

Summary of changes

74 O.S. § 85.5, Oklahoma Central Purchasing Act

Amendatory language in subsection D of this section expands the powers and duties of the State Purchasing Director to allow the Director to withdraw access to state procurement systems for licensed Central Purchasing Officers (CPOs) who are not in compliance with the statutes and rules relating to the Oklahoma Central Purchasing Act when purchasing on behalf of the State of Oklahoma.

Paragraph 5 of subsection G prohibits state agencies from contracting with a supplier outside of a statewide contract for the same products or services offered by the supplier within a statewide contract. Prices are agreed to within a statewide contract and contracting for the same services outside of the statewide contract may result in higher costs to the state.

74 O.S. § 85.33, Oklahoma Central Purchasing Act

Subsection B of this section allows the OMES to collect a fee to register suppliers who wish to do business with the state through the Purchasing Division. The proposed amendment strikes the amount of the fee (\$25.00). The Purchasing Division has updated the process for supplier registration and does not charge a fee, currently.

74 O.S. § 85.44D.1, Oklahoma Central Purchasing Act

This section provides the form for the required agency certification for sole source and sole brand acquisitions. The proposed amendments update the certification to only require its use for sole source acquisitions. Sole brand acquisitions remain subject to the competitive bidding requirements of the Oklahoma Central Purchasing Act. Additional amendments allow the State Purchasing Director to request additional information relating to a sole source requisition acquisition and to disapprove the requisition.

74 O.S. § 85.7, Oklahoma Central Purchasing Act

This section relates to competitive bid procedures. The proposed amendments clarify that sole source acquisitions are not exempt from the requisition requirements of the Oklahoma Central Purchasing Act.

Oklahoma Statutes Citationized

Title 74. State Government

Chapter 4 - Office of Management and Enterprise Services

Oklahoma Central Purchasing Act

Section 85.5 - Powers and Duties of State Purchasing Director

Cite as: 74 O.S. § 85.5 (OSCN 2023), Oklahoma Central Purchasing Act

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

B. 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.

C. 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:

1. The time, manner, authentication and form of making requisitions for acquisitions;
2. Inspection, analysis and testing of acquisitions or samples bidders submit prior to contract award;
3. The form and manner of submission for bids or proposals a bidder submits and the manner of accepting and opening bids or proposals;
4. 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;
5. Obtaining acquisitions produced by state institutions;
6. Conditions under which any of the rules herein authorized may be waived;
7. 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;
8. 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;
9. The form of any estimate, order or other information required in connection with an acquisition;
10. 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:

a. 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

b. 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;

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

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

13. 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;

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

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

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

17. 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

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

D. The State Purchasing Director shall provide training for state agency procurement officials, and other procurement staff, and is authorized to require retraining of such and to withdraw access to state procurement systems for 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.

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

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

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

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

4. 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;

5. 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

6. 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.

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

1. 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

2. 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.

G. 1. 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.

2. 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.

3. 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.

4. 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.

5. The State Purchasing Director shall have the authority to designate certain contracts for state agencies as statewide contracts and mandatory statewide contracts. State agencies shall not contract with a supplier outside of a statewide contract for the same products or services offered by the supplier within a statewide contract. 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.

6. 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.

H. 1. 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.

2. 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.

I. 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.

J. The State Purchasing Director shall undertake the following:

1. The use of electronic commerce pursuant to the Oklahoma Online Bidding Act for solicitation, notification and other purchasing processes;
 2. 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;
 3. A program to identify suppliers' performance records;
 4. 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;
 5. 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;
 6. 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;
 7. Development of programs to improve customer relations through training, improved communications and appointment of technical representatives;
 8. 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
 9. 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.
- K. The State Purchasing Director may utilize and authorize state agencies to utilize reverse auctions to obtain acquisitions.
- L. 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.
- M. 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.
- N. 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.
1. Nothing in this subsection shall give an agency authority to issue statewide, multistate or multigovernmental contracts.
 2. Agencies making purchases pursuant to this subsection shall:
 - a. 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,

- b. comply with rules and policies of the Office of Management and Enterprise Services, and
 - c. report contracts issued pursuant to this subsection to the Office of Management and Enterprise Services, Central Purchasing Division, on a quarterly basis.
3. Purchases made in accordance with this subsection shall be made pursuant to rules authorized by this section.

O. 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.

Historical Data

Laws 1959, SB 211, p. 351, § 5, emerg. eff. July 1, 1959; Amended by Laws 1983, SB 305, c. 304, § 107, emerg. eff. July 1, 1983; Amended by Laws 1984, SB 437, c. 148, § 2, emerg. eff. April 19, 1984; Amended by Laws 1995, HB 1550, c. 342, § 7, emerg. eff. June 9, 1995; Amended by Laws 1996, HB 2147, c. 316, § 2, emerg. eff. July 1, 1996; Amended by Laws 1998, HB 1162, c. 65, § 2, emerg. eff. April 8, 1998 ([superseded document available](#)); Amended by Laws 1998, HB 1822, c. 371, § 4, eff. November 1, 1998 ([superseded document available](#)); Amended by Laws 2002, SB 1381, c. 483, § 3, emerg. eff. July 1, 2002 ([superseded document available](#)); Amended by Laws 2003, HB 1329, c. 60, § 7 emerg. eff. July 1, 2003 (repealed by Laws 2003, SB 646, c. 342, § 2); Amended by Laws 2003, HB 1393, c. 170, § 1, eff. November 1, 2003; Amended by Laws 2003, SB 830, c. 257, § 1, emerg. eff. May 23, 2003 (repealed by Laws 2004, HB 2725, c. 5, § 88, emerg. eff. March 1, 2004); Amended by Laws 2003, SB 646, c. 342, § 2; Amended by Laws 2003, HB 1593, c. 376, § 6, emerg. eff. July 1, 2003 (repealed by Laws 2004, HB 2725, c. 5, § 89, emerg. eff. March 1, 2004) ([superseded document available](#)); Amended by Laws 2004, HB 2725, c. 5, § 87, emerg. eff. March 1, 2004 ([superseded document available](#)); Amended by Laws 2004, SB 1135, c. 404, § 1, eff. November 1, 2004 (repealed by Laws 2005, HB 2060, c. 1, § 127, emerg. eff. March 15, 2005); Amended by Laws 2004, HB 2277, c. 511, § 2, eff. November 1, 2004 ([superseded document available](#)); Amended by Laws 2005, HB 2060, c. 1, § 126, emerg. eff. March 15, 2005 ([superseded document available](#)); Amended by Laws 2008, HB 3325, c. 96, § 3, eff. November 1, 2008 ([superseded document available](#)); Amended by Laws 2009, HB 1032, c. 322, § 6 ([superseded document available](#)); Amended by Laws 2009, HB 1170, c. 451, § 23 (repealed by Laws 2010, SB 2113, c. 2, § 97); Amended by Laws 2010, SB 2113, c. 2, § 96, effective and operative on the effective date of the appointment of the first Chief Information Officer by the Governor as provided in Section 34.11.1 of Title 62 of the Oklahoma Statutes [the Governor appointed the first Chief Information Officer effective April 5, 2010] ([superseded document available](#)); Amended by Laws 2010, HB 2332, c. 170, § 1, emerg. eff. April 26, 2010 ([superseded document available](#)); Amended by Laws 2011, HB 1034, c. 207, § 1, eff. November 1, 2011; Amended by Laws 2011, HB 2140, c. 302, § 7 ([superseded document available](#)); Amended by Laws 2012, HB 3079, c. 304, § 737 ([superseded document available](#)); Amended by Laws 2014, HB 3511, c. 359, § 1 ([superseded document available](#)); Amended by Laws 2020, SB 1422, c. 98, § 6, eff. November 1, 2020 ([superseded document available](#)).

Oklahoma Statutes Citationized

Title 74. State Government

Chapter 4 - Office of Management and Enterprise Services

Oklahoma Central Purchasing Act

Section 85.33 - Registration of State Vendors Revolving Fund

Cite as: 74 O.S. § 85.33 (OSCN 2023), Oklahoma Central Purchasing Act

A. 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.

B. 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.

Historical Data

Laws 1977, SB 86, c. 243, § 11, emerg. eff. June 15, 1977; Amended by Laws 1983, SB 305, c. 304, § 115, emerg. eff. July 1, 1983; Amended by Laws 1998, HB 1822, c. 371, § 8, eff. November 1, 1998 ([superseded document available](#)); Amended by Laws 1999, SB 508, c. 289, § 9, eff. November 1, 1999 ([superseded document available](#)); Amended by Laws 2003, HB 1171, c. 372, § 6, emerg. eff. July 1, 2003 ([superseded document available](#)); Amended by Laws 2012, HB 3079, c. 304, § 752 ([superseded document available](#)); Amended by Laws 2013, HB 1464, c. 244, § 3, eff. November 1, 2013 ([superseded document available](#)); Amended by Laws 2020, SB 1422, c. 98, § 15, eff. November 1, 2020 ([superseded document available](#)).

Oklahoma Statutes Citationized

Title 74. State Government

Chapter 4 - Office of Management and Enterprise Services

Oklahoma Central Purchasing Act

Section 85.44D.1 - Sole Source Acquisition or Sole Brand Acquisition - Certification -

Report

Cite as: 74 O.S. § 85.44D.1 (OSCN 2023), Oklahoma Central Purchasing Act

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

2. 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 _____

SUPPLIER NAME _____

SUPPLIER ADDRESS _____

SUPPLIER CONTACT INFORMATION _____

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~~ the 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.

(Chief administrative officer)

3. 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.

4. 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~~ an alleged violation.

5. Prior to ~~approving~~ approval or disapproval of 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. The Purchasing Division may require submission of additional information relating to the requisition acquisition.

6. For a sole source or ~~sole brand~~ acquisition 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.

B. 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:

1. The Speaker of the House of Representatives and the President Pro Tempore of the Senate; and
2. 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.

Historical Data

Laws 1961, HB 1233, p. 590, § 1; Amended by Laws 1986, HB 1950, c. 173, § 10, emerg. eff. May 12, 1986; Amended by Laws 1992, HB 1933, c. 250, § 1, emerg. eff. July 1, 1992; Amended by Laws 1994, HB 2483, c. 59, § 1, emerg. eff. July 1, 1994; Renumbered from [74 O.S. § 89](#) by Laws 1998, HB 1822, c. 371, § 15, eff. November 1, 1998; Amended by Laws 1998, HB 1822, c. 371, § 13, eff. November 1, 1998 ([superseded document available](#)); Amended by Laws 1999, SB 508, c. 289, § 14, eff. November 1, 1999 ([superseded document available](#)); Amended by Laws 2001, SB 447, c. 398, § 1, emerg. eff. June 4, 2001 ([superseded document available](#)); Amended by Laws 2009, HB 1032, c. 322, § 14 ([superseded document available](#)); Amended by Laws 2012, HB 3079, c. 304, § 763 ([superseded document available](#));

Amended by Laws 2020, SB 1422, c. 98, § 24, eff. November 1, 2020 ([superseded document available](#));
Renumbered from [74 O.S. § 45j](#) by Laws 2020, SB 1422, c. 98, § 30, eff. November 1, 2020.

Oklahoma Statutes Citationized

Title 74. State Government

Chapter 4 - Office of Management and Enterprise Services

Oklahoma Central Purchasing Act

Section 85.7 - Competitive Bid Procedures

This Statute Will Go Into Effect

On: 01/01/2024

See Historical Data for Current Version

Cite as: 74 O.S. § 85.7 (OSCN 2023), Oklahoma Central Purchasing Act

- A. 1. Except as otherwise provided by the Oklahoma Central Purchasing Act, or associated rules:
- a. every state agency shall initiate all acquisitions by the submission of a requisition to the Purchasing Division, and
 - b. 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~~ Except for purchases made pursuant to subparagraph d of paragraph 6 of this subsection, an exemption from competitive bid requirements of the Oklahoma Central Purchasing Act ~~further exempts the~~ shall exempt the acquisition from requisition requirements of the act.
2. The State Purchasing Director may request additional information necessary to adequately review a requisition to ensure compliance with the Oklahoma Central Purchasing 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.
3. The provisions of the Oklahoma Central Purchasing Act shall not preclude a state agency from:
- a. accepting gifts or donations in any manner authorized by law, or
 - b. making an acquisition for itself without submitting a requisition under this section when authorized in writing by the State Purchasing Director.
4. Any acquisition a state agency makes shall be made pursuant to the Oklahoma Central Purchasing Act and associated rules. No agency shall use split purchasing for the purpose of evading the requirement of competitive bidding or other requirement of the Oklahoma Central Purchasing Act or associated rules. Violation of this provision shall be cause for discipline of a state employee up to and including termination.
5. 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.
6. Competitive bidding requirements of this section shall not be required for the following:
- a. 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,

b. 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,

c. purchases of postage by state agencies made pursuant to [Sections 90.1](#) through [90.4](#) of this title,

d. a sole source acquisition made in compliance with [Section 85.44D.1](#) of this title,

e. 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 the Oklahoma Central Purchasing Act and associated rules,

f. 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:

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

(2) 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,

(3) 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,

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

(5) 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,

g. 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,

h. 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:

(1) 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

(2) 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,

i. 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,

j. 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, and

k. contracts for the study, analysis, and planning, as reasonably necessary, to aid in determining the feasibility of leasing, selling, or privately managing or developing the property or facilities under control of the Oklahoma Tourism and Recreation Commission. The Commission shall be exempt from the competitive bidding requirements of the Oklahoma Central Purchasing Act for the purpose of soliciting, negotiating, and effectuating such a contract or contracts; provided, that the State Purchasing Director shall review and audit all uses of the exemptions provided in this subparagraph biannually.

7. 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.

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

C. 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.

D. 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.

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

F. Notwithstanding any provision of the Oklahoma Central Purchasing 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.

G. A court order requiring an acquisition by a state agency, whether or not such state agency is subject to the Oklahoma Central Purchasing 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.

Historical Data

Laws 1959, SB 211, p. 352, § 7, emerg. eff. July 1, 1959; Amended by Laws 1963, HB 945, c. 345, § 1, emerg. eff. June 24, 1963; Amended by Laws 1967, SB 58, c. 109, § 1, emerg. eff. April 25, 1967; Amended by Laws 1980, HB 1730, c. 261, § 1, eff. October 1, 1980; Amended by Laws 1983, SB 320, c. 334, § 8, emerg. eff. June 29, 1983; Amended by Laws 1985, SB 40, c. 281, § 4, emerg. eff. July 22, 1985; Amended by Laws 1986, HB 1950, c. 173, § 4, emerg. eff. May 12, 1986; Amended by Laws 1988, HB 1631, c. 326, § 39, emerg. eff. July 13, 1988; Amended by Laws 1989, HB 1505, c. 291, § 3, emerg. eff. July 1, 1989; Amended by Laws 1989, SB 58, c. 370, § 14, emerg. eff. July 1, 1989; Amended by Laws 1990, HB 2361, c. 337, § 19; Amended by Laws 1991, HB 1622, c. 332, § 10, emerg. eff. July 1, 1991; Amended by Laws 1992, HB 2500, c. 373, § 19, emerg. eff. July 1, 1992; Amended by Laws 1993, HB 1209, c. 129, § 1, emerg. eff. July 1, 1993; Amended by Laws 1994, HB 1988, c. 233, § 2, eff. September 1, 1994; Amended by Laws 1995, HB 1012, c. 1, § 31, emerg. eff. March 2, 1995; Amended by Laws 1995, HB 1500, c. 253, § 7, eff. November 1, 1995; Amended by Laws 1996, HB 2428, c. 3, § 19, emerg. eff. March 6, 1996; Amended by Laws 1996, SB 1315, c. 214, § 3, emerg. eff. May 21, 1996; Amended by Laws 1996, HB 2147, c. 316, § 4, emerg. eff. July 1, 1996; Amended by Laws 1997, HB 1436, c. 2, § 18, emerg. eff. February 26, 1997 ([superseded document available](#)); Amended by Laws 1997, HB 2131, c. 207, § 3, emerg. eff. July 1, 1997 ([superseded document available](#)); Amended by Laws 1997, SB 761, c. 404, § 5 ([superseded document available](#)); Amended by Laws 1999, HB 1845, c. 1, § 31, emerg. eff. February 24, 1999 ([superseded document available](#)); Repealed by Laws 1999, HB 1845, c. 1, § 45, emerg. eff. February 24, 1999 ([superseded document available](#)); Amended by Laws 1999, SB 372, c. 142, § 3, emerg. eff. May 3, 1999 ([superseded document available](#)); Amended by Laws 2000, HB 2711, c. 6, § 22, emerg. eff. March 20, 2000 ([superseded document available](#)); Amended by Laws 2003, SB 646, c. 342, § 3, eff. July 1, 2003 ([superseded document available](#)); Amended by Laws 2004, HB 1418, c. 309, § 2, emerg. eff. July 1, 2004 ([superseded document available](#)); Amended by Laws 2008, HB 3325, c. 96, § 4, eff. November 1, 2008 ([superseded document available](#)); Amended by Laws 2009, HB 1032, c. 322, § 7 ([superseded document available](#)); Amended by Laws 2012, HB 3079, c. 304, § 738 ([superseded document available](#)); Amended by Laws 2013, SB 461, c. 186, § 4, eff. November 1, 2013; Amended by Laws 2013, HB 1464, c. 244, § 2, eff. November 1, 2013 ([superseded document available](#)); Amended by Laws 2020, SB 1422, c. 98, § 10, eff. November 1, 2020 ([superseded document available](#)); Amended by Laws 2022, SB 1371, c. 188, § 1, eff. November 1, 2022 ([superseded document available](#)); Amended by Laws 2023, HB 1774, c. 339, § 1, eff. January 1, 2024 ([superseded document available](#)).