 85.5 of Title 74](#) of the Oklahoma Statutes and to negotiate consolidation contracts, enterprise agreements and high technology systems contracts in accordance with the procedures outlined in [Section 85.9D of Title 74](#) of the Oklahoma Statutes. Any contract entered into by a state agency for which the Chief Information Officer has not acted as the Information Technology and Telecommunications Purchasing Director as required in this subsection or subsection H of this section, shall be deemed to be unenforceable and

the Office of Management and Enterprise Services shall not process any claim associated with the provisions thereof.

10. The Chief Information Officer shall establish, implement, and enforce policies and procedure for the development and procurement of an interoperable radio communications system for state agencies. The Chief Information Officer shall work with local governmental entities in developing the interoperable radio communications system.
11. The Chief Information Officer shall develop and implement a plan to utilize open source technology and products for the information technology and telecommunication systems of all state agencies.
12. All state agencies and authorities of this state and all officers and employees of those entities shall work and cooperate with and lend assistance to the Chief Information Officer and the Information Services Division of the Office of Management and Enterprise Services and provide any and all information requested by the Chief Information Officer.
13. The Chief Information Officer shall prepare an annual report detailing the ongoing net saving attributable to the reallocation and consolidation of information technology and telecommunication resources and personnel and shall submit the report to the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate.
14. For purposes of the Oklahoma Information Services Act, unless otherwise provided for, "state agencies" shall include any office, officer, bureau, board, commission, counsel, unit, division, body, authority or institution of the executive branch of state government, whether elected or appointed; provided, except with respect to the provisions of subsection D of this section, the term "state agencies" shall not include institutions within The Oklahoma State System of Higher Education, the Oklahoma State Regents for Higher Education and the telecommunications network known as OneNet.
15. As used in this section:
 - a. "High technology system" means advanced technological equipment, software, communication lines, and services for the processing, storing, and retrieval of information by a state agency;
 - b. "Consolidation contract" means a contract for several state or public agencies for the purpose of purchasing information technology and telecommunication goods and services; and
 - c. "Enterprise agreement" means an agreement for information technology or telecommunication goods and services with a supplier who manufactures, develops and designs products and provides services that are used by one or more state agencies.

62 O.S. § 34.12. Duties of Information Services Division

1. The Information Services Division of the Office of Management and Enterprise Services shall:
 - a. Coordinate information technology planning through analysis of the long-term information technology plans for each agency;
 - b. Develop a statewide information technology plan with annual modifications to include, but not be limited to, individual agency plans and information systems plans for the statewide electronic information technology function;
 - c. Establish and enforce minimum mandatory standards for:
 1. information systems planning,
 2. systems development methodology,
 3. documentation,
 4. hardware requirements and compatibility,
 5. operating systems compatibility,
 6. acquisition of software, hardware and technology-related services,
 7. information security and internal controls,
 8. data base compatibility,
 9. contingency planning and disaster recovery, and
 10. imaging systems, copiers, facsimile systems, printers, scanning systems and any associated supplies.

The standards shall, upon adoption, be the minimum requirements applicable to all agencies.

These standards shall be compatible with the standards established for the Oklahoma Government Telecommunications Network. Individual agency standards may be more specific than statewide requirements but shall in no case be less than the minimum mandatory standards. Where standards required of an individual agency of the state by agencies of the federal government are more strict than the state minimum standards, such federal requirements shall be applicable;

- d. Develop and maintain applications for agencies not having the capacity to do so;
- e. Operate a data service center to provide operations and hardware support for agencies requiring such services and for statewide systems;
- f. Maintain a directory of the following which have a value of Five Hundred Dollars (\$500.00) or more: application systems, systems software, hardware, internal and external information technology, communication or telecommunication equipment owned, leased, or rented for use in communication services for state government including communication services provided as part of any other total system to be used by the state or any of its agencies, and studies and training courses in use by all agencies of the state; and facilitate the utilization of the resources by any agency having requirements which are found to be available within any agency of the state;
- g. Assist agencies in the acquisition and utilization of information technology systems and hardware to effectuate the maximum benefit for the provision of services and accomplishment of the duties and responsibilities of agencies of the state;
- h. Coordinate for the executive branch of state government agency information technology activities, encourage joint projects and common systems, linking of agency systems through the review of agency plans, review and approval of all statewide contracts for software, hardware and information technology consulting services and development of a statewide plan and its integration with the

budget process to ensure that developments or acquisitions are consistent with statewide objectives and that proposed systems are justified and cost effective;

- i. Develop performance reporting guidelines for information technology facilities and conduct an annual review to compare agency plans and budgets with results and expenditures;
 - j. Establish operations review procedures for information technology installations operated by agencies of the state for independent assessment of productivity, efficiency, cost effectiveness, and security;
 - k. Establish data center user charges for billing costs to agencies based on the use of all resources;
 - l. Provide system development and consultant support to state agencies on a contractual, cost reimbursement basis; and
 - m. In conjunction with the Oklahoma Office of Homeland Security, enforce the minimum information security and internal control standards established by the Information Services Division. An enforcement team consisting of the Chief Information Officer of the Information Services Division or a designee, a representative of the Oklahoma Office of Homeland Security, and a representative of the Oklahoma State Bureau of Investigation shall enforce the minimum information security and internal control standards. If the enforcement team determines that an agency is not in compliance with the minimum information security and internal control standards, the Chief Information Officer shall take immediate action to mitigate the noncompliance including the removal of the agency from the infrastructure of the state until the agency becomes compliant, taking control of the information technology function of the agency until the agency is compliant, and transferring the administration and management of the information technology function of the agency to the Information Services Division or another state agency.
2. No agency of the executive branch of the state shall use state funds for or enter into any agreement for the acquisition of any category of computer hardware, software or any contract for information technology or telecommunication services and equipment, service costs, maintenance costs, or any other costs or fees associated with the acquisition of the services or equipment, without written authorization of the Chief Information Officer or a designee except the following:
- a. A purchase less than or equal to Five Thousand Dollars (\$5,000.00) if such product is purchased using a state purchase card and the product is listed on either the Approved Hardware or Approved Software list located on the Office of Management and Enterprise Services website;
 - b. A purchase over Five Thousand Dollars (\$5,000.00) and less than or equal to Twenty-five Thousand Dollars (\$25,000.00) if such product is purchased using a state purchase card, the product is listed on an information technology or telecommunications statewide contract, and the product is listed on either the Approved Hardware or Approved Software list located on the Office of Management and Enterprise Services website; or
 - c. A purchase of computer hardware or software or any services related to software development, software modifications, or any other services related to the operation and maintenance of computer hardware and software or both independently that is made by the Military Department of the State of Oklahoma.

If written authorization is not obtained prior to incurring an expenditure or entering into any agreement as required in this subsection or as required in [Section 35.4](#) of this title, the Office of Management and Enterprise Services may not process any claim associated with the expenditure and the provisions of any agreement shall not be enforceable. The provisions of this subsection shall not be applicable to any member of The Oklahoma State System of Higher Education, any public elementary or secondary schools of the state, any technology center school district as defined in [Section 14-108 of Title 70](#) of the Oklahoma Statutes, or CompSource Mutual Insurance Company.

3. The Chief Information Officer and Information Services Division of the Office of Management and Enterprise Services and all agencies of the executive branch of the state shall not be required to disclose, directly or indirectly, any information of a state agency which is declared to be confidential or privileged by state or federal statute or the disclosure of which is restricted by agreement with the United States or one of its agencies, nor disclose information technology system details that may permit the access to confidential information or any information affecting personal security, personal identity, or physical security of state assets.

62 O.S. § 34.12.1. Contract for Acquisition of High Technology System - Provisions Relating to Upgrades and Improvements to System

1. No state agency shall enter into a contract for the acquisition of a high technology system unless the vendors proposing to supply the acquisition:
 - a. Provide documentation of the projected schedule of recommended or required upgrades or improvements to the high technology system over a projected three-year period following the targeted purchase date; or
 - b. Provide documentation that no recommended or required upgrades or improvements to the high technology system are planned over a projected three-year period following the targeted purchase date.

For purposes of this subsection, vendors shall provide documentation required for all entities which will be utilized in satisfying any phase.

2. No state agency shall enter into a contract for the acquisition of an upgrade or enhancement to a high technology system unless:
 - a. The vendor agrees to provide the acquisition at no charge to the state;
 - b. The vendor previously agreed in a contract to provide the acquisition at no additional charge to the state;
 - c. The state agency obtains from the vendor proposing to supply the acquisition documentation that any required or recommended upgrade will enhance or is necessary for the performance of the state agency duties and responsibilities; or
 - d. The vendor provides documentation that the vendor will no longer supply assistance to the state agency for the purpose of maintenance of the high technology system and the state agency documents that the functions performed by the high technology system are necessary for the performance of the state agency duties and responsibilities.
3. The Chief Information Officer or the procurement officer of state agencies not subject to The Oklahoma Central Purchasing Act shall not process any state agency request for a high technology system acquisition unless the proposed vendor provides documentation that complies with subsections A or B of this section.
4. The Chief Information Officer shall provide such advice and assistance as may be required in order for state agencies to comply with the provisions of this section. For purposes of this section, "state agency" shall include all state agencies, whether or not the agency is subject to The Oklahoma Central Purchasing Act or any other law related to procurement of goods and services.

62 O.S. § 34.19. Installation, Maintenance, and Administration of Central Communication or Intercommunication System for State

1. The Information Services Division of the Office of Management and Enterprise Services is directed, authorized and empowered to enter into contracts for, to establish criteria for and manage the installation, maintenance and administration of a central communication or intercommunication system for and upon behalf of this state. The installation shall fulfill communication or intercommunications requirements of this state and its agencies located in the Capitol and those buildings situated on the Capitol grounds, known as the "Capitol Complex" in Oklahoma City, Oklahoma, the state-owned building known as the "Tulsa Capitol Building" in Tulsa, Oklahoma, buildings which house state agencies located within four (4) miles of the Capitol Complex, and any location used for the administration of the information technology and telecommunication infrastructure and security for the state.
2. The Information Services Division shall render a statement of charges at the end of each month to all state agencies to which it has furnished communications services for the direct cost sustained, which shall timely be paid. If the charges are not timely paid by a state agency, the Information Services

Division may request the Division of Central Accounting and Reporting of the Office of Management and Enterprise Services to create vouchers and process payments to the Information Services Division against the funds of the delinquent agency. The following provisions shall apply to the charges:

- a. A pro rata formula is to be established in writing after giving consideration to the type of service furnished, the number and kinds of instruments used, the cost of operation and special installations required in each such agency in relation to the total cost of local service. The formula, once determined, is not to be redetermined more often than once every six (6) months nor to be changed after any such redetermination before the expiration of six (6) months; and
 - b. The Information Services Division is to be reimbursed by the state or any of its agencies for actual cost incurred for equipment installation or modification or for toll charges for use of telephone, telegraph, teletype, data communications, Internet, eGovernment, as referenced in Sections [34.24](#) and [34.25](#) of this title, or other form or forms of communication or intercommunication incurred by the state or by any agency.
3. No telephone, teletype, switchboard, line, cable system, data communication system, Internet, eGovernment, or systems of communication or intercommunication are to be installed in any building or buildings owned, rented, leased or otherwise held by this state or its agencies at locations described in subsection A of this section without written order of the Chief Information Officer or a designee. Provided, however, that acquisition and installation of such equipment in the Legislature shall be subject to the final approval of the Speaker of the House of Representatives or the President Pro Tempore of the Senate as appropriate.

62 O.S. § 34.20. Additional Powers and Duties of Information Services Division of Office of Management and Enterprise Services

In addition to the powers and duties as defined elsewhere in this title, the Information Services Division of the Office of Management and Enterprise Services shall:

1. Coordinate statewide planning and approve statewide contracts for communication and telecommunications needs of state agencies, including, but not limited to, voice, data, radio including the interoperable radio communications system for state agencies, video, broadband, Wi-Fi or wireless networking, Global Positioning Systems (GPS), Internet, eGovernment, as referenced in Sections [34.24](#) and [34.25](#) of this title, and facsimile transmissions through analysis of the telecommunications and information technology plan of each agency;
2. In coordination with the Oklahoma Office of Homeland Security, establish minimum mandatory standards and protocols for:
 - a. communication networks and equipment,
 - b. wide area and local area systems,
 - c. integration of equipment, systems and joint usage,
 - d. Internet and eGovernment,
 - e. operating systems or methods to be used to meet communications requirements efficiently, effectively, and securely,
 - f. rendering of aid between state government and its political subdivisions with respect to organizing of communications systems, and
 - g. an economical and cost-effective utilization of communication services.

The standards and protocols shall be compatible with the standards and protocols established for the Oklahoma Government Telecommunications Network;

3. Serve as a focal point for all statewide projects and approve all statewide contracts for state agencies involving current communications vendors where the focus of such authority can substantially enhance the state communications plan or the savings which can be achieved thereunder;
4. Provide, when requested by political subdivisions of the state, for the organizing of communications or telecommunications systems and service between the state and its political subdivisions and enter into agreements to effect the purposes of this section;

5. Cooperate with any federal, state or local emergency management agency in providing for emergency communications and telecommunication services;
6. Apply for, receive, and hold, or assist agencies in applying for, receiving or holding such authorizations, licenses and allocations of channels and frequencies to carry out the purposes of this section;
7. Accomplish such other purposes as may be necessary or incidental to the administration of its authority or functions pursuant to law; and
8. Provide support for telecommunication networks of state agencies through analysis of the telecommunications needs and requirements of each agency and promotion of the use of the Oklahoma Government Telecommunications Network.

62 O.S. § 34.20.1. Statewide Contract - OneNet - Review - Negotiations

1. The Office of Management and Enterprise Services shall recognize as a statewide contract an unencumbered contract consummated in behalf of the telecommunications network known as OneNet by the Oklahoma State Regents for Higher Education or any other state entity assigned responsibility for OneNet; provided, said recognition shall require recommendation by the Information Services Division of the Office of Management and Enterprise Services. The Office of Management and Enterprise Services shall not subject purchases pursuant to said contracts to any quantity limit.
2. For purchases that require review of the purchase requisition by the Information Services Division of the Office of Management and Enterprise Services and that are not available on a statewide contract but are available from a General Services Administration (GSA) schedule or contract, or are available from a GSA schedule or contract at a lesser price than from a state contract, state agencies may, with the approval of the Information Services Division, purchase from the vendor or vendors on the GSA schedule or contract.
3. The Oklahoma State Regents for Higher Education and any other state entity assigned responsibility for OneNet are authorized to negotiate for education or government discounts from published price listings and to make contracts at such prices subject to adjustment for price increases nationally published.

62 O.S. § 34.21. Authorization for Use of State Funds - Statewide Communications Plan - Agency and Interagency Agreements

1. No agency of the executive branch of the state shall use state funds for or enter into any agreement for the acquisition, development or enhancement of a communication or telecommunication system including voice, data, radio, video, Internet, eGovernment, as referenced in Sections [34.24](#) and [34.25](#) of this title, printers, scanners, copiers, facsimile systems and associated supplies, service costs, maintenance costs, or any other costs or fees associated with the acquisition of the system or equipment, without written authorization of the Chief Information Officer or a designee. The Chief Information Officer or a designee shall verify that any acquisition, development or enhancement is compatible with the operation of the Oklahoma Government Telecommunications Network.
2. No agency of the executive branch of the state shall enter into any agreement for the acquisition, development or enhancement of a communication or telecommunication system or service including voice, data, radio, video, Internet, eGovernment, printers, scanners, copiers, and facsimile systems, unless the cost of such addition, change, improvement or development has been included in the statewide communications plan of the Information Services Division of the Office of Management and Enterprise Services, as said plan may have been amended or revised.
3. State agencies may enter into interagency contracts to share communications and telecommunications resources for mutually beneficial purposes. The contract shall clearly state how its purpose contributes to the development or enhancement or cost reduction of a state network which includes voice, data, radio, video, Internet, eGovernment, or facsimile systems. The contract shall be approved by the Information Services Division before any payments are made.

4. The provisions of subsections A, B and C of this section shall not apply to the telecommunications network known as OneNet whether said network is governed or operated by the Oklahoma State Regents for Higher Education or any other state entity assigned responsibility for OneNet.
5. The provisions of this section shall not apply to CompSource Oklahoma.
6. No state agency shall use state funds or enter into any agreement for the acquisition, development or enhancement of a public safety communication system unless the request is consistent with the Statewide Communications Interoperability Plan and the public safety communications standards issued by the Oklahoma Office of Homeland Security. Agencies interested in acquiring, developing or enhancing a public safety communications system shall submit a proposal to the Oklahoma Office of Homeland Security. The Oklahoma Office of Homeland Security shall issue a proposal review which summarizes whether the proposal is consistent with the Statewide Communications Interoperability Plan and the technology standards issued. The proposal review shall be submitted to the requesting agency and to the Chief Information Officer.

62 O.S. § 34.26. Electronic Portal System - Open-System Concept

1. Any state agency, board, commission, or authority which establishes an electronic portal system shall use an open-systems concept for the portal system which has been approved by the Information Services Division of the Office of Management and Enterprise Services.
2. No state agency, board, commission, or authority shall enter into an agreement for development of, enhancement to, or maintenance of an electronic portal system without the written authorization of the Information Services Division.
3. For purposes of this section, an "open-systems concept" shall mean a system that implements sufficient open specifications for interfaces, services, and supporting formats to enable properly engineered components to be utilized across a wide range of systems with minimal changes, to interoperate with other components on local and remote systems, and to interact with users in a style that facilitates portability. An open-systems concept is characterized by the following:
 - a. Well-defined, widely used, and nonproprietary interfaces or protocols;
 - b. Use of standards which are developed and adopted by industry recognized standards-making bodies;
 - c. A definition of all aspects of system interfaces to facilitate new or additional system capabilities for a wide range of applications; and
 - d. An explicit provision for expansion or upgrading through the incorporation of additional or higher performance elements with minimal impact on the system.

62 O.S. § 34.28. Accessibility of information technology for individuals with disabilities

1. The Information Services Division of the Office of Management and Enterprise Services shall work to assure state compliance regarding accessibility of information technology for individuals with disabilities based on the provisions of Section 508 of the Workforce Investment Act of 1998.
2. When developing, procuring, maintaining or using information technology, or when administering contracts or grants that include the procurement, development, upgrading, or replacement of information technology each state agency shall ensure, unless an undue burden would be imposed on the agency, that the information technology allows employees, program participants, and members of the general public access to use of information and data that is comparable to the access by individuals without disabilities.
3. To assure accessibility, the Information Services Division shall:
 - a. Adopt accessibility standards that address all technical standard categories of Section 508 of the Workforce Investment Act of 1998 to be used by each state agency in the procurement of

- information technology, and in the development and implementation of custom-designed information technology systems, Web sites, and other emerging information technology systems;
- b. Adopt an accessibility clause which shall be included in all contracts for the procurement of information technology by or for the use of state agencies;
 - c. Establish and implement a review procedure to be used to evaluate the accessibility of custom-designed information technology systems proposed by a state agency prior to expenditure of state funds;
 - d. Review and evaluate accessibility of information technology commonly purchased by state agencies, and provide accessibility reports on such products to those responsible for purchasing decisions;
 - e. Provide in partnership with Oklahoma Able Tech, the state assistive technology program located at Oklahoma State University, training and technical assistance for state agencies to assure procurement of information technology that meets adopted accessibility standards;
 - f. Consult with the State Department of Rehabilitation Services and individuals with disabilities in accessibility reviews of information technology and in the delivery of training and technical assistance;
 - g. Establish complaint procedures, consistent with Section 508 of the Workforce Development Act of 1998, to be used by an individual who alleges that a state agency fails to comply with the provisions of this section;
 - h. Work with and seek advice from the Electronic and Information Technology Accessibility Advisory Council, created in Section 34.30 of this title in developing accessibility standards and complaint procedures as required in this section; and
 - i. Require state agencies to submit evidence of assurance of compliance with state standards on accessibility of information technology for individuals with disabilities developed in accordance with this section.
4. The Director of the Office of Management and Enterprise Services shall promulgate rules, as necessary, to implement the provisions of this section.

62 O.S. § 34.29. Definitions

As used in Sections [34.28](#) through [34.30](#) of this title:

1. "Accessibility" means compliance with nationally accepted accessibility and usability standards, such as those established in Section 508 of the Workforce Investment Act of 1998;
2. "Individual with disabilities" means any individual who is considered to have a disability or handicap for the purposes of any federal or Oklahoma law;
3. "Information technology" means any electronic information equipment or interconnected system that is used in the acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information, including audio, graphic, and text;
4. "State agency" means any office, officer, bureau, board, counsel, court, commission, institution, unit, division, body or house of the executive or judicial branches of the state government, whether elected or appointed, excluding political subdivisions of the state. State agency shall include the Oklahoma State Regents for Higher Education, the institutions, centers, or other constituent agencies of The Oklahoma State System of Higher Education, the State Board of Career and Technology Education and Technology Center school districts; and
5. "Undue burden" means significant difficulty or expense, including, but not limited to, difficulty or expense associated with technical feasibility.

62 O.S. § 34.30. Electronic and Information Technology Accessibility Advisory Council

1. There is hereby re-created, to continue until July 1, 2020, the Electronic and Information Technology Accessibility Advisory Council. The Advisory Council shall study and make recommendations

concerning the accessibility for the disabled to publicly produced and provided electronic and information technology and to provide advice and assistance to the Information Services Division of the Office of Management and Enterprise Services on the development of accessibility standards and complaint procedures as provided for in [Section 34.28](#) of this title.

2. The Advisory Council shall be composed of the following members:
 - a. Two members of the House of Representatives, appointed by the Speaker of the House of Representatives;
 - b. Two members of the Senate, appointed by the President Pro Tempore of the Senate;
 - c. The Chief Information Officer, or a designee;
 - d. The Director of the Office of Management and Enterprise Services, or a designee;
 - e. The Director of the State Department of Rehabilitation Services, or a designee;
 - f. The Superintendent of Public Instruction, or a designee;
 - g. The Director of the Oklahoma Department of Career and Technology Education, or a designee;
 - h. The Director of the Library for the Blind and Physically Handicapped with the State Department of Rehabilitation Services, or a designee;
 - i. The Director of the Office of Disability Concerns, or a designee;
 - j. A representative of OneNet, the state telecommunications network within the Oklahoma State Regents for Higher Education;
 - k. The Director for Oklahoma Able Tech, the state assistive technology program located at Oklahoma State University;
 - l. A representative of state agency web managers appointed by the Governor from a list submitted by a state agency web manager group;
 - m. A representative of an association representing education technology administrators appointed by the Speaker of the House of Representatives;
 - n. A representative of an association of distance learning education professionals appointed by the President Pro Tempore of the Senate;
 - o. Two representatives of corporations or vendors of information or electronic technology hardware or software who are knowledgeable or have experience in the field of assistive technology appointed by the Governor;
 - p. A representative of a corporation or vendor specializing in assistive technology appointed by the Governor; and
 - q. Four representatives who are individuals with a disability, one who is blind or visually impaired, one who is deaf or hard of hearing, one with a mobility disability, and one with a cognitive disability and all of whom are users of information or electronic technology appointed by the Governor.
3. Members who were serving on the Electronic and Information Technology Accessibility Task Force as of July 1, 2004, shall automatically be appointed to serve on the Electronic and Information Technology Accessibility Advisory Council after July 1, 2004.
4. The Advisory Council shall:
 - a. Make recommendation on action, including legislative action, needed to ensure that all electronic and information technology produced, procured, or developed by state agencies are accessible to the disabled;
 - b. Identify disability accessibility standards that are emerging or fully adopted by national standard organizations;
 - c. Review and make recommendations on disability accessibility initiatives and legislation undertaken in other states; and
 - d. Provide advice and assistance to the Information Services Division of the Office of Management and Enterprise Services on the development of accessibility standards and complaint procedures as provided for in [Section 34.28](#) of this title.
5. The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall each designate a cochair from among the members of the Advisory Council.
6. A majority of the members of the Advisory Council shall constitute a quorum. A majority of the members present at a meeting may act for the Advisory Council.

7. Meetings of the Advisory Council shall be called by either cochair.
8. Proceedings of all meetings of the Advisory Council shall comply with the provisions of the Oklahoma Open Meeting Act.
9. The Advisory Council may divide into subcommittees in furtherance of its purpose.
10. Staff of the Oklahoma Able Tech, the state assistive technology program located at Oklahoma State University, shall serve as primary staff for the Advisory Council. Appropriate personnel from the Information Services Division shall also assist with the work of the Advisory Council.
11. The Advisory Council may use the expertise and services of the staffs of the Oklahoma House of Representatives and State Senate and may, as necessary, seek the advice and services of experts in the field as well as other necessary professional and clerical staff.
12. All departments, officers, agencies, and employees of this state shall cooperate with the Advisory Council in fulfilling its duties and responsibilities including, but not limited to, providing any information, records, or reports requested by the Advisory Council.
13. Members of the Advisory Council shall receive no compensation for their service, but shall receive travel reimbursement as follows:
 - a. Legislative members of the Advisory Council shall be reimbursed for necessary travel expenses incurred in the performance of their duties in accordance with the provisions of [Section 456 of Title 74](#) of the Oklahoma Statutes; and
 - b. Nonlegislative members of the Advisory Council shall be reimbursed by their appointing authorities or respective agencies for necessary travel expenses incurred in the performance of their duties in accordance with the State Travel Reimbursement Act.

62 O.S. § 34.31. State Agency Acquisition of Customized Computer Software

1. No state agency, as defined by [Section 250.3 of Title 75](#) of the Oklahoma Statutes, the Purchasing Division of the Office of Management and Enterprise Services nor the Information Services Division of the Office of Management and Enterprise Services, unless otherwise provided by federal law, shall enter into a contract for the acquisition of customized computer software developed or modified exclusively for the agency or the state, unless the vendor agrees to place into escrow with an independent third party the source code for the software and/or modifications.
2. The vendor must agree to place the source code for the software and any upgrades supplied to an agency in escrow with a third party acceptable to the agency and to enter into a customary source code escrow agreement which includes a provision that entitles the agency to receive everything held in escrow upon the occurrence of any of the following:
 - a. A bona fide material default of the obligations of the vendor under the agreement with the agency;
 - b. An assignment by the vendor for the benefit of its creditors;
 - c. A failure by the vendor to pay, or an admission by the vendor of its inability to pay, its debts as they mature;
 - d. The filing of a petition in bankruptcy by or against the vendor when such petition is not dismissed within sixty (60) days of the filing date;
 - e. The appointment of a receiver, liquidator or trustee appointed for any substantial part of the vendor's property;
 - f. The inability or unwillingness of the vendor to provide the maintenance and support services in accordance with the agreement with the agency; or
 - g. The ceasing of a vendor of maintenance and support of the software.

The fees of any third-party escrow agent subject to this section shall be borne by the vendor.
3. The State Purchasing Director or a procurement officer of a state agency shall not process any state agency request for the customization, modernization, or development of computer software unless the proposed vendor provides documentation that complies with subsections A and B of this section.

4. The State Purchasing Director shall provide advice and assistance, as may be required, in order for state agencies to comply with the provisions of this section.
5. As used in this section:
 - a. "State agency" shall include all state agencies, whether subject to The Oklahoma Central Purchasing Act or not, except the Oklahoma Lottery Commission; and
 - b. "Source code" means the programming instruction for a computer program in its original form, created by a programmer with a text editor or a visual programming tool and saved in a file.

62 O.S. § 34.31.1. Preference for Open Source Software

1. For the purposes of this section, "open source software" means software that guarantees the user of the software use of the software for any purpose, allows unrestricted access to the respective source code, enables the use of the internal mechanisms and arbitrary portions of the software with the ability to adapt them to the needs of the user, provides the freedom to make and distribute copies of the software, and guarantees the right to modify the software with the freedom to distribute modifications of the new resulting software under the same license as the original software. "Open standards" means specifications for the encoding and transfer of computer data that is free for all to implement and use in perpetuity, with no royalty or fee, has no restrictions on the use of data stored in the format, has no restrictions on the creation of software that stores, transmits, receives, or accesses data codified in such way, has a specification available for all to read, in a human-readable format, written in commonly accepted technical language, is documented, so that anyone can write software that can read and interpret the complete semantics of any data file stored in the data format, allows any file written in that format to be identified as adhering or not adhering to the format, and provides that any encryption or obfuscation algorithms are usable in a royalty-free, nondiscriminatory manner in perpetuity, and are documented so that anyone in possession of the appropriate encryption key or keys or other data necessary to recover the original data is able to write software to access the data. "Proprietary software" means software that does not fulfill all of the guarantees provided by open source software.
2. Prior to approving software acquisition requests, the purchasing entity shall consider whether proprietary or open source software offers the most cost-effective software solution for the agency, based on consideration of all associated acquisition, support, maintenance, and training costs.
3. Whenever possible the Chief Information Officer or purchasing entity shall avoid approving requests for the acquisition of products that do not comply with open standards for interoperability or data storage.

62 O.S. § 34.31.2. Public Agency Utilization of State Technology Contracts

Notwithstanding any other section of law, the Chief Information Officer may allow a public agency to utilize duly awarded state information technology and telecommunications contracts in lieu of bidding procedures, if any, otherwise applicable to such purchases by the public agency. For the purposes of this section the term "public agency" means a governmental entity specified as a political subdivision of the state pursuant to The Governmental Tort Claims Act or a state, county or local governmental entity in its state of origin.

62 O.S. § 34.62. Encumbrance Requirements for Payment from Funds of State

Encumbrance requirements for payments from funds of the state shall include the following:

1. Whenever agencies of this state enter into contracts for, or on behalf of the state for the purchase of tangible or intangible property, or for services or labor, such agreement shall be evidenced by written contracts or purchase orders, and must be transmitted to the Director of the Office of Management and Enterprise Services within a reasonable time from the date of the awarding of the contract or purchase order, as determined by the Director;

2. The Director of the Office of Management and Enterprise Services shall charge such contracts or purchase orders against the proper account as an outstanding order until it is liquidated by payment of a claim, or claims, against the contracts or purchase orders, or by cancellation of the contract or purchase order;
3. The Director of the Office of Management and Enterprise Services shall have the power to authorize agencies of the state to make acquisitions without the submission of competitive bids or compliance with the state purchase card program as otherwise required by the Oklahoma Central Purchasing Act, for or on behalf of the state whenever the Director determines that it is in the best interests of the state. The administrative head of any agency shall be personally liable for obligations incurred in excess of the authorization granted by the Director;
4. The Director of the Office of Management and Enterprise Services shall never authorize payment of claims for any agency of the state unless they are supported by:
 - a. contracts or purchase orders of the Office of Management and Enterprise Services,
 - b. institutional purchase orders or contracts,
 - c. departmental purchase orders or contracts, or
 - d. authorizations for purchases granted by the Director as provided by paragraph 3 of this section;
5. Any invoice or claim dated prior to the date of any of the above-mentioned encumbrance documents shall be rejected by the Office of Management and Enterprise Services;
6. Any encumbrance document that is outstanding on the records in the Office of Management and Enterprise Services when its funding source or sources lapse shall be canceled, unless another current funding source is assigned; and
7. The Commissioners of the Land Office shall be authorized to make payment of fees to its custodial banks, investment consultants and investment managers from the proceeds of total realized investment gains and such payments may be made from a special fund hereby created in the State Treasury for this purpose. Total payments for this purpose in a fiscal year shall not exceed one-half percent (0.5%) of the market value of the funds under the Commissioners' management on June 30 of the previous fiscal year.

62 O.S. § 35.4. Purchase or Lease of Information Technology Assets - Written Approval of Chief Information Officer Required

No state agency shall expend or encumber any funds for the purchase, lease, lease-purchase, lease with option to purchase, rental or other procurement of any information technology assets without the prior written approval of the Chief Information Officer except the following:

1. A purchase less than or equal to Five Thousand Dollars (\$5,000.00) if such product is purchased using a state purchase card and the product is listed on either the Approved Hardware or Approved Software list located on the Office of Management and Enterprise Services website; or
2. A purchase over Five Thousand Dollars (\$5,000.00) and less than or equal to Twenty-five Thousand Dollars (\$25,000.00) if such product is purchased using a state purchase card, the product is listed on an information technology or telecommunications statewide contract, and the product is listed on either the Approved Hardware or Approved Software list located on the Office of Management and Enterprise Services website.

Pay For Success Act in Title 62

62 O.S. § 9010.1. Short Title

This act shall be known and may be cited as the "Pay for Success Act".

62 O.S. § 9010.2. Legislative Intent

1. It is the intent of the Legislature, through enactment of the Pay for Success Act, to:
 - a. Authorize innovation opportunities in the form of pay-for-success contracts and authorize success payments to be made from appropriated or other agency funds;
 - b. Address outcomes that span the mission and purpose of multiple agencies; and
 - c. Provide a fund that may be used by agencies for success payments.
2. It is the intent of the Legislature that nothing in this act shall prohibit the use of pay-for-success contracts by municipalities, counties or other local jurisdictions.

62 O.S. § 9010.3. Definitions

As used in the Pay for Success Act:

1. "Pay-for-success contract" or "contract" means a written agreement executed in order to create a public-private partnership contingent upon a specified service or program meeting specified performance targets and outcome measures; and
2. "Success payment" means a single payment or schedule of payments that is identified in a pay-for-success contract to be paid when specified performance targets and outcome measures are met.

62 O.S. § 9010.4. Pay-for-Success Contracts - Requirements - Annual Reports - Payment

1. An agency or agencies may enter into a pay-for-success contract with a private entity or entities to receive up-front capital to fund a service or program. The agency or agencies may not enter into a pay-for-success contract until each state agency head entering into the contract determines with reasonable certainty that the contract will result in a public benefit to the state.
2. Each pay-for-success contract shall:
 - a. Require a private entity to underwrite or secure up-front capital from private funding sources, including foundations, financial institutions, businesses or individuals;
 - b. Identify the specific service or program to be funded under the contract;
 - c. Identify performance targets and outcome measures against which the service or program's success can be measured to determine whether the service or program has achieved quantifiable public benefits or monetary savings;
 - d. Require and specify an independent third-party evaluator to review and issue reports annually at specific times during the contract term specifying the degree to which the service or program has met the identified performance targets and outcome measures specified in the contract;
 - e. Identify the calculation or algorithm to be used by the agency or agencies in determining the amount and timing of reimbursable success payments to the private entity;
 - f. Contain a statement that the independent third-party evaluator will annually provide a report to the agency or agencies that includes data deemed relevant by the agency or agencies; and
 - g. State that the amount of funds to be reimbursed to the private entity is contingent upon the degree to which the service or program has met the performance targets and outcome measures as evaluated by the independent third-party evaluator.
3. No later than April 1 annually, the agency or agencies shall provide a report to the chairs of the legislative appropriations committees that contains the evaluation from the independent third-party evaluator.
4. Payments to private entities for the delivery of performance targets and outcome measures as authorized in this section shall be made only in accordance with the terms of the pay-for-success

contract. Payments may be made utilizing the Pay for Success Innovation Fund created in Section 5 of this act or utilizing other appropriated agency funds in accordance with Oklahoma law.

62 O.S. § 9010.5. Pay for Success Innovation Fund - Purpose - Procedure

1. There is hereby created in the State Treasury a revolving fund for the Office of Management and Enterprise Services to be designated the "Pay for Success Innovation Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies designated by state agencies to the Pay for Success Innovation Fund and monies which may otherwise be available to the Office of Management and Enterprise Services for use as provided for in this section.
2. All monies appropriated to the fund shall be budgeted and expended by the Office of Management and Enterprise Services for the purpose of funding contracts as authorized by this act. Pursuant to contract, the Office of Management and Enterprise Services shall provide payment to private entities for the delivery of performance targets and outcome measures at the direction of the agency engaged in the contract and only in accordance with the terms of the pay-for-success contract.
3. To the extent that any money credited to this fund for a particular pay-for-success contract remains unpaid at the time the particular contract expires or is terminated, as soon after the contract expiration as is practicable, the Office of Management and Enterprise Services shall return the unpaid amount to the agency to which the money was originally appropriated.
4. The Office of Management and Enterprise Services may enter into memorandums of understanding with other agencies and promulgate rules as necessary to administer this section and pay-for-success contracts entered into under this section.

Oklahoma Correctional Industries Procurement Related Statute Title 57

57 O.S. § 549.1. Authority and Manner of Purchasing Materials and Services

1. The Department of Corrections is authorized to purchase in the manner prescribed by law, facilities, equipment, raw materials and supplies, and to engage the supervisory personnel necessary to establish and maintain for this state at the penal institutions, now or hereafter under the control of the State Board of Corrections, industries and agricultural programs for the utilization of services of prisoners in the manufacture, production, processing or assembly of the articles or products as may be needed for the construction, operation, maintenance or use of any office, department, institution or agency supported in whole or in part by this state and the political subdivisions thereof. Upon the request of the Oklahoma Historical Society or the Oklahoma Tourism and Recreation Department, the Department of Corrections shall provide labor for and shall produce or manufacture articles, products or materials needed for the repair, construction and maintenance of historical sites and state parks including, but not limited to, the production of materials and products needed for the reconstruction of historic forts in the state.
2. All articles and services provided by the Department of Corrections in the state correctional institutions, and not required for use therein, shall be purchased as required by all offices, departments, institutions, agencies, counties, schools, colleges, universities, or political subdivisions or any agency thereof of this state which are supported in whole or in part by this state, if such article or service is the lowest and best bid, and no such article or product may be purchased by any such office, department, institution, agency, county, school, college, university, or political subdivisions or agency thereof from any other source unless excepted from the provisions as hereinafter provided. Purchases made by the above-described state agencies may be made by submitting the proper requisition through the

Office of Management and Enterprise Services or by direct order to the prison industries program of the Department of Corrections.

3. If a requisition is received by the Office of Management and Enterprise Services or a direct order is received by the Prison Industries Program of the Department of Corrections from a state agency for any product or service provided by the Department of Corrections and such product or service is also available from a severely handicapped person or a qualified nonprofit agency for the severely handicapped as provided in [Section 3001 et seq. of Title 74](#) of the Oklahoma Statutes at a comparable price, then the product or service shall be purchased from such severely handicapped person or qualified nonprofit agency for the severely handicapped. If the product or service is not available within the time period required by the purchasing state agency, then such product or service shall be purchased from the Department of Corrections under the provisions of this section.
4. All offices, departments, institutions, agencies, counties, cities, districts or political subdivisions, schools, colleges, or universities, or any agency thereof, or any agencies of the state, which are supported in whole or in part by this state, may purchase the goods or services manufactured, produced, processed or assembled by the prison industries of the Department of Corrections through their properly authorized purchasing authority, or they may place a direct order without competitive bid, with the prison industries of the Department of Corrections.
5. Not-for-profit corporations or charitable agencies chartered in Oklahoma or other states may purchase such goods and services. Units of the federal government and units of government in other states may also purchase such goods and services. All entities which contract with the state, its political units, its agencies, its public institutions, not-for-profit corporations or charitable agencies chartered in Oklahoma may purchase goods or services from the Department of Corrections which are used in the performance of such contracts. Any church located in the State of Oklahoma may also purchase goods and services manufactured, produced, processed or assembled by the prison industries of the Department of Corrections. Any community action agency or council of governments within this state may purchase housing components produced by the prison industries of the Department of Corrections. Nothing shall prohibit the Department from bidding on portions of a state contract which are subcontracted by the primary contractor.
6. Others are prohibited from purchasing such goods and services, with the exception that all surplus agricultural products may be sold on the open market or bartered and exchanged for other food, feed or seed products of comparable value. The Department of Corrections shall keep complete and accurate records of any such barters or exchanges in such form and manner as the Office of Management and Enterprise Services may prescribe. A copy of such records shall be filed with the Office of Management and Enterprise Services no later than March 1 of each year for all barters or exchanges occurring in the previous calendar year. When practicable, the Department of Corrections may accept and process agricultural products from the public and may export the resulting products to foreign markets.
7. Products manufactured, produced, processed or assembled by the Department of Corrections shall be of styles, patterns, designs and quantities specified by the Department of Corrections except where the same have been or may be specified by the Office of Management and Enterprise Services. Products shall be provided at a fair market price for comparable quality.
8. State agencies shall make maximum utilization of such products and no similar products shall be purchased by state agencies from any other source than the Department of Corrections except as provided in subsection C of this section, unless the Department of Corrections certifies to the State Purchasing Director that it is not able to provide products, and no claim therefor shall be paid without such certification.
9. Exceptions from the mandatory provisions hereof may be made in any case where, in the opinion of the Office of Management and Enterprise Services, the article or product does not meet the reasonable requirements of or for such offices, departments, institutions or agencies, or in any case where the requisitions made cannot be reasonably complied with. No such offices, departments, institutions or agencies, shall be allowed to evade the intent and meaning of this section by slight variations from standards adopted by the Office of Management and Enterprise Services, when the articles, services or products produced, manufactured, processed or assembled by the Department of Corrections, in accordance with established standards, are reasonably adapted to the actual needs of such offices, departments, institutions or agencies.

10. In the event of disagreement between the Department of Corrections and the State Purchasing Director on fairness of price, ability to comply to specifications, reasonableness of specifications and timeliness of delivery of products the matter will be resolved by the Purchasing Director of the Office of Management and Enterprise Services.
11. The Office of Management and Enterprise Services shall cooperate with the Department of Corrections in seeking to promote for use in state agencies and by all other eligible customers, the products manufactured and services provided by the prison industries.
12. The Department of Corrections shall prepare catalogs containing the description of all goods and services provided, with the pricing of each item. Copies of such catalog shall be sent by the Department of Corrections to all offices, departments, institutions and agencies of this state, and shall be available for distribution to all other eligible customers. In lieu of preparing and distributing catalogs, the Department of Corrections may maintain a website that contains a description of all goods and services provided, with the pricing of each item.
13. The Department of Corrections may keep confidential:
 - a. Business plans, feasibility studies, financing proposals, marketing plans, financial statements or trade secrets submitted by a person or entity seeking a corrections industries partnership with the Department of Corrections;
 - b. Proprietary information of the business submitted to the Department for the purposes of a corrections industries partnership, and related confidentiality agreements detailing the information or records designated as confidential; and
 - c. The Department of Corrections may not keep confidential information when and to the extent that the person or entity submitting the information consents to disclosure.

Administrative Rules

260:120-1-1. Purpose

This subchapter contains the procedures and rules for the operations of the State Use Committee.

260:120-1-2. Definitions

The following words or terms, when used in this subchapter, shall have the following meaning unless the context clearly indicates otherwise:

“**Committee**” means the Oklahoma State Use Committee.

“**Contracting officer**” means the person employed by the Department of Central Services as a contracting officer in the Purchasing Division, appointed by the State Purchasing Director with the advice of the Committee and designated specifically to solicit, develop, and negotiate contracts with agencies and individuals.

“**FEI**” means Federal Employer Identification.

“**Individual**” means a severely disabled person that is self-employed and has been certified by the Committee to supply products and services, seventy-five percent (75%) of which, is actually manufactured, produced, processed, assembled, performed or offered by the severely disabled person.

“**IRS**” means the Internal Revenue Service.

“**Severely disabled person**” means an individual who has a physical or mental disability constituting a substantial handicap to employment and preventing the person from engaging in normal competitive employment and includes any blind person. [74 O.S., Section 3003(4)]

“**Substantial handicap to employment**” means a residual, limiting physical or mental condition resulting from an injury, disease, or congenital defect which so limits the person's mobility, communication, self-care, self-direction, work tolerance, or work skills that the person is unable to engage in normal competitive employment over an extended period of time.

“**The Act**” means the provisions of 74 O.S., Section 3001 et seq. which relate to the purchase of products and services from qualified organizations.

“**Qualified nonprofit agency for the severely handicapped**” means a nonprofit agency which is certified as a sheltered workshop by the wage and hour division of the U.S. Department of Labor and employing severely disabled persons who constitute at least seventy-five percent (75%) of the personnel engaged in direct production of products or services offered by the agency for procurement by this state. [74 O.S., Section 3003(3)]

“**Qualified organization**” means a blind person, qualified nonprofit agency for the severely handicapped or severely disabled person contracting to supply goods or services. [74 O.S., Section 3003(5)]

260:120-1-3. Qualifications

1. **Qualification by Committee.** To ensure compliance with the Act, the Committee shall qualify individuals and nonprofit agencies prior to contract award.
2. **Individual qualification.** An individual shall apply for qualification to the Committee and submit the following documents:
 - a. To indicate the individual meets the statutory definition of a severely disabled person, the individual shall provide:
 1. a copy of the application and supporting documentation the individual submitted to the Social Security Administration for determination of disability and a copy of the final disability determination from the Administration;
 2. a narrative report, prepared and signed by a person licensed in the state of Oklahoma as a physician describing physical disabilities, or a psychiatrist or psychologist describing mental disabilities. The report shall fully describe the nature of the disability constituting a substantial handicap to employment with supporting medical records; and
 3. any additional information the Committee may require related to work history, vocational assessments and work related documents.
 - b. an affidavit that the individual will perform 75% of the work to produce the products or services the individual offers for procurement by the state; and
 - c. a statement which describes the nature and extent as expressed in a percentage of work a subcontractor, other person or entity may perform to produce the products or services.
3. **Agency qualification.** A nonprofit agency that has been approved by the Wage and Hour Division of the U.S. Department of Labor as a sheltered workshop shall apply for qualification to the Committee and submit the following documents that indicate the nonprofit agency meets the requirements of a qualified organization:
 - a. a tax-exempt FEI number issued by the IRS, or a certificate from the IRS verifying that the entity meets the requirements for nonprofit status as defined by the IRS; and
 - b. a statement describing the nature and extent as expressed in a percentage of the work a subcontractor, other person or entity may perform to produce the products or services the nonprofit agency provides per a contract the Committee awards.
 - c. a copy of certification as a sheltered workshop issued by the U. S. Department of Labor.
 - d. a current copy of the nonprofit agency's certificate of insurance for worker's compensation insurance

4. **Continuation of qualification.** On January 31st of each year succeeding initial qualification by the Committee, the qualified organizations shall provide evidence to the Committee of continued ability to qualify as follows:
 - a. A qualified nonprofit agency for the severely handicapped shall submit:
 1. a current copy of its certification as a sheltered workshop from the U.S. Department of Labor; and
 2. a report for products and services on the Committee's procurement schedule indicating the qualified nonprofit agency for the severely handicapped's total labor hours in direct production by disabled workers and total agency labor hours in direct production by non-disabled workers during the previous calendar year.
 3. a current copy of the qualified nonprofit agency for the severely handicapped's certificate of insurance for worker's compensation insurance.
 - b. An individual shall submit:
 1. a work history for the previous calendar year that indicates the number of hours the individual worked and the number of hours a subcontractor or other individuals worked in direct production of the products and services on the Committee's procurement schedule; and
 2. a current physician, psychiatrist or psychologist statement indicating the current status of the condition which constitutes a substantial handicap to employment, which shall include changes in the condition since the previous date of qualification by the Committee.
5. **Failure to meet qualifications.** Whenever an a qualified organization fails to meet qualifications, the Committee may:
 - a. Remove the qualified organization's products and services from the procurement schedule; or,
 - b. Revoke the qualification of the qualified organization.
6. **Notice of failure to meet qualifications.** The Committee shall direct the contracting officer to send written notice to the qualified organization at least thirty days prior to the effective date of the action taken pursuant to subsection (e) of this section.

260:120-1-4. Determination of fair market price

The contracting officer shall recommend a fair market price for products and services in accordance with the State Use Committee's approved Fair Market Price Policy and in the manner described in this section.

1. The contracting officer shall prepare a current market analysis to determine the fair price for the products or services requisitioned or used by state agencies utilizing internal as well as external sources and established pertinent criteria. When appropriate, the criteria may include, but not be limited to:
 - a. A survey of comparable private contracts for like products and services;
 - b. Research of other governmental entities within and outside the State of Oklahoma;
 - c. Comparison, when appropriate, of wholesale and retail pricing of like commodities.
2. Based on the data described in OAC 260:120-1-4(1), the contracting officer or designee shall recommend a fair market price with supporting documentation to the Committee for consideration.
3. The Committee shall, by majority vote, approve, modify, amend or disapprove the recommended fair market price.
4. Whenever the Committee establishes a price, the price shall become the fair market price.
5. If the product or service is one for which the pricing does not vary by state agency or location, the fair market price as approved, modified, or amended, shall remain in effect until the Committee establishes a new fair market price.
6. If the product or service is one for which the price does vary depending on the state agency, location, or specifications, the Committee shall approve, each contract for the product or service.
7. If the product or service is one for which fair market has not been established, either because the fair market for the type of product or service has been determined to vary depending on the state agency, location or specifications, the Contracting Officer, with the approval of the State Purchasing Director, is

authorized to award a contract in accordance with the State Use Fair Market Price Policy to a qualified individual or organizations, thereby establishing fair market price, which establishment shall be subject to ratification by the Committee at the next regular Committee meeting.

8. In the event of an emergency, with approval of the State Purchasing Director, the contracting officer may award a contract to an individual or agency for a maximum period of three (3) months without prior Committee approval, but subject to Committee approval at the next regular Committee meeting. If the Committee approves the contract, the contract shall terminate at the end of the contract period.

260:120-1-5. Procurement schedule

1. **Compilation of procurement schedule.** The contracting officer shall maintain and publish a current list of all products and services offered by qualified organizations.
2. **Approval of procurement schedule.** The Committee shall approve items on the list or delete items from the list, consistent with the provisions of the Act, and shall designate the final list of approved items as the Procurement Schedule by majority vote. If additional products or services are offered by individuals or agencies, the Committee may add products and services to the Procurement Schedule by majority vote.

260:120-1-8. Grievances

1. **Filing a protest or grievance.** Any party who is aggrieved may file a written protest or grievance with the Chairperson of the Committee within fifteen (15) days of the aggrieved action.
2. **Investigation of protest or grievance.** The Chairperson may assign a protest or grievance to a subcommittee to investigate and make recommendations to the Committee for resolving the grievance.
3. **Protest process.** All protests shall be handled in accordance with the provisions of the Administrative Procedures Act. [[75 O.S., Section 250](#) et seq.]
4. **Committee response to protest or grievance.** The Committee shall respond in writing to the protesting or grieving party within ninety (90) days of receipt of the protest or grievance.

260:120-1-9. List of jobs

The Committee shall publish a catalog listing the jobs that workshops can do for the State of Oklahoma, annually. The list of jobs shall be the Procurement Schedule.

260:120-1-10. Meetings

1. **Number of regular meetings.** The Committee shall conduct a minimum of six meetings per year, in compliance with the Open Meeting Act. The schedule for regular meetings will be adopted at the last regular meeting of each calendar year.
2. **Special meetings.** Special meetings shall be called by the Committee Chairperson.
3. **Quorum.** A majority of all current members of the Committee shall constitute a quorum.
4. **Request for notices of meeting.** Upon written request, the Committee Vice-Chairperson shall notify any person, state agency, qualified organization or contractor, at least ten days prior to meeting dates, and shall make available the minutes of all meetings.

260:120-1-11. Reports

1. **Failure to provide reports or documentation.** Reports or documentation requested from a qualified organization by the Committee through the contracting officer, shall be completed within thirty (30) days of the date requested. The Committee may cancel contracts of otherwise qualified organizations who fail to provide reports, documentation or information required by utilization terms of a contract.
2. **Sales to political subdivisions other than the state.** A qualified organization shall provide a quarterly report of purchases made by a political subdivision, excluding state agencies, from a contract the Committee awards. The report shall include:
 - a. the name and address of each political subdivision;
 - b. total amount of sales made to each political subdivision.
3. **Notice of contract cancellation.** The Committee shall direct the Contracting Officer to send written notice to a qualified organization at least thirty days prior to the cancellation date of a contract pursuant to subsection (a) of this section.

260:120-1-12. Contract levy

1. **Contract levy.** Pursuant to [74 O.S. Section 3004.1](#), a one percent (1%) fee assessment shall be levied against qualified organizations for every contract awarded under the act for products and services of the severely disabled.
2. **Monthly reports and contract levy payments.** Qualified organizations shall submit a monthly report by the 15th of each month to the State Use Contracting Officer. The report shall contain the total amount of payments received from state agencies and the one percent (1%) fee assessment based on the total amount of payments stated in the report.
3. **Failure to submit monthly reports and payments.** Any fee assessment payment that is past due more than sixty (60) days shall be considered delinquent. A written notice of delinquency shall be sent by the State Use Contracting Officer to each qualified organization considered delinquent. The notice shall state the amount due and requirements for compliance.
4. **Revocation of a qualified organization.** Failure to provide monthly reports and payments will be reported to the State Use Committee and the State Purchasing Director and may result in the revocation of the “qualified organization” procurement schedule and/or termination of their contracts.

260:85-1-1. Purpose

The rules in this Chapter are promulgated by the Director of the Office of Management and Enterprise Services to implement the Oklahoma State Recycling and Recycled Materials Procurement Act ([74 O.S. § 85.50](#) et seq.).

260:85-1-2. Definitions

The following words or terms, when used in this Chapter, shall have the following meanings, unless the context clearly indicates otherwise:

“**Agency**” means any department, board, commission, institution, authority, or agency of the State of Oklahoma.

“**Asphalt materials containing ground tire rubber**” means asphalt material mixed with recovered rubber from scrap automobile, truck, or bus tires. The term includes asphalt rubber and rubber modified asphalt.

“**Director**” means the Director of the Office of Management and Enterprise Services.

“**Economically feasible**” means that the cost of an action is reasonable in consideration of the beneficial result, as determined by the Director of the Office of Management and Enterprise Services.

“Life cycle cost” means a cost which is distinguished from a product's purchase price in that the additional considerations of waste disposal cost, durability, and reusability are incorporated into the concept of product cost.

“Office” or “OMES” means the Office of Management and Enterprise Services.

“Post-consumer material” means those products or recyclable materials generated or discarded by a business or a consumer that have served their intended end uses, and that have been recovered from or otherwise diverted from the solid waste stream for the purpose of recycling. Wastepaper generated in paper mill operations such as cutting, trimming, coating, or converting, along with mill broke and other in-plant residual wastes, although present in recycled paper products, shall not be included in the determination of the percentage of post-consumer material, but may be included in the determination of the percentage of total recycled materials content.

“Practicable” means capable of being used consistent with:

1. performance in accordance with applicable specifications;
2. availability at a reasonable price;
3. availability within a reasonable period of time;
4. maintenance of a satisfactory level of competition.

“Price preference” means the percentage over and above the price of non-recycled products and materials which may be allowed for the purchase of recycled products and materials.

“Products manufactured from virgin materials” means products which are composed entirely of materials which have not been previously used in manufacture.

“Products manufactured with recycled materials” means products that are manufactured with a minimum content of ten percent (10%) post-consumer materials.

“Recyclable materials” means materials or products which are capable of being recycled, including, but not limited to paper, glass, plastics, metals, automobile oil, and batteries.

“Recycled paper products” means all paper products manufactured from recoverable waste paper, with not less than ten percent (10%) of their total weight consisting of waste paper.

“Recycling” means a three step process:

1. the identification and collection of usable materials from the solid waste stream;
2. the processing of these materials into new products; and,
3. the purchase and use of products containing reused materials.

“Recycling plan” means a scheme, method, schedule, and outline for action which is designed to fulfill the intent, requirements, and goals of the Oklahoma State Recycling and Recycled Materials Procurement Act.

“Recycling program” means a system of instructions, procedures, services, and tasks by which source reduction is accomplished, recyclable materials are salvaged, separated, and disposed of, and products manufactured with recycled materials are procured, in accordance with the intent of the Oklahoma State Recycling and Recycled Materials Procurement Act. A recycling program may include services provided by private, nonprofit, and/or cooperative contractors.

“Re-refined oils” means used oils from which the physical and chemical contaminants acquired through prior use have been removed through a refining process.

“Retreaded tire” means any tire that utilizes an existing casing for the purpose of vulcanizing new tread to such casing and which meets all performance and quality standards specified in the Federal Motor Vehicle Safety Standards determined by the United States Department of Transportation.

“State public entity” means the State Legislature, any bureau, agency, board, commission, or authority of the state; the Office of the Governor, the judiciary, or any state university, school district or county of the state which is supported in whole or in part by state funds.

“The Act” means the Oklahoma State Recycling and Recycled Materials Procurement Act.

260:85-1-3. Recyclable materials collection

1. Adoption of recycling plan. Each state public entity shall adopt a comprehensive recycling plan to meet or exceed the legislative intent, requirements, and goals of the Act. A sample recycling plan shall be made available by the Office of Management and Enterprise Services.
2. Recycling plan operation. Each state public entity shall develop and operate its own recycling program, or join and participate in a joint recycling program, for the purpose of implementing its recycling plan. The results of implementation of the plan during the previous fiscal year shall be described in a report to the Director by December 31 of each year. The report shall be in a format determined by the Office of Management and Enterprise Services.
3. Assistance in plan development. The Office of Management and Enterprise Services shall provide assistance and coordination to state public entities in the development and implementation of recycling plans, and in the operation of recycling programs to achieve recycling objectives.
4. Determination of quantity and market value of recycled materials. The Office may determine whether the quantity and market value of recyclable materials, separately or in combination, in any solid waste generated by any state public entity is sufficient to make recycling economically feasible.
5. Joint recycling operations. The Office may operate one or more recycling programs, where it is feasible to do so, and may require state public entities to participate. The Office may determine whether any state public entity must participate in a joint recycling program with other state public entities, or may operate a partially or completely separate recycling program of its own.
6. Designation of agency recycling coordinator. Each state agency shall designate at least one employee as a recycling coordinator for that agency.
 - a. The Office may require the designation of additional coordinators if necessary for the efficient operation of the recycling effort.
 - b. State agencies with more than one office, shop, or working venue shall designate a recycling coordinator for each location or venue at which more than fifty employees usually work.
 - c. The Office may, at its discretion, require an agency to appoint a recycling coordinator for locations which produce large amounts of recyclable materials.
 - d. The identity and contact information for each recycling coordinator shall be submitted to the Director and shall be updated or revised as changes occur.
 - e. Recycling coordinators shall serve as contact persons with the Office for implementation of the Act and the rules in 260:85-1-3.
7. Representatives of entities other than state agencies. Each state public entity other than a state agency shall designate at least one employee to represent that entity in coordination with the Department for implementation of the Act and the rules in 260:85-1-3. The identity and contact information for each representative shall be submitted to the Director and shall be updated or revised as changes occur.
8. Exemptions. No state public entity may be exempted from complying with the legislative intent, requirements, and goals of the Act; however, the Director may grant temporary exemptions from compliance with the rules in 260:85-1-3 due to lack of market availability or economic feasibility. All requests for exemption must be made in writing and must be accompanied by documentation supporting the need for such an exemption. Any exemption granted shall be in effect for no longer than one year.

260:85-1-4. Recycled products procurement

1. Purchase of recycled products. Each state public entity shall procure products which are manufactured with recycled materials, and products which are recyclable and/or durable, to meet or exceed the legislative intent, requirements, and goals of the Act.
2. Reporting of purchases of recycled products. Each state public entity shall submit a report to the Director by December 31 of each year. This report shall describe the results of its procurement of

recycled paper products and other products manufactured with recycled materials over the past fiscal year. The report shall be in a format determined by the Office.

3. Assistance in procurement objectives. The Office shall provide assistance to state public entities in the achievement of procurement objectives in their recycling programs.
4. Procurement specifications for recycled materials. Each state public entity shall use procurement specifications to require, to the greatest extent practicable, that a product and its packaging or container contain recycled materials and that the product and its packaging or container be recyclable.
 - a. Product and packaging specifications shall require the use of post-consumer materials to the greatest extent practicable without jeopardizing the intended end use of the product.
 - b. In writing specifications and selecting products for procurement, life cycle costs shall be part of the evaluation criteria when the costs of waste disposal or the durability and reusability of a product may be significant.
 - c. A state public entity may determine that, for technical reasons, and for a particular end use, a product containing recycled materials will not meet reasonable performance standards, and may therefore declare the purchase of a product manufactured with recycled materials to be unpracticable. Such a determination shall be documented and based solely upon technical performance information related to a specific item, and not to a grade or type of product. This documentation may be requested for review by the Office.
 - d. Each state public entity shall reduce the generation of solid waste at its source, whenever practicable, by minimizing the purchase of single-use, disposable products and requiring the purchase of durable products which can be reused.
 - e. Each state public entity shall, whenever practicable, purchase only office paper, photocopier paper, printer paper, and printed paper products which are not coated with plastic, clay, or other material used to create a glossy finish.
 - f. Each state public entity shall take reasonable steps to minimize the procurement of colored paper products. If color is necessary for a particular use, full consideration shall be given to the use of white paper printed with colored, soy- based ink.
5. Declaration of vendors of percentage of recycled materials in products. State public entities shall require vendors to declare the minimum, if not exact, percentage of recycled materials content in the products offered, including both the post-consumer and total recycled materials content, regardless of whether the product meets the percentage of recycled materials specified for that product.
6. Certification by vendor of recycled content claim. The vendor of any product for which a recycled content claim is made must both possess and rely upon a reasonable basis for the claim and must be able, upon request by the Office, to certify and demonstrate this claim. Any fraud or deception in the representation of recycled materials content may result in cancellation of the contract and the removal or suspension of the vendor from the bidders list pursuant to [OAC 260:115-3-21](#).
7. Preferences for recycled materials. If several products manufactured with recycled materials are being considered for purchase, and if all cost and quality considerations are comparable, preference shall be given to the product with the highest content of post- consumer material. If this measure fails to identify the more preferable product, the award shall go to the product with the highest content of total recycled materials.
8. Preferences by public entities. Each state public entity responsible for the maintenance of public lands in this state shall, to the greatest extent practicable and consistent with sound environmental practices, give preference to the use of compost materials in land maintenance activities which are to be paid for by public funds.

9. Provisions for Oklahoma Department of Transportation and Oklahoma Turnpike Authority. The Department of Transportation and the Oklahoma Turnpike Authority shall review and modify all bid and paving material specifications:
 - a. To provide that the specifications encourage the maximum purchase, when practicable, of recyclable asphalt pavement and paving materials utilizing recycled materials, including but not limited to:
 1. crushed concrete sub base;
 2. fly ash;
 3. glass and glassy aggregates; and
 4. asphalt material containing ground tire rubber.
 - b. Life cycle cost analysis shall be used in determining practicability.
10. Provisions for public entities using motor vehicles. Each state public entity which owns or maintains motor vehicles is encouraged, to the greatest extent practicable to:
 - a. Equip such vehicles with retreaded tires.
 1. Efforts should first be made to procure retreading services for the entity's own waste tire casings.
 2. If the services in [260:85-1-4\(j\)\(1\)\(A\)](#) are not practicable, retreaded tires should be procured for use as replacements.
 3. Emergency vehicles defined in [47 O.S. 1991 § 1-103](#) (Highway Safety Code) are exempt from this recommendation.
 - b. Procure re-refined oils for all practicable uses, including, but not limited to, such uses as:
 1. engine lubricating oils;
 2. gear oils; and,
 3. hydraulic fluids.
11. Price preference on bids. When accepting bids for purchases of supplies, equipment and materials, the Central Purchasing Division of the Office of Management and Enterprise Services and each state public entity shall extend price preferences to products manufactured with recycled materials whenever the Director determines that such products are unable to be price competitive with products of comparable grade and quality manufactured from virgin materials.
 - a. Those products manufactured with at least the minimum content level of recycled materials as established by the Federal Environmental Protection Agency (EPA) shall receive a price preference not to exceed a five percent differential.
 - b. A copy of the EPA specified content requirements and a list of products meeting the requirements will be maintained as a public record by the Office.
 - c. A product which contains recycled materials but falls short of the EPA minimum requirements may receive a price preference if no other product is bid or offered which meets the EPA requirements.
 - d. Price preferences allowed pursuant to this section shall not be combined with other price preferences or differentials.
 - e. In response to product market conditions, the Director may temporarily increase, reduce, or eliminate any recycled product price preference.
12. Exemptions. No state public entity may be exempted from complying with the legislative intent, requirements, and goals of the Act; however, the Director may grant temporary exemptions from compliance with the rules in [260:85-1-4](#) due to lack of market availability or economic feasibility. All requests for exemption must be made in writing and must be accompanied by documentation supporting the need for such an exemption. Any exemption granted shall be in effect for no longer than one year.

260:115-1-1. Purpose and authority

1. **Procurement rules purpose.** The purpose of this Chapter is to provide information, requirements and procedures for state procurement staff, suppliers and state agencies subject to the Oklahoma Central Purchasing Act, 74 O.S. §§ 85.1 et seq., referred to in this Chapter as the "Purchasing Act", to

establish fair and consistent acquisition processes that satisfy the needs of the state. It is the policy of the State to make acquisitions from suppliers through a competitive selection process that is fair, open and objective in order to achieve optimum value, quality and serve the best interest of the taxpayers. All suppliers and state agencies are responsible for knowing the requirements of this Chapter. These rules are administered by the Office of Management and Enterprise Services to provide direction and ensure compliance with the Purchasing Act and other applicable state laws and rules. These rules have been promulgated by the Director of the Office of Management and Enterprise Services in accordance with the Administrative Procedures Act and pursuant to the authority of [74 O.S. §85.5.](#), [74 O.S. 85.45s.](#) and [62 O.S. §34.28](#)

- 2. Information technology acquisitions.** Unless otherwise provided by law, state agencies shall make information technology and telecommunications acquisitions in accordance with the Purchasing Act, the Oklahoma State Finance Act [62 O.S. §§34 et seq.], the Information Technology Consolidation and Coordination Act, 62 O.S. §§35.1 et seq., the rules of this chapter, and requirements established by the Chief Information Officer and the OMES Information Services Division.
- 3. Official directives.** The State Purchasing Director or Chief Information Officer, as applicable, shall issue directives, instructions or written communications to state agencies regarding required procurement practices and procedures to ensure compliance with provisions of the Central Purchasing Act, procurement rules and any other matter relating to state agency acquisitions.

260:115-1-2. Definitions

In addition to terms defined in the Purchasing Act, the following words or terms, when used in state procurement shall have the following meaning, unless the context clearly indicates otherwise:

"Acquiring agency" means the state agency authorized to enter into a contract with a supplier, which may or may not be the state agency receiving the acquisition.

"Acquisition authority" or **"acquisition threshold"** means the dollar or value amount within which a state agency is approved to make acquisitions without submitting a requisition to the OMES Purchasing Division.

"Addendum" means a written modification to a contract.

"All or none bid" means a bid in which the bidder states only an award for all items or services included in the acquisition will be accepted.

"Alteration" means a modification a bidder makes to a submitted bid prior to the response due date.

"Alternate bid" means a bid which contains an intentional substantive variation to a basic provision, specification, term or condition of the acquisition.

"Amendment" means a written change, addition, correction, or revision made by the acquiring agency to procurement documents in connection with a solicitation.

"Authorized signature" means a manual, electronic or digital signature or other identifier uniquely linked to a person authorized to sign document on behalf of a supplier or acquiring agencies.

"Best and Final Offer" or **"BAFO"** means a final offer submitted in writing by a bidder, as requested by an acquiring agency.

"Bid bond", or **"surety"** means a form of surety or guaranty that may be required to be submitted with a bid.

"Business days" means Monday through Friday and is exclusive of weekends and Oklahoma state holidays.

"Central Purchasing Division" means the Central Purchasing Division of the Office of Management and Enterprise Services.

"Certified Procurement Officer" or **"CPO"** means a state agency procurement official certified by the State Purchasing Director under the provisions of the Oklahoma Central Purchasing Act.

"**Clarification**" means a bidder's explanation of all or part of a bid that does not change, alter or supplement the bid.

"**Closing date/time**" means the date and Central Time bids are due.

"**Commodity classification**" means numeric designations the State Purchasing Director assigns to classify goods and services into similar categories.

"**Competitive solicitation**" means an acquisition process bids are submitted to the acquiring agency pursuant to terms, conditions and other requirements of the acquisition and which may be electronic when the terms of the acquisition expressly permits or requires electronic submission and the requirements of applicable statutes and rules are met.

"**Days**" means calendar days unless otherwise specified.

"**Debar**" or "**debarment**" means action taken by the State Purchasing Director to exclude any business entity from inclusion on the Supplier List, bidding, offering to bid, receiving an award of contract with an acquiring agency and which may also result in cancellation of existing contracts with the State of Oklahoma.

"**Director**" or "**OMES Director**" means the Director of the Office of Management and Enterprise Services or a designee.

"**Electronic Signature**" means the execution of a signature as defined in the Electronic Transactions Act.

"**Firm bid**" means an offer by a bidder which contains no conditions which may prevent acceptance and which, by its terms, remains open and binding until the acquiring agency accepts or rejects the bid.

"**Fiscal year**" means the period of time from July 1 of a calendar year through June 30 of the succeeding calendar year.

"**Invoice**" means to a proper invoice as defined by the State Comptroller.

"**Minor deficiency**" means an immaterial defect in a bid or variation in a bid from the exact requirements of an acquisition that may be corrected or waived without prejudice to other bidders.

"**Multi-award**" means the award of a contract to two or more suppliers to furnish an indefinite quantity or category of item, where more than one supplier is needed to meet the contract requirements for quantity, delivery, service or product compatibility.

"**Non-responsive**" means a bid or proposal that has been determined not to conform to essential requirements of an acquisition.

"**Oklahoma Correctional Industries**" or "**OCI**" means a program of the State Department of Corrections for utilization of inmate labor for the manufacture or production of items or products for use by state agencies.

"**OMES**" means the Oklahoma Office of Management and Enterprise Services.

"**Ratification of an unauthorized commitment**" means the act of approving an unauthorized commitment made by a state agency and the written agreement documenting the approval.

"**Reciprocity**" means a preference, which the State Purchasing Director or state agency shall apply against the price submitted for an acquisition by an out-of-state bidder whose home state applies a similar preference against Oklahoma bidders.

"**Registered supplier**" means an individual or business entity that registers with the OMES Purchasing Division pursuant to [74 O.S. §85.33](#).

"**Requisition number**" means an identifier the acquiring agency assigns to a requisition.

"**Requisitioning unit**" means the unit in a state agency responsible for making acquisitions.

"**Responsible bidder**" means an individual or business entity demonstrating capabilities in all respects to fully perform the requirements of a contract including, but not limited to, finances, credit history, experience, integrity, perseverance, reliability, capacity, facilities and equipment, and performance history which will ensure good faith performance.

“Responsive” means a bid or proposal that has been determined to conform to the essential requirements of an acquisition.

“Reverse Auctioning” means a procurement method wherein pre-qualified bidders are invited to bid on specified goods or services through real-time electronic bidding, with the award being made to the lowest responsive and responsible bidder. During the bidding process, bidders' price positions are revealed and bidders shall have the opportunity to modify their bid prices for the duration of the time period established by the solicitation.

“State Use Committee” means the statutory Committee that certifies severely disabled individuals and sheltered workshops as qualified organizations to contract with the state to provide products and services, which are designated in the State Use Committee procurement schedule for state agency acquisitions pursuant to [74 O.S. §§ 3001](#) et seq.

“Statement of Work” means a detailed description of the work which a state agency requires a supplier to perform or accomplish.

“Supplier performance evaluation” means information provided to the State Purchasing Director, in a manner the State Purchasing Director prescribes, that documents the quality of an acquisition.

“Supplier List” means a list of individuals or business entities that have registered with the OMES Purchasing Division in order to receive notification of solicitations for commodity classifications specified in their registration application.

“Suspension” means an action by the State Purchasing Director to suspend an individual or business entity from being included on the Supplier List, being eligible to submit bids to state agencies and from being awarded a contract by a state agency subject to the Purchasing Act.

260:115-1-6. Waivers

1. **Waiver request.** A state agency may request a waiver from certain requirements of the rules of this chapter or the Purchasing Act from the State Purchasing Director if:
 - a. the state agency reasonably believes that it would be unable to perform a necessary function due to the inability to make an acquisition pursuant to rules of this Chapter or the Purchasing Act; or,
 - b. a court order directs the state agency to make an acquisition from a specified vendor or provider.
2. **Approval of waiver request.** After a waiver request is reviewed, the State Purchasing Director shall notify the state agency of the approval, conditional approval or denial of the waiver request.
3. **Acquisition pursuant to a waiver.** A waiver does not exempt an agency from compliance with the agency's approved internal purchasing procedures including but not limited to obtaining required certifications and documentation required under this chapter or the Purchasing Act.
4. **Waiver of Acquisition Based on Agency Expertise.** Prior to a state agency making an acquisition in excess of its acquisition threshold amount, pursuant to 74 O.S. §85.5(N), the agency shall submit a written request in the manner prescribed by, and associated requirements and criteria established by, the State Purchasing Director.
5. **Additional requirements pursuant to a waiver.** In addition to the requirements of 74 O.S. §85.5(N), an agency making an acquisition in excess of its acquisition threshold amount pursuant to a waiver based on agency expertise shall comply with applicable portions of 74 O.S. §85.7, the rules of this Chapter and any other applicable state laws and rules. The quarterly report required by 74 O.S. §85.5(N) shall be submitted by the 5th business day of each new fiscal quarter.
6. **Reporting requirement pursuant to a waiver.** An agency shall submit a report in electronic format to the State Purchasing Director on a quarterly basis, which lists all contracts issued pursuant to this section.

260:115-3-3. Supplier registration

1. **Purpose.** Unless otherwise specified, supplier registration pursuant to this section provides a supplier with automatic notification of bid opportunities but is not required for a supplier to respond to a solicitation. Automatic notification is dependent upon a supplier providing the Office of Management and Enterprise Services valid and up-to-date information. Supplier registration is required for any supplier selected for contract award or renewal of a contract pursuant to the Central Purchasing Act and these rules. For the purposes of this section, "State Purchasing Director" does not include personnel of state agencies to whom the State Purchasing Director has delegated authority.
2. **Registration.** A supplier may apply for registration online as established by [74 O.S. 85.33](#), for each commodity classification listed in the registration application. A successfully completed registration application will result in the individual or business entity being placed on the Supplier List for a one-year period, at which point, registration is required to be renewed in order to remain in active registered status. Registered suppliers are to be notified by the acquiring agency pursuant to applicable laws and rules, of solicitations for each commodity classification for which a supplier maintains active registered status. The State Purchasing Director shall not place a supplier on the Supplier List if the supplier provides incomplete registration information or if the State Purchasing Director, in his or her sole discretion, determines the supplier is not responsible.
3. **Registration renewal.** A registered supplier may renew a registration prior to the expiration date of the supplier's current registration in order to remain on the Supplier List.
4. **Voluntary removal from Supplier List.** A supplier may submit a written request to the OMES Purchasing Division to request to be removed from the Supplier List for a commodity classification.

260:115-3-5. Procurement ethics - prohibited conduct

The Oklahoma Central Purchasing Act, State Ethics Commission rules and other state laws contain regulations, prohibitions and penalties governing procurement ethics. Transactions relating to the public expenditure of funds require the highest degree of public trust and impeccable standards of conduct.

260:115-3-7. Bid preparation

1. **Form requirements.** A bid shall include all required forms in connection with an acquisition.
 - a. A bid shall include an acknowledgement of receipt of any solicitation amendment. A bidder that submitted a bid prior to the amendment and bid due date shall submit the acknowledgement by the specified bid response due date and time.
 - b. Should the bidder alter a form, the bidder shall initial each alteration.
 - c. Any form requiring a bidder's signature shall have an authorized signature.
 - d. If a form specifies notarization, the form shall bear the signature and seal of a licensed Notary Public in the manner specified by the laws of the bidder's state.
2. **Firm bid for one hundred twenty (120) days.** A bid shall be considered a firm bid for one hundred twenty (120) days following the bid closing date, unless otherwise stated by the acquiring agency.
3. **Bidder travel expenses.** The price submitted in a solicitation shall include travel expenses to perform the contract.
4. **Tax exemptions.** A bid shall not include a requirement that an acquiring agency pay sales tax and federal excise tax nor seek reimbursement of other taxes assessed or paid in connection with an acquisition. Such a reimbursement would provide an impermissible indirect tax exemption that is not otherwise provided by the Oklahoma legislature. Purchases made by a supplier on behalf of an acquiring agency are not exempt from sales, federal or other taxes unless otherwise authorized by law and state agencies are further exempt from sales and excise taxes.
5. **Payment terms.** Payment by an acquiring agency is not late until forty-five (45) days after receipt of a valid and proper invoice. Stricter payment language in a bid will not be valid. Early payment discounts may be negotiated and awarded unless prohibited by federal or state law.
6. **Used or new products.** A bid shall offer new items of current design unless used, reconditioned or remanufactured products are as acceptable.

7. **Price.** Unless specified otherwise, a bid shall include a firm, fixed price for the term of the contract.
8. **Alternate bids.** Unless otherwise prohibited, a bidder may submit alternate bids. If a bidder submits an alternate bid, the alternate bid shall be a complete bid. The bidder shall clearly identify an alternate bid. If the bidder submits more than one alternate bid, the bidder shall title each alternate bid as "Alternate Bid 1", "Alternate Bid 2", etc.
9. **All or none bid.**
 - a. If a contract may be awarded to more than one bidder, a bidder may indicate on the bid that terms and conditions of the bid are all or none.
 - b. If a contract may be awarded to more than one bidder by item, a bidder may indicate that the terms and conditions of the bid are all or none.
10. **Bidder delivery and shipping.** If a delivery date for goods and/or services is not specified, the bid shall specify the delivery date. A bid shall include all costs associated with delivery of the acquisition F.O.B. destination to the receiving state agency unless otherwise specified by the acquiring agency.
11. **Sample submission.** Submission of samples of the required items or products may be required when essential to the assessment of product quality during bid evaluation. When required, samples must be received no later than the bid response due date and time.
 - a. **Sample identification.** The bidder shall clearly identify the sample the bidder submits by placing the bidder's name, bidder's address, requisition number and closing date/time on both the sample container and on the sample shipping container.
 - b. **Sample costs.** The bidder shall pay all costs associated with submission of the sample.
 - c. **Sample requirements.** A sample shall represent the quality of the whole.
 - d. **Sample tests.** Whenever testing is determined necessary, appropriate standard testing procedures will be used. All samples submitted may be subject to consumption or destruction as a result of tests by the agency.
 - e. **Sample tests costs.** If a sample fails to meet the required specification or standards, the bidder may be required to pay testing costs the acquiring state agency incurs.
 - f. **Return of sample to bidder.** If return of samples is stipulated in a bid, samples not destroyed by testing may be returned at the bidder's expense.
 - g. **Successful bidder samples.** Samples submitted by the successful bidder may be retained to ensure the products or items delivered meet specifications.
12. **Proof of insurance.** A bid shall include proof of all insurance required prior to contract award. A supplier who contracts to do business with the state shall provide proof of workers' compensation insurance or proof of an alternative or exemption authorized by state law.
13. **Subcontractor notice.** A bid shall identify any proposed subcontractor and a bidder shall provide any required information regarding such subcontractor.
14. **Bid readability.** A bid shall be legibly handwritten in ink or, as required, created via a word processing tool or a specified file format.

260:115-3-9. Bid documents open for public inspection

1. Unless incorporated into an awarded contract, bid documents are not disclosable. An electronic quote, bid or proposal submitted through an online solicitation process is subject to the same public disclosure laws.
2. If a bid contains information that the bidder considers confidential, the bidder shall:
 - a. specifically identify what information is confidential;
 - b. enumerate the specific grounds, based on applicable laws which support treatment of the material as exempt from disclosure, and explain why disclosure is not in the best interest to the public if the information is incorporated into an awarded contract; and
 - c. submit all such information considered confidential either under separate cover or copied in a separate section of the bid as required. Failure to comply with this requirement may result in the decision to not consider bidder's confidential claim. The acquiring agency has no responsibility to

look outside the required section of a bid for portions claimed as confidential and an entire bid will not be considered confidential in any event.

260:115-3-11. Bid submission, withdrawal, change and rejection

- 1. Bid submission contents.** Bidders shall submit all required forms, documents and contents as instructed. The legal name and complete address of the bidder, solicitation number and closing date shall be prominently displayed on each item submitted or if electronically submitted, in the subject line of the submission. Bidders may be required to prequalify in certain instances and, if so, shall prequalify in accordance with procedures established by the acquiring agency.
- 2. Bid receipt.** Upon receipt, the acquiring state agency shall clearly mark the outside of all envelopes or containers with the receipt date and time. Electronic submission of bids, when allowed, must be submitted in such a manner that the time and date of submission is electronically linked to the bid and cannot be changed.
- 3. Late bids.** A bid received after the closing date and time shall be rejected acceptance of the bid is authorized due to a significant error or incident that occurred which affected timely receipt. Unless opened for identification, a bid that was not electronically submitted and was received late will be returned unopened in a timely manner.
- 4. Bid withdrawal before closing date.** A bidder who desires to withdraw a bid prior to the closing date shall submit a written withdrawal request on the bidder's company letterhead and signed by the bidder's authorized representative or via electronic notice, as instructed by the acquiring agency. The withdrawal request must identify the requested method of return of the proposal, the person authorized to receive the returned bid, the bidder's name, solicitation number and closing date.
 - a.** If the bid was not submitted electronically and is to be returned via U.S. Postal Service or other small package carrier, the bidder must provide a method for return shipping charges.
 - b.** If the bid will be withdrawn in person, the authorized person must provide proof of identity as required by the acquiring agency. After confirmation of identity, the person accepting the withdrawn bid shall sign a receipt for the bid.
- 5. Bid withdrawal after closing date.** Withdrawal of a bid after the closing date shall not be authorized by the State Purchasing Director unless the bidder can prove a significant error by the bidder exists in the bid.
- 6. Bid change prior to closing date.** A bidder who desires to change a bid submitted to a state agency shall withdraw the submitted bid and submit another bid before the closing date.
- 7. Reasons for bid rejection.** A bid may be rejected when the bid is determined to be non-responsive or if the bidder is in violation of applicable procurement ethics laws or rules or determined not to be responsible for reasons including, but not limited to, those listed in 260:115-7-32.
- 8. Change to a submitted bid.** A bidder who desires to change a bid submitted to a state agency shall withdraw the submitted bid and submit another bid before the closing date.

260:115-3-19. Supplier's Protest

1. A supplier may protest a contract award by a state agency or OMES to the State Purchasing Director. All remedies available to suppliers through the sealed bid process pursuant to the Oklahoma Central Purchasing Act are also available to online bidders in an online bidding process.
 - a. **Supplier notification.** A supplier shall submit written notice to the State Purchasing Director of a protest of an award of contract by a state agency or OMES within ten (10) business days of contract award. The supplier protest notice shall state all facts and reasons in specificity for protest.
 - b. **State Purchasing Director review and determination.** The State Purchasing Director shall review the supplier's protest and contract award documents.
 1. The State Purchasing Director may determine to respond to the protest or delegate the responsibility by written notice to the state agency that awarded the contract.
 2. The State Purchasing Director or state agency, whichever is applicable, shall send written notice of the decision to deny or sustain the protest to the supplier within ten (10) business days of receipt of the protest.
 - c. **Supplier appeal of decision to deny protest.** The supplier may appeal a denial of protest by the State Purchasing Director or a state agency to the OMES Director.
 1. Such appeal shall be filed by the supplier within ten (10) business days of the date of the State Purchasing Director's or state agency's notice of denial pursuant to [75 O.S. §§309](#) et seq.
 2. The OMES Director may enter an order staying contract performance upon such terms and conditions as the OMES Director determines to be proper. Any request for stay of contract performance must be made in writing and filed during the ten (10) business day time period in which an appeal may be commenced to the OMES Director. The OMES Director shall have continuing jurisdiction to modify any such orders made in connection with a stay during the pendency of the appeal as appropriate under the circumstances presented.
 - d. **Director actions and determination.** The OMES director may hear the appeal or assign the supplier's appeal to an Administrative Law Judge retained by the agency.
 1. If the appeal is assigned to an Administrative Law Judge, the Administrative Law Judge shall review the appeal for legal authority and jurisdiction. If legal authority and jurisdictional requirements are met, the Administrative Law Judge shall conduct an administrative hearing and provide proposed findings of fact and conclusions of law to the OMES Director.
 2. If the appeal is heard by the OMES Director, the OMES Director shall have all powers granted by law including all powers delegated to the Administrative Law Judge by this section.
 3. The OMES Director shall send written notice of the final order sustaining or denying the supplier's appeal to the parties.
 4. The cost of actions necessary to process a supplier's appeal, together with any other expenses incurred due to the appeal, shall be paid by the state agency responsible for the initial solicitation.
 - e. **Conduct of administrative hearing.** Administrative hearings shall be conducted in accordance with the Administrative Procedures Act. [Reference [75 O.S. §§ 250](#) et seq.] and the following procedures:
 1. **Prehearing conference.** A prehearing conference shall be scheduled to determine the legal or factual issues which shall be limited to those brought by the supplier in its initial protest to the State Purchasing Director.
 2. **Burden of proof.** The burden of proof shall be upon the supplier, which must prove its case by a preponderance of the evidence. A preponderance of the evidence is that evidence which, in light

of the record as a whole, leads the Administrative Law Judge to believe a fact is more probably true than not true.

3. **Representation.** Corporations must be represented by legal counsel in accordance with Oklahoma law. Legal counsel must be licensed or registered pursuant to the Rules Creating and Controlling the Oklahoma Bar Association.
 4. **Proper parties.** In addition to the supplier protesting the contract award, OMES, the supplier awarded the contract and the state agency for which the bid was let may participate in the bid protest proceedings as a proper party.
 5. **Discovery.** The conduct of discovery is governed by the Administrative Procedures Act, [75 O.S. §§ 309](#) et seq. and other applicable law.
 6. **Authority of the Administrative Law Judge.** The Administrative Law Judge may:
 - a. Establish a scheduling order;
 - b. Establish reasonable procedures such as authorizing pleadings to be filed by facsimile or electronic mail;
 - c. Rule on all interlocutory motions;
 - d. Require briefing of any or all issues;
 - e. Conduct hearings;
 - f. Rule on the admissibility of all evidence;
 - g. Question witnesses; and
 - h. Make proposed findings of facts and conclusions of law to the OMES Director.
 7. **Remedies.** The Administrative Law Judge may recommend that the OMES Director deny the supplier's appeal or that the contract award be cancelled and rebid.
 - f. **Supplier appeal of OMES Director decision to deny appeal.** If the OMES Director denies a supplier's appeal, the supplier may appeal pursuant to provisions of [75 O.S. §§ 309](#).
2. An agency making an acquisition pursuant to [74 O.S. §85.5\(N\)](#) shall conduct all actions and bear all costs associated with the protest or appeal of a contract award.

260:115-3-21. Supplier suspension and debarment

1. **Cause for suspension.** The State Purchasing Director may suspend a supplier in accordance with this section. The State Purchasing Director may serve upon the supplier a notice to show cause why the supplier should not be suspended. For the purposes of this section, "State Purchasing Director" does

not include personnel of state agencies to whom the State Purchasing Director has delegated authority. Cause for suspension shall be any of the following reasons:

- a. a supplier fails to post or allows to expire a bid bond, performance bond, or surety bond, required in connection with an acquisition;
 - b. a supplier fails to perform pursuant to the contract;
 - c. a supplier provides acquisitions that fail to meet the requirements of the contract;
 - d. a supplier fails to deliver an acquisition pursuant to the contract;
 - e. a supplier fails to timely replace at the supplier's expense acquisitions that fail to meet the requirements of the contract or that have latent defects;
 - f. a supplier provides the State Purchasing Director with false, misleading, inaccurate, materially deficient or incomplete information on a bidder registration form;
 - g. a supplier fails to keep a bid firm, for the period specified, after the solicitation closing date;
 - h. a supplier fails to resolve a dispute with a state agency;
 - i. a supplier fails to resolve a dispute with a state agency;
 - j. upon the final decision by the appropriate regulatory authority or court of competent jurisdiction that a supplier engaged in discriminatory practices;
 - k. a supplier misrepresents, fails to provide, or allows to expire a professional certification required in connection with an acquisition;
 - l. a supplier colludes with other suppliers to restrain competitive bidding;
 - m. a supplier provides a state employee with a kickback;
 - n. the State Purchasing Director determines, in his or her sole discretion, that a supplier is no longer responsible or qualified to do business with the State of Oklahoma;
 - o. a supplier violates any provision of the Oklahoma Central Purchasing Act;
 - p. any other reason the State Purchasing Director determines appropriate; or
 - q. violation of applicable procurement ethics rules or laws.
- 2. Suspension notice.** The State Purchasing Director shall send written notice of suspension to a supplier within five (5) business days of the State Purchasing Director's determination. The notice shall designate the suspension period, which shall begin three (3) business days from the date of the notice and shall expire no later than the end of the period specified in the notice.
- 3. Supplier's suspension appeal.** A supplier may appeal a suspension in writing to the State Purchasing Director within five (5) business days of receipt of the suspension notice; however, the supplier shall be suspended pending a determination of the appeal. The State Purchasing Director shall affirm or deny the appeal in writing to the supplier.
- a. If the State Purchasing Director affirms the supplier's appeal, the State Purchasing Director shall reinstate the supplier to the Supplier List.
 - b. If the State Purchasing Director denies the supplier's appeal, the supplier may appeal the denial to the OMES Director pursuant to [75 O.S. § 309](#) and the provisions of [260:115-3-19](#); however, the supplier shall be suspended pending a determination of the appeal.
- 4. Supplier request for reinstatement.** A suspended supplier may request reinstatement from the State Purchasing Director prior to the end of the supplier's suspension period. The State Purchasing Director may consider reinstating the supplier upon submission by the supplier of documents that indicate a change of conditions.
- 5. Supplier reinstatement.** If the State Purchasing Director reasonably believes that the supplier demonstrates the ability to satisfy requirements for performance of state contracts, the State Purchasing Director shall send written notice of reinstatement to the supplier.
- 6. Cause for debarment.** The State Purchasing Director may debar a supplier resulting in revocation of the supplier being included on the Supplier List, ineligible to submit bids in connection with an acquisition and ineligibility to be awarded a contract by a state agency subject to the Central Purchasing Act and cancellation of any or all existing contracts with the State of Oklahoma. The State Purchasing Director may serve upon the supplier a notice to show cause why the supplier should not be debarred. For the purposes of this section, "State Purchasing Director" does not include employees of state

agencies to whom the State Purchasing Director has delegated authority. The debarment shall be for a period of no more than three (3) years. Debarment shall be for any of the following reasons:

- a. conviction of an individual or business entity guilty of a felony involving fraud, bribery or corruption;
 - b. conviction of an individual or business entity of a misdemeanor involving a gift, donation or gratuity an individual or business entity gives to an official of the Office of Management and Enterprise Services, an immediate family member of an official of the Office of Management and Enterprise Services, or any state employee or agent of the State Purchasing Director, acting within the scope of delegated authority;
 - c. conviction of an individual or business entity of a felony involving the Anti-Kickback Act of 1974; or
 - d. debarment by federal government entities.
7. **Debarment considerations.** The State Purchasing Director shall consider factors of this subsection when considering debarment of a supplier.
- a. **Disassociation.** The efforts, if any, of the supplier, to disassociate itself from individuals and business entities responsible for convictions.
 - b. **Imputed business entity.** Conviction of an individual, affiliate or associate a business entity employs may impute the business entity.
 - c. **Imputed individual.** Conviction of a business entity may impute an individual, affiliate or associate of the business entity.
 - d. **Time period.** The period of time during which the acts leading to conviction of the individual or business entity occur.
 - e. **Failure to respond to inquiries.** Failure of the individual or business entity to respond to inquiries by the State Purchasing Director regarding factors that may lead to debarment.
 - f. **Other factors.** Any other factors regarding the supplier that the State Purchasing Director determines appropriate.
8. **State Purchasing Director options.** Upon review and consideration of factors relevant to the proposed debarment of a supplier, the State Purchasing Director shall take one of the following actions and provide written notice of the action to the supplier:
- a. **Decline to debar.** Decline to debar the supplier;
 - b. **Suspension.** Suspend the supplier as the State Purchasing Director determines appropriate;
 - c. **Debarment.** Debar the supplier for a period that shall begin three (3) business days from the date of the final order of debarment and expire no later than the end of the period specified in the order.
9. **Reinstatement after debarment.** A debarred supplier may submit a written request for reinstatement to the State Purchasing Director. The State Purchasing Director shall consider information provided to determine whether reinstatement is merited and shall provide written notice of the reinstatement approval or denial.
10. **Supplier appeal of State Purchasing Director's action.** A supplier may appeal a debarment or a denial of reinstatement by the State Purchasing Director to the OMES Director within ten (10) business days of receipt of the debarment notice or the denial of reinstatement notice pursuant to [75 O.S. § 309](#) and the provisions of [260:115-3-19](#).

260:115-5-3. Certified Procurement Officers (CPO)

1. **Duties.** A CPO shall provide assistance and oversight to a state agency to ensure acquisition processes meet the requirements of the Oklahoma Central Purchasing Act, applicable rules, other statutory provisions and the state agency's internal purchasing procedures.
2. **Decertification.** The State Purchasing Director may require retraining of, suspend and/or revoke certification of a CPO if the State Purchasing Director reasonably believes the CPO did not make state agency acquisitions pursuant to the Oklahoma Central Purchasing Act, applicable rules, other statutory provisions, or the state agency's internal purchasing procedures.
3. **Continuing education.** To maintain certification, a CPO shall attend continuing education as required by the State Purchasing Director. Continuing education courses must be related to procurement

practices and approved in advance for CPO education credit by the State Purchasing Director. The State Purchasing Director shall establish a policy relating to how often courses may be repeated to qualify for continuing education credit.

- a. A CPO shall submit required documentation verifying continuing education course attendance to the State Purchasing Director. The burden of proof rests solely upon the CPO to demonstrate, in advance of taking a course and to the satisfaction of the State Purchasing Director, that all continuing education courses reported meet all of the requirements as to content and subject matter related to procurement practices.
 - b. A CPO may claim continuing education credit only for the compliance period in which the course was completed and credit granted.
 - c. Failure by a CPO to complete required continuing education within the allowed time period will result in suspension of the CPO's purchasing authority.
 - d. A suspended CPO must repeat the CPO certification course and demonstrate proficiency in procurement practices by passing the CPO prescribed certification examination in order to be reinstated and restore purchasing authority. State Purchasing Director approval is required prior to a suspended CPO repeating the CPO certification course.
 - e. In the event of extenuating circumstances, a CPO may submit a written request to the State Purchasing Director for reinstatement and an extension of time to allow the CPO to fulfill required continuing education credits. The State Purchasing Director may approve the request for a reinstatement period not to exceed three (3) months to provide time to fulfill education credits.
4. **Change in status.** A CPO or the state agency employing such CPO shall immediately notify the State Purchasing Director when the CPO:
- a. is no longer performing as a CPO;
 - b. transfers to another state agency; or
 - c. terminate employment with the state.

260:115-5-7. State agency purchasing procedures

1. **Development.** In addition to statutory requirements and requirements set forth elsewhere in these purchasing or other applicable procurement rules, a state agency's internal purchasing procedures must also include the method whereby an unsuccessful bidder may protest a contract award, provisions for procurement policies under statutorily applicable emergency events, purchase card procedures and other information required by the State Purchasing Director. Internal purchasing procedures are not effective until approved.
2. **Notice of approval or denial to state agency.** After submission by a state agency of its proposed internal purchasing procedures, the State Purchasing Director shall notify the state agency of approval or indicate revisions necessary to bring the procedures into compliance.
3. **State agency resubmission following disapproval.** The state agency shall resubmit its proposed internal purchasing procedures until the procedures are approved.
4. **Purchasing procedure review.** State agency internal purchasing procedures shall be reviewed by the state agency as needed, but at least annually. If a state agency desires to amend the state agency's internal purchasing procedures, the state agency shall submit the proposed new procedures in entirety to the State Purchasing Director for approval and, in any event, submit updated internal purchasing procedures to the State Purchasing Director for approval every two (2) years.
5. **State agency Purchase Card (P/Card) procedures.** A state agency shall amend its internal purchasing procedures to include the agency's Purchase Card (P/Card) procedures within six (6) months of completing the P/Card Program implementation process through OMES and submit the internal purchasing procedures to the State Purchasing Director. The P/Card procedures shall include provisions for procurement policies under statutorily applicable emergency events and the state agency's approved food policy and must specify the process established by the agency to ensure a PCard held by a terminated or separated employee or an employee who no longer has a job function requiring a P/Card, is promptly surrendered to the State Agency P/Card Administrator.

260:115-5-9. Retention of state agency acquisition records

A state agency shall retain all records relative to acquisitions and contracts in a reasonably accessible location and make such records available to the State Purchasing Director for review and OMES audit staff for audit purposes. Such records shall include but are not limited to justification for the acquisition, supporting documents, related information, contract, evaluations, protest information, performance information and written reports. The retention period for such records is for the duration of the contract term and for a period of seven (7) years following completion of performance and/or termination of the acquisition, provided all audits have been completed, all applicable audit reports have been accepted and resolved by all applicable federal and state agencies, and provided no legal action is pending. If an audit, litigation, or other action involving such records is started before the end of the seven (7) year period, the records shall be maintained for two (2) years from the date all issues arising from the audit, litigation or action are resolved or until the end of the seven (7) year retention period, whichever is later. The Purchasing Division shall retain records for acquisition it processes on behalf of an agency for the same retention period.

260:115-5-11. State agency requisitions to OMES Purchasing Division

A state agency shall submit a requisition to the OMES Purchasing Division whenever:

1. the agency does not have a CPO and/or approved internal purchasing procedures pursuant to the requirements of [260:115-5-3](#) and [260:115-5-7](#) and an acquisition exceeds Twenty-Five Thousand Dollars (\$25,000.00);
2. the agency's acquisition authority has been reduced by the State Purchasing Director and the acquisition exceeds the dollar amount of the reduced acquisition authority;
3. an acquisition exceeds the state agency's acquisition authority or
4. a change order for a state agency acquisition would increase the total contract dollar amount above the agency's acquisition authority.

260:115-5-13. Authorized signatures for state agency procurement

1. State agencies shall provide the State Purchasing Director with a current Authorized Signature Form. The form shall be dated and identify the name, title, and signature of those individuals designated by the appointing authority to sign and approve requisitions, sole source certifications change order requests, and surplus property transactions that may be submitted to the State Purchasing Director. To notify the State Purchasing Director a designation no longer exists, the form shall be dated and identify the name and title of those individuals who are no longer designated to sign and approve requisitions, sole source certifications, change order requests and surplus property transactions. The State Agency shall submit an updated form to the State Purchasing Director within 30 days of any change in the authorized signatures.
2. State agencies shall also maintain a list of individuals authorized to sign and approve requisitions, sole source certifications, change order requests, and purchase orders for acquisitions within the agency's approved acquisition authority. The list shall include the name, title, and signature of each individual, the effective date of their signature authorization and ending date of the authorization, when applicable. The agency shall maintain a file of the signature authority lists in the location of the agency's centralized procurement records, and shall be available to the State Purchasing Director, upon request.

260:115-5-15. Agency savings reporting

On September 1 of each year, the chief administrative officer of each state agency shall submit an electronic report to the State Purchasing Director listing savings realized by the agency in the previous

fiscal year through the application of best spend practices. The September 1st date is within the State Purchasing Director's discretion to change. If such date is changed, the State Purchasing Director shall provide state agencies with advance written notice six months prior to the new date the electronic reports are due. The State Purchasing Director will define the report content required to collect savings data from state agencies, which will include but may not be limited to:

1. total spend by commodity classification; and
2. participation in mandatory statewide contracts.

260:115-5-17. Ratification of an unauthorized commitment

If a state agency makes an unauthorized commitment on behalf of the state to a supplier, the state may, if in the best interest of the state, ratify the commitment.

1. **State agency actions.** The chief administrative officer of the state agency shall approve or disapprove a request for ratification of an unauthorized commitment.
 - a. **Chief administrative officer approves request.** If the chief administrative officer approves the request, the state agency shall perform steps as follows:
 1. The state agency shall negotiate a proposal for a ratification agreement with the supplier.
 2. The chief administrative officer shall document facts and circumstances of the unauthorized commitment.
 3. The chief administrative officer shall sign the proposed ratification agreement.
 4. The chief administrative officer shall provide a copy of the ratification agreement and, upon request, the supporting documents to the State Purchasing Director.
 - b. **Chief administrative officer disapproves request.** If the chief administrative officer disapproves the request, the state agency shall retain documents from the supplier and the state agency.
2. **State Purchasing Director actions.** The State Purchasing Director shall retain a copy of the ratification agreement.

260:115-5-19. Audits of state agencies

1. **Audit notification.** In connection with the State Purchasing Director's audit responsibilities, a state agency shall be provided written advance notice of all scheduled audits.
2. **State agency responsibilities.**
 - a. The state agency shall provide appropriate work space and use of office machines, as needed, for the audit team.
 - b. The state agency shall promptly provide records for acquisitions for the audit period.
 - c. The state agency shall make the state agency's relevant staff available to assist the audit team.
3. **Audit following reduction of state agency acquisition authority.** If the State Purchasing Director reduces the acquisition authority of a state agency, the Audit Team shall periodically audit the state agency's acquisitions in order to review the agency's efforts to correct the cause of the reduced authority.

260:115-5-21. Procedures for state agency privatization contracts

A state agency desiring to contract to privatize a function, program, service, unit or division valued at One Million Dollars (\$1,000,000.00) or more shall be subject to the Oklahoma Privatization of State Functions Act [Reference [74 O.S. §§588.1 et seq](#)] and the privatization contract procedures established by the State Purchasing Director.

260:115-7-3. State agency acquisitions

1. **State Use Committee.** State Use Committee contracts are mandatory contracts provided the conditions of 74 O.S. §3007(A) are satisfied. If an acquisition is available from both the State Use Committee procurement schedule and the Oklahoma Correctional Industries, the state agency shall make the acquisition from the State Use Committee procurement schedule. 74 O.S. §3001 et seq.
2. **Oklahoma Correctional Industries.** If an acquisition is not available from the State Use Committee, pursuant to 74 O.S. §3007(A) state agencies shall make acquisitions from the Oklahoma Correctional Industries ("OCI") provided the conditions of 57 O.S. §549.1 are satisfied. If OCI is unable to meet state agency requirements for an acquisition even though the acquisition is listed in its distributed catalog or on its website, OCI shall certify to the State Purchasing Director that it is not able to provide the acquisition.
3. **Statewide Contracts.** The State Purchasing Director shall designate statewide contracts as mandatory or non-mandatory.
 - a. **Mandatory statewide contract.** The State Purchasing Director may designate a statewide contract for mandatory use. State agencies shall make acquisitions from mandatory statewide contracts regardless of the acquisition purchase price unless the State Purchasing Director provides prior written approval of an acquisition from another supplier. A state agency may submit a written request to the State Purchasing Director to waive requirements for a state agency's use of a mandatory statewide contract for acquisitions. The State Purchasing Director shall grant exceptions prior to a state agency making the acquisition from another supplier.
 - b. **Non-mandatory statewide contracts.** State agencies are encouraged to use non- mandatory statewide contracts. Whenever a state agency acquires a product or service from an alternate source, the acquisition shall be made in accordance with the Central Purchasing Act, the rules of this chapter and any other laws and rules applicable to the acquisition.
4. **Open Market Acquisitions.** State agencies may make acquisitions within their approved acquisition authority limit, pursuant to provisions of the Oklahoma Central Purchasing Act, rules of this Chapter, any other applicable laws or rules, and the agency's approved internal purchasing procedures.
5. **Acquisitions from other governmental agencies.** Although a state agency may contract with another department of state government or institution in certain instances pursuant to 74 O.S. §581 or §1001 through §1008, acquisition shall not be made under any such contract with the intent of evading provisions of the Oklahoma Central Purchasing Act, rules of the Purchasing Division or provisions related to the State Use Committee.
6. **Competitively Bid Acquisitions.**
 - a. **Sealed Bids.** A competitive sealed bid process shall be utilized as required by state law and rules of this Chapter or when it is determined by the acquiring agency to be in the best interest of the state. Competitive sealed bids shall be required for all solicitations.
 - b. **Bid contents and solicitation amendment.** The procurement documents shall indicate specifications of the acquisition, all information to be submitted with a bid and may reference

manufacturer names, product names, or other product references as specifications to describe the type or quality of the acquisition. If a solicitation is amended, notice shall be provided online.

- c. Supplier notification.** 1The State Purchasing Director will use reasonable efforts to notify suppliers recommended by a state agency for a solicitation.
 - d. Limited contact.** All communication between potential bidders and staff of the acquiring agency related to a solicitation shall:
 1. be limited to the acquiring agency's designated procurement personnel;
 2. strictly prohibited from any other acquiring agency personnel, unless otherwise stated in the instructions to bidders; and,
 3. be documented in writing and filed in the acquisition file.
 - e. Evaluation method.** Bidder instructions in connection with a solicitation shall clearly identify the evaluation method as lowest and best or best value and applicable evaluation criteria.
 - f. Terms and conditions.** All state terms and conditions for the acquisition shall be included in the procurement documents.
 - g. Other rights and remedies.** Actions of the State Purchasing Director shall not limit the rights or remedies of a state agency.
 - h. Rejection of bids.** In addition to reasons outlined in [260:115-7-32](#), if determined to be in the best interest of the State of Oklahoma, any or all bids or proposals may be rejected and a solicitation may be reissued or canceled.
 - i. Pre-bid conference.** Bidder instructions may state that a pre-bid conference will be held and shall state whether bidder attendance is mandatory or non-mandatory.
 - j. Closing date and time.** Instructions to bidders shall include the bid response due date and time. In the event it is determined that a significant error or event occurred that affected the receipt of a bid, the State Purchasing Director may authorize acceptance of a bid after the specified official closing date and time. Failure of the bidder's computer or electronic equipment or service is not an acceptable event.
 - k. Bid receipt.** Upon receipt, the outside of all envelopes or containers shall be clearly marked with the receipt date and time. Electronic submission of bids must be submitted in such a manner that the time and date of submission is electronically linked to the bid and cannot be changed.
- 7. Agency acquisitions over \$25,000.00 and not exceeding an agency acquisition threshold amount.**
- a. Basic requirements.** State agencies that have an internal or statutorily designated CPO and approved internal purchasing procedures pursuant to the requirements of [260:115-5-3](#) and [260:115-5-7](#) shall make acquisitions exceeding \$25,000.00 but not exceeding the agency's approved acquisition threshold amount and make all acquisitions pursuant to all applicable requirements of the Purchasing Act, any other applicable state laws and rules and by means of a formal method of competitive solicitation utilizing a sealed bid process.
 - b. Certifications, verifications and other required documents.**
 - 1. Non-collusion certification.** Pursuant to requirements in [74 O.S. §85.22](#), a non-collusion certification shall be included with any competitive bid and/or contract submitted to the State for an acquisition. The certification shall have an authorized signature of the supplier certifying the non-collusion statement with full knowledge and acceptance of all its provisions.
 - 2. Certifications for services contracts.** Additional documents required to be included in contracts for professional or nonprofessional services include:
 - a.** If the final product of a professional services contract is a written proposal, report or study, the supplier shall include a statement certifying that the supplier has not previously provided a substantial duplication of the final product to the state agency or another state agency. [Reference [74 O.S. §85.41](#)]
 - b.** Each contract for services shall include a statement certifying that no person who has been involved in any manner in the development of that contract while employed by the State of

Oklahoma shall be employed to fulfill any of the services provided for under said contract.
[Reference [74 O.S. §85.42](#)]

3. **Bonds and sureties.** Bidders may be required to submit a bid bond, performance bond, or other type of approved surety with the bid.
 - a. **Form of bond.** The bid bond, performance bond or other type of surety shall be subject to the approval of the acquiring state agency. For bonds requiring a cash deposit, the amount specified by the acquiring state agency shall be paid by certified check or cashiers check.
 - b. **Irrevocable letter of credit.** In lieu of bonds specified in this subsection, the acquiring state agency may approve submission of an irrevocable letter of credit.
 - c. **Bond or surety return.** When the acquiring state agency specifies a bid contain a bid bond, performance bond, or other type of surety, the state agency shall retain the bond or surety until the successful completion of the purpose for which the bond or surety was drawn.
4. **Verification of registration and status with Secretary of State.** Prior to the award of a contract, the acquiring state agency must verify, pursuant to applicable provisions of law, that the supplier is registered with the Secretary of State and franchise tax payment status pursuant to 68 O.S. [§1203](#) and [§ 1204](#). Documentation of verification of registration and status with the Secretary of State must include, at a minimum, a copy of the entity summary information from the Secretary of State's website or the supplier's statement providing specific details supporting the exemption claimed, must be filed in the acquisition file.
 - c. **State agency acquisitions processed by the OMES Purchasing Division.** A state agency submitting requisitions to the OMES Purchasing Division for issuance of a solicitation shall comply with this section. For the purposes of this section, "State Purchasing Director" does not include personnel of state agencies to whom the State Purchasing Director has delegated authority.
 1. **Forms.** State agencies shall use forms and the process for requisitions provided or approved by the State Purchasing Director.
 2. **Evaluation criteria and evaluators.** Prior to issuance of the solicitation, an agency shall identify and provide contact information for the bid evaluators and written criteria necessary to evaluate a responsive bid such as technical scope, cost, experience, references etc.
 3. **Requisition acceptance or rejection.** The State Purchasing Director shall accept or reject a state agency's requisition. The State Purchasing Director shall notify the state agency if the State Purchasing Director rejects a requisition. The State Purchasing Director may also require a state agency to submit additional information with a requisition.
 4. **Competitive bid award.** The State Purchasing Director shall award a contract resulting from the solicitation to the responsible bidder(s) that provides the lowest and best, or best value bid, as applicable.
8. **Trade-ins.** State agencies may trade in items when they make an acquisition of a like item. The state agency shall determine fair market value for the trade-in item and receive that amount or more as credit on the purchase price of the acquisition. Written documentation of the fair market value analysis shall be filed in the acquisition file by the state agency. The state agency may seek advice from the State Purchasing Director to determine fair market value of the trade-in.
9. **Recycled materials.** State agencies shall procure products or materials with recycled content as stated in the Oklahoma State Recycling and Recycled Material Procurement Act, when such products or materials are available and practical. Upon request, the State Purchasing Director shall supply information regarding acquisitions that contain recycled materials to a state agency.

260:115-7-32. Bid evaluation and contract negotiation and award

1. **Evaluation criteria and documentation.** The evaluation criteria used shall be consistent with the evaluation criteria communicated to potential bidders. Evaluation of the bids shall be documented and filed in the acquisition file and, whether the criteria is based on the lowest and best bid or best value, the criteria shall be consistent with criteria specified in the Purchasing Act.

2. **Prohibited disclosure.** The decision regarding supplier evaluation or recommendation for award shall not be announced in any public manner or forum, including board meetings, until the contract has been awarded.
3. **Public inspection.** The evaluation documentation shall be open for public inspection following contract award.
4. **Bid clarification.** Clarification may be requested from a bidder regarding the bidder's bid. The clarification shall not alter or supplement the bid.
5. **Past performance.** Bidder performance on previous contract awards may be considered in the evaluation.
6. **Reasons for bid rejection.** The acquisition file shall be documented if a bid is non-responsive. Unless a bid minor deficiency may be cured pursuant to this rule or other guidance or directive of the State

Purchasing Director, a bid may be rejected as non-responsive, or a bid from a bidder who is not responsible may be rejected, for reasons including, but not limited to reasons listed in this section:

a. Non-responsive bid.

1. **Terms and conditions.** A bid that does not meet the terms and conditions of the solicitation may be considered non-responsive.
2. **Forms use.** A bid that does not contain forms or other information the solicitation specifies may be considered non-responsive.
3. **Incomplete forms.** If forms required by the solicitation do not contain complete information, the bid may be considered non-responsive.
4. **Form entries improper.** If information provided in the solicitation documents is not legible, typewritten or printed, or submitted in the electronic format specified in the solicitation, the bid may be considered non-responsive.
5. **Improper alterations.** If alterations do not bear the initials of the person making the alteration, the bid may be considered non-responsive.
6. **Use of unauthorized signature.** If a signature on a form is not an authorized signature pursuant to state laws and the rules of this chapter, the bid may be considered non-responsive.
7. **Absence of notary seal.** If forms do not contain a notary seal where forms indicate or otherwise comply with the manner of notarization prescribed for the bidding supplier's state of residence, the bid may be considered non-responsive.
8. **Bid does not contain bid bond or other surety.** If a bidder fails to include a bid bond or other surety specified as a requirement by a solicitation, the bid may be considered non-responsive.
9. **Bid does not contain samples.** If a solicitation specifies that the bid shall contain samples and the bid does not contain samples, the bid shall be considered non-responsive.
10. **Items not suitable for intended use.** If a bid does not offer items suitable for the intended use of the items, the bid shall be considered non-responsive.
11. **Pricing.** If bid pricing does not meet requirements of a solicitation, the bid may be considered non-responsive.
12. **Bid fails to acknowledge solicitation amendment.** If a bid fails to acknowledge an amendment the State Purchasing Director issues to a solicitation, the bid may be considered non-responsive.
13. **One bid from multiple suppliers.** One bid from multiple suppliers that does not designate a prime contractor shall be considered non-responsive.
14. **Additional supplier terms and conditions.** If a supplier adds terms and conditions to an acquisition that are contrary to the laws of Oklahoma the bid may be considered non-responsive.
15. **Signatures on solicitation documents.** If an authorized signature is omitted from any solicitation document that requires an authorized signature, the bid may be considered non-responsive.

b. Bidder not responsible.

1. **Failure to provide required information.** If a bid does not include required information relating to responsibility, or the State Purchasing Director determines a bidder is not responsible, the bid may be rejected.
 2. **Proof of insurance.** Whenever applicable, if a bidder is unable to provide proof of workers' compensation insurance or an alternative or exemption as authorized by state law, the bidder may be found not responsible.
 3. **Past performance.** If the State Purchasing Director has received performance complaints on a supplier, the supplier may be found not responsible.
7. **Other factors in determination of bid responsiveness.** A minor deficiency in a bid may be waived or cured if the acquiring agency determines the deficiency does not prejudice the rights of other bidders, if there is sufficient time prior to contract award in which to cure the deficiency or is not a cause for bid rejection. A minor deficiency does not affect the price, quantity, quality, delivery or conformance to

specifications and is negligible in comparison to the total cost or scope of the acquisition. For illustrative purposes, examples are:

- a. failure to have an authorized signature;
- b. failure to obtain a notary signature, stamp or seal;
- c. failure to sign or initial amendments to bid.

8. Contract Negotiation. Any negotiations shall be conducted by the agency with authority to make the acquisition and may be conducted with one or more suppliers.

9. Negotiation team.

- a. A state agency may request assistance from the State Purchasing Director when conducting negotiations, which may include a request for the designation of a negotiator or negotiation team.
- b. The State Purchasing Director or designee shall serve as the lead negotiator when negotiations are being conducted for solicitations issued by the OMES Purchasing Division.

10. Negotiation process. As applicable, the negotiation process shall be conducted as follows:

- a. The lead negotiator shall notify suppliers of the date and time for negotiations.
- b. The lead negotiator shall request the supplier provide a list of the individuals who will attend the negotiation and who have full authority to bind the supplier in the negotiation process.
- c. The lead negotiator shall determine the location and manner of negotiation.
- d. The negotiation team shall develop an agenda with the lead negotiator and submit the agenda to all participants of the negotiation process. The agenda shall set forth the key areas in the solicitation, which require negotiation.
- e. The lead negotiator may require suppliers to submit a best and final offer.
- f. The lead negotiator shall prepare a summary that shall document the following:
 - 1. an overview setting forth the solicitation number, names and titles of participants, description of the solicitation, date and location of the negotiation, and purpose of the negotiation; and
 - 2. a summary of the results of the negotiation, specifically stating what is the basis of the final agreement.
 - 3. A summary created under these rules shall become a part of the acquisition file retained.

11. Terms. The following applies to the terms of a state contract:

- a. If an acquisition includes copyrights, patents or intellectual property rights pursuant to federal law, the solicitation shall request conditions of use for the acquisition. Except as otherwise provided by 70 O.S. §3206.3 and 74 O.S. §1365, any patented property or copyrighted material developed by contracts subject to the Central Purchasing Act, shall be the property of the State of Oklahoma under the sole management of the Office of Management and Enterprise Services.
- b. No alterations or variations of the terms of the contract shall be valid or binding upon the state, unless made in writing and accepted by the agency with authority to make the acquisition.
- c. A contract shall not contain a term obligating the state or a specific acquiring agency to:
 - 1. defend, indemnify or hold harmless another person or entity;
 - 2. be bound by terms and conditions unknown at the time of signing such contract, not specifically attached to the contract but only found included in embedded links or which may be unilaterally changed by the other party;
 - 3. any venue other than Oklahoma County, Oklahoma;
 - 4. construe the contract in accordance with any laws other than the law of the state of Oklahoma;
 - 5. binding arbitration;
 - 6. a person other than the state Attorney General to defend or represent the state;
 - 7. automatic renewal such that state funds would be obligated in a subsequent fiscal year;
 - 8. a default remedy assessed against the state including but not limited to liquidated damages; or
 - 9. payment or reimbursement of taxes;
- d. Any prohibited term included in a contract shall be void and the contract shall be otherwise enforceable as if it did not contain such term. Should the inclusion of any prohibited term result in

amounts erroneously paid by the state, the supplier will immediately reimburse such amount upon request by the state.

- 12. Time of award.** The contract award shall not be made at the time of a bid opening but shall be made upon completion of the following:
 - a. bid evaluation;
 - b. documentation of evaluation on each bid;
 - c. determination of the lowest and best or best value bidder;
 - d. verification of Oklahoma and Federal debarment status;
 - e. verification, pursuant to applicable provisions of law, that the supplier is registered with the Secretary of State and franchise tax payment status pursuant to 68 O.S. §1203 and § 1204;
 - f. coordination of award with the requisitioning state agency, if applicable; and
 - g. completion of any award-related administrative tasks.
- 13. Award by item.** If the procurement documents do not specify an all or none bid, more than one bidder may be awarded a contract by item or groups of items.
- 14. No contract award.** A contract may not be awarded when:
 - a. no bid meets the requirements of the solicitation.
 - b. all bids exceed fair market value for the acquisition.
 - c. the bid price exceeds available state agency funds.
 - d. the state agency no longer requires the acquisition in the form or manner specified.
 - e. not awarding the contract is determined to be in the best interest of the state.
- 15. Evaluation tie.** Whenever it is determined that two or more bids are equal, the successful bid shall be determined by a coin toss.
- 16. Notification of successful bidder.** The successful bidder shall be notified within a reasonable time after determination of the contract award.

260:115-7-46. State travel

The State Travel Office is within the Central Purchasing Division and awards contracts for travel and travel services. State agencies shall make travel arrangements through the statewide travel supplier for commercial air travel for state employees in the course of official duties or for persons traveling at state expense.

- 1. State agency travel coordinator.** The State Purchasing Director encourages state agencies to appoint one or more travel arrangers. The arrangers shall book air travel for the state agency except in case of an emergency. If the state agency appoints a travel arrangers, the state agency shall notify the Travel Office and provide the arranger's name, mailing address, telephone number, and email address.
- 2. Airline ticket purchases exceptions.** The state agency shall determine when an exception to airline ticket purchase shall apply. The state agency shall retain documents the state agency used in exception determination as required by internal purchasing procedures established pursuant to [260:115-5-7](#). Exception documentation shall be made available per the State of Oklahoma Policy and Procedures for Purchase Card and Online Booking Tool.
 - a. If the state agency can acquire air travel at less cost than the contract travel agency, the state agency may use this exception.
 - b. If air travel originates outside the state and it is impractical for the state agency, the state agency may use this exception.
 - c. If air travel is due to an emergency and time does not permit use of the contract travel agency, the state agency may use this exception.
 - d. If air travel is part of a package arrangement by an organization that schedules a meeting or conference, the state agency may use this exception.

3. **State agency credit card for airline travel.** A state agency that acquires a purchase card to book and pay for official airline travel shall complete mandatory training as required by the Office of Management and Enterprise Services and comply with all State Purchase Card procedures issued by OMES.

260:115-7-54. Accessible information and communication technology (ICT) acquisitions

1. Procurement.

- a. To ensure accessibility of information technology for individuals with disabilities pursuant to [62 O.S. §34.28](#), procurement of information technology shall be subject to the Oklahoma Information and Communication Technology (ICT) Accessibility Standards (link: <https://omes.ok.gov/services/information-services/accessibility-standards#standards>) prescribed by the Office of Management and Enterprise Services and maintained by the Information Services Division.
- b. When developing, procuring, maintaining or using information technology, or when administering contracts or grants that include the procurement, development upgrading, or replacement of information technology each state agency shall ensure, unless an undue burden would be imposed on the agency, that the information technology allows employees, program participants, and members of the general public access to use of information and data that is comparable to the access by individuals without disabilities. [[62 O.S. §34.28\(B\)](#)] When used in this section, “state agency” includes all agencies defined in [62 O.S. §34.29](#).
- c. Unless an exception applies, an agency must procure a product or service that best meets the business needs of the agency and the applicable ICT Accessibility Standards.
 1. Accessibility determination must be conducted as part of the acquisition evaluation.
 2. Accessibility must be considered among the general, technical and functional requirements of the procurement specifications. At a minimum, it must be accomplished through review of vendor provided information submitted in the form of a Voluntary Product Accessibility Template (VPAT) or comparable document with judgments made regarding degree of conformance to the ICT Accessibility Standards.
 3. The relative accessibility weighting may be adjusted for due cause based on the specific procurement.
 4. When acquiring a product, an agency shall acquire products that comply with applicable ICT Accessibility Standards when such products are available in the commercial marketplace or when such products are developed in response to an agency solicitation. Agencies cannot claim a product, as a whole is not commercially available by stating no product in the marketplace meets all of the ICT Accessibility Standards. Instead, an agency must identify commercial, off-the-shelf products that best meet the general, technical and functional requirements as defined by the agency. Once those products have been identified, the agency should purchase the product that is the most accessibility compliant.

2. Contract clauses.

- a. All solicitations and contracts for information technology shall include the accessibility clause adopted by the Information Services Division pursuant to [62 O.S. §34.28](#).
- b. The ICT Accessibility Standards shall be published on the OMES website.
- c. A supplier shall provide a written certification, signed by an authorized officer of the supplier, describing the extent to which the product or service complies with applicable ICT Accessibility standards required by such contracts or solicitations prior to the expenditure of state funds. An agency may also utilize a VPAT published on a supplier's primary website. A VPAT obtained from a supplier website shall be good for a one-year period.

3. Exceptions. Exceptions to compliance with ICT Accessibility Standards include:

- a. information technology operated by state departments or agencies, the function, operation or use of which involves intelligence activities, crypto logic activities related to public safety, command and control of law enforcement, equipment that is an integral part of a weapon or weapons system or

systems which are critical to the direct fulfillment of public safety or intelligence missions. Systems which are critical to the direct fulfillment of public safety or intelligence missions do not include a system that is to be used for routine administrative and business applications (including payroll, finance, logistics and personnel management applications);

- b. information technology acquired by a contractor or grantee incidental to a contract or grant, provided the technology does not become State property upon the completion of the contract;
 - c. information technology located in spaces frequented only by service personnel for maintenance, repair or occasional monitoring of equipment;
 - d. information technology requiring a fundamental alteration in the nature of a product or its components to achieve accessibility;
 - e. Except as required to comply with the ICT Accessibility Standards, state departments and agencies are not required to install specific accessibility-related software or attach an assistive technology device to information technology products unless required by other applicable State or Federal laws;
 - f. When state agencies provide public access to information or data through information technology, agencies are not required to make products owned by the agency available for access and use by individuals with disabilities at a location other than where the information technology is provided to the public, or to purchase products for access and use by individuals with disabilities at a location other than where the information technology is provided to the public;
 - g. information technology that would impose an undue burden on the agency.
4. **Documentation of exceptions.** Whenever an agency determines that an acquisition exceeding \$5,000.00 meets the criteria of a general exception or undue burden, the agency shall document the explanation of why, and to what extent, compliance with applicable ICT Accessibility Standards meets an exception or creates an undue burden on the agency. Agencies are encouraged but not required to maintain documentation for commercial off-the-shelf acquisitions of \$5,000.00 or less unless the purchase is part of an existing contract or affects a larger EIT system where accessibility is critical.
- a. The explanation shall be documented on a form prescribed by the Information Services Division and signed by the chief administrative officer of the agency or an employee of the agency to which responsibility for accessibility compliance has been delegated.
 - b. The documentation shall be retained in the acquisition file to support the procurement.
5. **Alternative means of access.** When compliance with ICT Accessibility Standards imposes an undue burden, agencies shall provide individuals with disabilities the information and data involved by an alternative means of access that allows an individual to use the information and data in accordance with other applicable State and Federal laws such as Title I and Title II of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act.

260:115-9-1. Contract performance, payment, disputes and termination

1. **Delivery.** A supplier shall deliver acquisitions to a state agency within time periods the contract specifies.
2. **Inspection and payment.** A state agency must establish quality assurance procedures that ensure timely and thorough inspection of acquisitions delivered to the agency. The state agency in receipt of an acquisition shall inspect the acquisition within a reasonable time after supplier delivery. The state agency shall not pay for acquisitions a supplier has yet to deliver, unless otherwise authorized by law or administrative rule. State agency payment to a supplier for an acquisition may not constitute final acceptance of the acquisition by the state agency. If subsequent state agency inspection affirms that the acquisition does not meet or exceed the specifications of the contract, or that the acquisition has latent defects, the state agency shall notify the supplier. The supplier shall retrieve and replace the acquisition at the supplier's expense or the supplier shall refund payment received if the supplier is unable to replace the acquisition.
3. **Rejection.** The state agency shall reject acquisitions from the supplier that do not meet specifications or other terms and conditions of the contract. The supplier shall pay costs to retrieve and replace acquisitions that do not meet specifications with a conforming item or service. Whenever a supplier provides a state agency with defective products or fails to perform in accordance with contract

requirements, a state agency shall notify the supplier in writing of the deficiency and include information necessary for the supplier to resolve the problem. If the state agency and supplier are unable to resolve the dispute, the state agency shall submit a written request for dispute resolution to the State Purchasing Director.

- 4. Acquisition title.** Title to an acquisition shall not pass from the supplier to a state agency until the state agency receives, inspects and accepts the items. The state agency shall document, at a minimum, the date of delivery, the name and address of the supplier, a description of the goods received and, as applicable, the signature of the receiving agency employee. Following transfer of title of an acquisition to a state agency, the supplier shall submit invoices to the state agency.
- 5. Subcontractor performance.** A supplier shall be responsible for the performance of subcontractors. The supplier shall provide a single point of contact for the state agency when the supplier uses subcontractors. The supplier shall obtain the prior written approval of the acquiring agency before utilizing a subcontractor.
- 6. Contract modifications.** If a supplier determines modifications to a contract, are needed the supplier shall notify the acquiring agency. No modifications shall be effective prior to the written approval of the acquiring agency via an addendum or revised purchase order when a purchase order is used instead of a written contract.
- 7. Contract assignment.** A supplier shall not assign any portion of a contract except as set forth in the contract terms and conditions.
- 8. State agency submission of supplier performance evaluation form.** A state agency may request the State Purchasing Director seek dispute resolution by submitting a Supplier Performance Evaluation, whenever a supplier:
 - a. fails to timely retrieve and replace an acquisition that does not meet or exceed contract specifications;
 - b. does not refund payment for an acquisition that does not meet or exceed contract specifications; or,
 - c. fails to resolve any other problem that conflicts with the contract specifications or terms and conditions in a timely manner.
- 9. State Purchasing Director dispute resolution action.** The State Purchasing Director shall notify the state agency and supplier the outcome of dispute resolution efforts and if the dispute is resolved, the notice shall include any dispute resolution terms and conditions.
 - a. Supplier fails to meet terms or conditions.** If the supplier fails to meet specifications or terms or conditions of the dispute resolution or the terms and conditions of the contract if dispute resolution efforts are not successful, the State Purchasing Director is authorized to terminate the contract between the supplier and the state agency, and may suspend the supplier.
 - b. State agency fails to meet conditions.** If the state agency fails to meet conditions of the dispute resolution or the terms and conditions of the contract, the State Purchasing Director is authorized to order an audit of the state agency's acquisitions.

10.Reasons for contract termination. An acquiring agency may terminate a contract in its entirety or any portion thereof if:

- a. a supplier fails to post, or allows to expire, a required bid bond, performance bond, or other type of surety bond;
- b. a supplier fails to deliver an acquisition pursuant to the contract;
- c. a supplier fails timely to replace at the supplier's expense, acquisitions that fail to meet the requirements of the contract or have latent defects;
- d. a supplier misrepresents the supplier's ability to provide an acquisition;
- e. a supplier's financial or other condition, including but not limited to, bankruptcy or other evidence of insolvency which may affect the supplier's ability to perform;
- f. a supplier commits an unlawful act or an act that impairs the supplier's ability to perform;
- g. a supplier commits an act that could result in the supplier's suspension or debarment from the Supplier List;
- h. an administrative error occurs prior to contract performance; or,
- i. if sufficient appropriations are not made by the Legislature or other appropriate governing entity or intended funding source to pay amounts due for multiple year agreements.

11.Supplier responsible for damages. If an acquiring agency terminates a contract, the Attorney General of the State of Oklahoma, the State Purchasing Director, or the acquiring agency, as applicable, may seek damages from the supplier. In addition to damages set forth in a contract, direct damages foreseeable at the time of contracting and payable by the supplier shall include additional cost to obtain the acquisition from another supplier, the cost of re-bidding the acquisition and the cost of acquisition receipt delay.

260:115-11-1. State Purchase Card Program

- 1. Use of State Purchase Cards.** Use of State Purchase Cards authorized by the State Purchasing Director shall be subject to the policies and procedures of the State Purchase Card Program established by the State Purchasing Director to ensure compliance with the statewide contract for this service. [Reference [74 O.S., §85.5](#)]
- 2. Condition of participation.** Conditions of participation in the State Purchase Card Program are:
 - a. compliance with the terms of the State Purchase Card Procedures established by the State Purchasing Director;
 - b. cardholder execution of the appropriate Purchase Card employee agreement prior to assuming Purchase Card duties and being issued a State P-Card and
 - c. successful completion of prescribed initial and ongoing Purchase Card training
- 3. Compliance** Failure to comply with all conditions of participation may result in removal of a state agency and/or employee from the purchase card program by the State Purchasing Director.
- 4. Security.** The state entity that employs the cardholder is responsible for maintaining adequate security of State P-Card account numbers and related information. The cardholder shall ensure the State P-Card is kept in a secure manner and the State P-Card account number on the card is not posted or left in a conspicuous place. Use of any State Purchase Card authorized by the State Purchasing Director is limited to the person whose name is embossed on the card. The card shall not be loaned to another person.
- 5. Recordkeeping.** A receipt shall be obtained for all purchases regardless of the order method. The receipt shall include an itemized and detailed description of the purchase and, at a minimum:
 - a. name and location of supplier;
 - b. date of purchase;
 - c. description of product purchased;
 - d. unit price and quantity purchased; and,
 - e. transaction total.

260:115-13-1. Awarding contracts

1. Bidder Requirements.

- a. Bidder shall respond to the solicitation as a service-disabled veteran business by checking 'YES' to the Disabled Veteran Business Enterprise Act question on the Responding Bidder Information form in the solicitation.
- b. Bidder shall provide a letter from the United States Department of Veterans Affairs which certifies the veteran(s) has a service connected disability.
- c. Bidder shall provide documentation of the business organizational structure demonstrating,
 1. Not less than fifty-one percent (51%) of the business ownership is by one or more service-disabled veterans, and
 2. The management and daily business operation is controlled by one or more service-disabled veterans.

2. **Solicitation Evaluation Requirements.** After the total evaluation score for each responding bidder has been calculated, three percentage (3%) bonus points will be added to the total evaluation score for each responding bidder meeting the criteria of a service-disabled veteran business.

OAC 170:1-1-12. Agri-Services and Oklahoma Correctional Industries

The Oklahoma Department of Corrections shall operate prison agricultural and manufacturing and products industries to be known as Agri-Services and Oklahoma Correctional Industries, respectively.

1. Funds earned from the operation of Agri-Services and Oklahoma Correctional Industries shall be placed in an Industries Revolving Fund with the Oklahoma State Treasury for the Department of Corrections.
2. The Oklahoma Department of Corrections is authorized to purchase, in a manner prescribed by law, facilities, equipment, raw materials, and supplies, and to engage necessary personnel to establish and maintain at the penal institutions, under the control of the Department of Corrections, industries, and agricultural programs for the utilization of services of prisoners in the manufacture or production of such articles or products as may be needed for the construction, operation, maintenance, or the use of any office, department, or agency supported in whole or in part by the state or political subdivisions thereof.

Information Technology Procurement: Intro

The CIO acts as the Information Technology and Telecommunications Purchasing Director ([62 O.S. §§34.11.1.H, I](#)) in order to carry out statutory and regulatory authority and duties of the CIO. Similar to the State Purchasing Director under the Central Purchasing Act, the CIO has sole and exclusive authority and responsibility for all IT Acquisitions ([74 O.S. 85.5.A](#)) used or consumed by state agencies ([74 O.S. 85.2](#)), with a few exceptions referenced below. The CIO also is responsible for establishing IT procurement policies and procedures ([34.11.1.H](#)) and issuing directives and other instruction regarding required procurement practices for IT Acquisitions. Regarding IT products and services, statutes and rules referencing the State Purchasing Director should, therefore, be interpreted as referring to the CIO in the role of Information Technology and Telecommunications Purchasing Director. The information in this section of the Reference Guide is intended to assist an agency by providing an overview and links to more detailed information.

Introduction

This OMES Purchasing Reference Guide is an online resource to assist state staff in making and facilitating procurement-related decisions. The Guide is offered pursuant to the responsibility of the

State Purchasing Director ([85.5](#) and [OAC 260:115-1-1](#)) to issue directives, instructions or written communications to state agencies regarding required procurement practices and procedures to ensure compliance with the Central Purchasing Act, procurement rules and other matters relating to state agency acquisitions and procurement.

Although every effort has been made to assure the information in this Guide is correct, the information is not warranted as to accuracy and is not a substitute for, or intended as, legal advice. A particular state agency may be subject to additional procurement requirements specific to the agency; those requirements are outside the scope of this Guide. In addition to the official published version, Oklahoma statutes may be accessed at www.oscn.net. Always consult counsel for a tailored legal interpretation with respect to a particular Acquisition.

IT Acquisitions Approval.

An agency's monetary threshold to acquire IT products and services is different than Acquisitions without an IT component:

an agency procuring certain IT products has some approval authority, pursuant to state statutes ([62 O.S. § 34.11.1.F](#); [34.12.B](#) and [35.4](#)) and a corresponding PIM [Delegation of Authority from CIO for Certain IT Products - insert link]. Note, except as customarily included with a product on the Approved Hardware and Software list, an agency's approval authority is not applicable to IT services.

an agency may lease certain IT workstation products from approved suppliers without further procurement approval from OMES. An agency may not rent or lease other IT products with the approval of the CIO.

otherwise, an IT Acquisition requires approval of the CIO ([34.11.1.F](#); [34.19](#); [34.20.1](#); [34.21](#); [34.26](#); [35.4](#)), which has been delegated internally in OMES Information Services to an extent, to facilitate efficient review and approval. IT contracts for the benefit of a particular agency are executed by the CIO or Information Services staff with delegated authority.

IT Acquisitions Process.

Processing functions of IT Acquisitions and procurement-related accessibility duties have been delegated from the CIO to the State Purchasing Director to achieve alignment, streamline and standardize State procurement functions and ensure consistent procurement policies, procedures and processes. Requisitions for IT products or services are submitted via the ePro module of PeopleSoft.

Pertinent information regarding IT Acquisitions follows:

What is it?

“Information technology” is defined [62 O.S. §34.29](#) regarding accessibility. Also, “information technology assets” is defined in [62 O.S. §35.3](#). As a practical matter, whether a particular product or service is “information technology” is not always clear. As technology becomes more embedded in everyday products, products and services that formerly had no connection to IT now include an IT component that may cause the Acquisition to be an IT Acquisition. Consulting the Information Services team is the best practice if there is a question whether a product or service is IT.

Required IT Contract Clauses.

Oklahoma statutes and rules contain certain requirements for specific contract clauses to be included in IT contracts, e.g., source code escrow, accessibility and patented property and copyrighted materials developed by the State ([62 O.S 34.31](#); [OAC 260:115-7-54](#)).

When a Supplier will have access to or be processing, storing or transmitting State or citizen data, the Supplier will be required, prior to contract award, to submit a security assessment questionnaire [insert link] and the information provided will be evaluated by the State Chief Information Security Officer on behalf of the CIO. The purpose of the evaluation is to assess the physical and information security risk to State or citizen data in order to inform good business decisions. Additional terms [insert link to terms] relating to Supplier obligations in such instances are required to be included in a contract involving Supplier access, processing, storage or transmission of State or citizen data.

IT Statewide Contracts, Enterprise Agreements, Consolidation Contracts and High Technology System Contracts.

The CIO also has authority, pursuant to statute [insert link to [62 O.S. §34.11.1.I](#); [34.20](#) and [74 OS 85.5.G](#)], to designate IT contracts as statewide and mandatory statewide contracts. As is true for other statewide contracts, the CIO may allow a public agency to utilize IT statewide contracts ([62 OS 34.31.2](#)). The CIO may also negotiate enterprise agreements, consolidation contracts and high technology system contracts in lieu of, or in conjunction with, bidding procedures to reduce acquisition cost [insert links to [34.11.1](#) and to [74 OS 85.5.G](#)]. An enterprise agreement is an agreement with a supplier who manufactures, develops and designs IT goods and services used by one or more state agencies. A consolidation contract is for several state or public agencies for purchasing IT goods and services. A high technology system contract is a contract for advanced technological equipment, software, communication lines, and services for the processing, storing, and retrieval of information by a state agency.

Case Law

Caddell v. State ex rel. Dept. of Health, 896 P.2d 571, 1995 OK CIV APP 57

Referencing the current §85.4.B subsection, the court upheld the premise that federal direct assistance grants fall within the spirit of the subsection B exemption and held that products obtained without expenditure of funds from the state treasury, but by debiting some “account” created from a federal direct assistance grant, should not be subjected to additional restrictions imposed by the Central Purchasing Act. Additionally, the Court noted that the Central Purchasing Act was intended to protect the people of Oklahoma by promoting economy in government and reducing the likelihood of fraud. See [74 O.S. §§ 85.1 and 85.4](#).

U.C. Leasing, Inc. v. State ex rel. State Bd. Of Public Affairs, 737 P.2d 1191, 1987 OK 43

Procedures to be followed by a state agency in acquisition of equipment are explicit. A lessor’s ignorance of, or compliance with, the procedural requirements of the Central Purchasing Act did not render an

equipment lease agreement void for lack of procedural conformity. The court upheld a judgement against the state for accelerated lease payments after the state discontinued the lease agreement. Although the lease contained a non-appropriation clause, the court found no evidence that there were not funds appropriated to pay lease rentals as accrued and due. Where a person or entity enters into a valid contract with the proper state officials and a valid appropriation has been made therefor, the state has consented to be sued and has waived its governmental immunity to the extent of its contractual obligations and such contractual obligation may be enforced against the state in an ordinary action at law. See 74 O.S. §§84.4 and 85.5.

Toxic Waste Impact Group, Inc. v. Leavitt, 755 P.2d 626, 1988 OK 20

Rules and regulations enacted by administrative agencies pursuant to the powers delegated to them have the force and effect of law and are presumed to be reasonable and valid. The burden of establishing that an administrative rule is not reasonable or valid is on the party complaining of the rule. Great weight is to be accorded the expertise of an administrative agency and a presumption of validity attaches to the exercise of expertise when the administrative agency is reviewed by a court. A court should not substitute its own judgment for that of an agency, particularly in the area of expertise which the agency supervises.

Further, long continued construction of a statute by a department charged with its execution is entitled to great weight and should not be overturned without cogent reasons. See 74 O.S. §85.5.

State ex rel. Cartwright v. Tidmore, 674 P.2d 14, 1983 OK 116

Where the state is acting in its sovereign capacity and is suing to vindicate legal rights which are public in nature, rather than private, the suit is not barred by limitation of actions. The court found that assuring the rights of the public to have state contracts for services protected by written contracts and competitive bidding; provisions insuring government officials are accountable to the public and are discharging duties competently and responsibly; and laws requiring competitive bidding and written contracts protect the public at large by promoting economy in government and reducing the likelihood of fraud, were public rights against which the limitation of actions does not run. This case involved the state's allegations of fraud and the court also noted that the public interest shall not be prejudiced by the negligence of public officers to whose care it is consigned. See 74 O.S. §§85.1 and 85.7.

Oklahoma Public Employees Ass'n v. Oklahoma Department of Central Services, 55 P.3d 1072, 2002 OK 71

The Central Purchasing Act governs the expenditures of the various governmental agencies in acquiring goods or services and, unless exempted by the Legislature, the Act applies to all state agencies. That Act provides procedures for a state agency's acquisition of items, products, supplies, services, or equipment. See 74 O.S. §§85.1 and 85.2.

Lone Star Helicopter v. State, 800 P.2d 235, 1990 OK 111

The Oklahoma Central Purchasing Act authorizes the Office of Management and Enterprise Services to promulgate rules governing the submission of service contract bids, the acceptance or rejection of any service affected by the Act, and any other matter or practice which is directly related to his responsibilities. The Purchasing Director is required by statute to publish the rules. These rules are matters of public record and need not have been incorporated into the record for review. The Oklahoma Supreme Court must take judicial notice of them. See 74 O.S. §§85.5 and 85.11.

Indiana Nat Bank v. State Dept. of Human Services, 857 P.2d 53, 1993 OK 101

The Office of Management and Enterprise Services has sole authority to approve material modifications of agreements once it has accepted a bid in response to an invitation to bid, in the absence of some other Legislative authority to the contrary or specific approval from OMES sanctioning another agencies' authority to agree to such a modification. Material modification by agencies after a contract is awarded by OMES, without approval of OMES, would completely undermine the intent and purpose behind the Central Purchasing Act; put differently, the Court stated that allowing agencies to subsequently negotiate and modify material clauses after other parties have been excluded through the competitive bidding process, undermines the integrity of the system and makes such a system meaningless. The overriding public policy interest is that found in the Central Purchasing Act which generally requires private suppliers selling goods and services to state agencies to deal with a central entity, the Office of Management and Enterprise Services, to promote efficient and cost effective use of taxpayer money and to prevent fraud in these dealings. The Court noted that the Central Purchasing Act was designed to protect the public at large by promoting economy in government and reducing the likelihood of fraud and it ensures that government officials are accountable to public and are discharging their duties competently and responsibly. The Court also noted that agency rules have the force and effect of law. See 74 O.S. §§85.1 and 85.5.

Cunningham Lindsey Claims Management, Inc. v. Oklahoma State Ins. Fund, 38 P.3d 248, 2002 OK CIV APP 7

A state agency did not have authority to modify a contract approved by the State Purchasing Director even though agency-specific statutes authorized the agency's Commissioner, in conducting the business of the agency, to enter into certain contracts. The court stated that the agency-specific statutes were merely legislative intent to designate the Commissioner as the party who would negotiate on behalf of the state agency. See 74 O.S. §85.5.

Procurement Information Memorandums

Clarification and Use of Authority Orders and Procedure Guidance

Release Date: Sep 01, 2018

- [Clarification and Use of Authority Orders and Procedure Guidance](#)

Confidentiality of ARPA Documents

Release Date: Nov. 24, 2021

- [PIM-ARPA-DocumentConfidentiality](#)

Delegation of Authority from CIO for Certain IT Products

Release Date: Feb 26, 2019

- [Delegation of Authority from CIO for Certain IT Products](#)
- [CIO Delegation Letter](#)

Exemptions from Competitive Bidding - Policy Guidance

Release Date: Sep 15, 2009

- [Exemptions from Competitive Bidding - Policy Guidance](#)

Sole Source or Sole Brand Acquisition

Release Date: April 01, 2022

- [Sole Source or Sole Brand Acquisition](#)

Utilization of Amazon Business Accounts for Online Purchasing

Release Date: Jan 05, 2018

- [Utilization of Amazon Business Accounts for Online Purchasing](#)

Footnote

Introduction Footnote 1

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Footnote 2

Note: An acquisition may be exempt from the Central Purchasing Act but the acquisition may remain subject to statutory and rule requirements relating to the State Use program and the Oklahoma Correctional Industries program.

Footnote 3

See applicable State Ethics Commission rules and statutes

Footnote 4

See Attorney General Opinion No. 78-256 regarding the prohibition against the state's payment of taxes assessed against a private entity or reimbursement of that entity for taxes lawfully paid in connection with a contract between the state and the entity.

Footnote 5

See also 260:115-3-17(d) regarding evaluation documentation being open for public inspection and 51 O.S. §24a.10.B.2 regarding disclosure of sealed bids content

Footnote 6

See applicable State Ethics Commission rules and statutes

Footnote 7

See also 67 O.S. §201 et seq., the Records Management Act.

Footnote 8

Chapter 120 rules are going thru promulgated process. Upon approval, the update to reflect legislation that went into effect 2022 will be posted.