

An Act

ENROLLED SENATE
BILL NO. 1422

By: Thompson and Sharp of the
Senate

and

Wallace of the House

An Act relating to the Oklahoma Central Purchasing Act; amending 74 O.S. 2011, Section 85.1, which relates to the Oklahoma Central Purchasing Act, updating statutory language; amending 74 O.S. 2011, Section 85.2, as last amended by Section 27, Chapter 358, O.S.L. 2013 (74 O.S. Supp. 2019, Section 85.2), which relates to definitions; modifying certain definitions; deleting certain definitions; amending 74 O.S. 2011, Section 85.3, as last amended by Section 1, Chapter 6, O.S.L. 2015 (74 O.S. Supp. 2019, Section 85.3), which relates to the Purchasing Division of the Office of Management and Enterprise Services; modifying authority; establishing certain prohibition; amending 74 O.S. 2011, Section 85.3A, as last amended by Section 1, Chapter 472, O.S.L. 2019 (74 O.S. Supp. 2019, Section 85.3A), which relates to exempted entities; providing exemption for certain interagency agreements; providing exemption for certain transaction; establishing procedures for emergency acquisitions; providing definitions; requiring certain information to be provided in a timely fashion; amending 74 O.S. 2011, Section 85.5, as last amended by Section 1, Chapter 359, O.S.L. 2014 (74 O.S. Supp. 2019, Section 85.5), which relates to the powers and duties of the State Purchasing Director; providing certain exemption; requiring certain agency determination; modifying authority; updating statutory language; establishing fair and reasonable acquisition threshold amount; establishing requirement for certain training; authorizing certain forms of contracting with certain

entities; authorizing testing of procurement innovations; authorizing research of cost savings; requiring development of standardized contract forms; deleting requirement for development of electronic payment system; deleting certain authorities and responsibilities; modifying minimum amount for applicable contracts; deleting requirement for certain verification; providing exemption for certain purchase types; authorizing use of state laboratories for certain testing; amending Section 1, Chapter 264, O.S.L. 2013 (74 O.S. Supp. 2019, Section 85.5.1), which relates to the Oklahoma Privatization Act; deleting name of act; modifying requirement for establishment of certain repository; amending 74 O.S. 2011, Section 85.5a, which relates to the state purchase card; establishing fleet card and state purchase card as only authorized card programs for state agencies; establishing reporting and accessibility requirements; establishing parameters for use; amending 74 O.S. 2011, Section 85.6, which relates to grade and quality of merchandise delivered; requiring that procuring agencies determine grade and quality for acquisitions; amending 74 O.S. 2011, Section 85.7, as last amended by Section 2, Chapter 244, O.S.L. 2013 (74 O.S. Supp. 2019, Section 85.7), which relates to competitive bid procedures; requiring initiation of certain requisition for all acquisitions; modifying maximum amount of certain applicable acquisitions; providing for rules and regulations; prohibiting certain practice; providing penalty; providing exceptions; deleting certain requirements; providing for evaluation of bids; providing for applicability of certain federal laws; providing for applicability of court order; amending 74 O.S. 2011, Section 85.12, as last amended by Section 2, Chapter 71, O.S.L. 2017 (74 O.S. Supp. 2019, Section 85.12), which relates to nonconflicting procedures; deleting certain non-conflicting contracts and acquisitions; adding certain nonconflicting contracts and acquisitions; making certain audits optional; stating procedures for certain deposits; amending 74 O.S. 2011, Section

85.12b, as amended by Section 747, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2019, Section 85.12b), which relates to lease, charter or use of contract for aircraft; deleting requirement for implementation of certain guidelines; amending 74 O.S. 2011, Section 85.17A, which relates to reciprocal bid preference; modifying requirement for distribution of certain information; 74 O.S. 2011, Section 85.22, as last amended by Section 1, Chapter 255, O.S.L. 2014 (74 O.S. Supp. 2019, Section 85.22), which relates to notarized sworn statements; modifying requirement for certain sworn statement; amending 74 O.S. 2011, Section 85.33, as last amended by Section 3, Chapter 244, O.S.L. 2013 (74 O.S. Supp. 2019, Section 85.33), which relates to the Registration of State Vendors Revolving Fund; specifying fund purpose; deleting certain requirement; amending 74 O.S. 2011, Section 85.33A, as last amended by Section 753, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2019, Section 85.33A), which relates to the Contract Management Revolving Fund; modifying use of certain fund; amending 74 O.S. 2011, Section 85.39, as amended by Section 755, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2019, Section 85.39), which relates to the development and promulgation of internal purchasing procedures; deleting requirement for report of certain findings; modifying certain prohibition; amending 74 O.S. 2011, Section 85.41, which relates to contracts for professional services; modifying requirement for evaluation of performance; modifying certain filing requirement; deleting certain requirements regarding contract renewal; amending 74 O.S. 2011, Section 85.42, as amended by Section 1, Chapter 252, O.S.L. 2019 (74 O.S. Supp. 2019, Section 85.42), which relates to contract limitations; providing prohibition against certain contracts; establishing that certain sole source contracts are allowed at any time; deleting allowance for certain contracts; amending 74 O.S. 2011, Section 85.43, as amended by Section 756, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2019, Section 85.43), which relates to the report of acquisitions exceeding fifty thousand dollars;

modifying reporting requirements; amending 74 O.S. 2011, Section 85.44B, which relates to payment for contracted products and services; providing process for acquisitions that require full or partial payment prior to deliverability; amending 74 O.S. 2011, Section 85.44C, which relates to unlawful contracts; updating statutory language; amending Section 1, Chapter 179, O.S.L. 2015 (74 O.S. Supp. 2019, Section 85.44E), which relates to the Disabled Veteran Business Enterprise Act; deleting name of act; modifying certain preference; amending 74 O.S. 2011, Section 85.45j, as amended by Section 763, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2019, Section 85.45j), which relates to requisition by product or service for sole source contract; providing exception for sole source contracts; modifying contract form; deleting certain penalty; deleting certain grounds for approval or denial; establishing certification requirements; deleting certain reporting requirements; deleting requirement for maintenance of certain data; amending 74 O.S. 2011, Section 85.45q, which relates to the Oklahoma Online Bidding Act; deleting definitions; modifying definitions; amending 74 O.S. 2011, Section 85.45r, as amended by Section 766, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2019, Section 85.45r), which relates to online bidding process provisions; modifying requirements for online bidding process; amending 74 O.S. 2011, Section 85.58A, as last amended by Section 1, Chapter 244, O.S.L. 2014 (74 O.S. Supp. 2019, Section 85.58A), which relates to the comprehensive professional risk management program; authorizing the risk management administrator to declare certain emergency; amending 62 O.S. 2011, Section 34.62, as amended by Section 385, Chapter 304, O.S.L. 2012 (62 O.S. Supp. 2019, Section 34.62), which relates to encumbrance requirements for payments from state funds; modifying authority to allow agencies to make acquisitions without competitive bid procedures or compliance with certain program; providing process for emergency acquisitions; establishing requirements for emergency acquisitions; repealing 74 O.S. 2011, Section 85.4,

as amended by Section 736, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2019, Section 85.4), which relates to requisitions; repealing Section 1, Chapter 29, O.S.L. 2019 (74 O.S. Supp. 2019, Section 85.5b), which relates to the Oklahoma Film and Music Division purchase card use; repealing 74 O.S. 2011, Section 85.7a, as amended by Section 739, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2019, Section 85.7a), which relates to bidder requirements; repealing 74 O.S. 2011, Section 85.7e, as amended by Section 741, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2019, Section 85.7e), which relates to the Office of Management and Enterprise Services wiki; repealing 74 O.S. 2011, Section 85.7g, which relates to the "State Government Conferences Web-based Transparency pilot program"; repealing 74 O.S. 2011, Section 85.8, as amended by Section 742, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2019, Section 85.8), which relates to testing; repealing 74 O.S. 2011, Section 85.9B, as amended by Section 743, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2019, Section 85.9B), which relates to purchase from surplus property program; repealing 74 O.S. 2011, Section 85.9D, as amended by Section 744, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2019, Section 85.9D), which relates to coordination of computer contract purchases; repealing 74 O.S. 2011, Section 85.9G, which relates to qualifications for contract provider employees; repealing 74 O.S. 2011, Section 85.10, which relates to records open for public inspection; repealing 74 O.S. 2011, Section 85.11, which relates to publication of rules; repealing 74 O.S. 2011, Section 85.12a, as amended by Section 746, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2019, Section 85.12a), which relates to insurance purchaser requirements; repealing 74 O.S. 2011, Section 85.12c, which relates to purchases from funds exempt from Oklahoma Central Purchasing Act; repealing 74 O.S. 2011, Section 85.13, as amended by Section 748, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2019, Section 85.13), which relates to the accepting or giving of gifts; repealing 74 O.S. 2011, Section 85.14, which relates to federal laws to govern; repealing 74 O.S.

2011, Section 85.15, which relates to penalties; repealing 74 O.S. 2011, Section 85.19, which relates to analyzing and evaluating of goods and services; repealing 74 O.S. 2011, Section 85.33B, as amended by Section 754, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2019, Section 85.33B), which relates to the state purchase card; repealing 74 O.S. 2011, Section 85.44, which relates to certain prohibited contracts; repealing 74 O.S. 2011, Section 85.44A, which relates to certain court orders; repealing 74 O.S. 2011, Section 85.44D, as amended by Section 757, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2019, Section 85.44D), which relates to preference for Oklahoma tree products; repealing Section 2, Chapter 219, O.S.L. 2013, as amended by Section 2, Chapter 255, O.S.L. 2014 (74 O.S. Supp. 2019, Section 85.45j.1), which relates to geographic preference for vendors; updating statutory language; providing for codification; providing for recodification; and providing an effective date.

SUBJECT: Oklahoma Central Purchasing Act

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

SECTION 1. AMENDATORY 74 O.S. 2011, Section 85.1, is amended to read as follows:

Section 85.1. Sections 85.1 through ~~85.45~~ 85.44E of this title shall be known and may be cited as ~~the~~ the "Oklahoma Central Purchasing Act".

SECTION 2. AMENDATORY 74 O.S. 2011, Section 85.2, as last amended by Section 27, Chapter 358, O.S.L. 2013 (74 O.S. Supp. 2019, Section 85.2), is amended to read as follows:

Section 85.2. As used in ~~The~~ 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, ~~or~~ rental or value provided to the state pursuant to ~~The~~ the Oklahoma Central Purchasing Act unless the items, products, supplies, services, or equipment are exempt pursuant to ~~The~~ 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. "Change order" means a unilateral written order directing a supplier to make a change;~~

~~7.~~ "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;

~~8.~~ 7. "Component" means any item supplied as part of an end item or of another component;

~~9.~~ 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 ~~and notices of awards,~~
- b. orders issued under basic ordering agreements,
- c. letter ~~contracts~~ agreements, and
- d. orders under which the contract becomes effective by written acceptance or performance, ~~and~~
- e. ~~bilateral contract modifications;~~

~~10. "Contract modification" means any written change in the terms of the contract;~~

~~11. 9. "Contracting" means purchasing, renting, leasing, or otherwise 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;~~

~~12. "Contractor" means an individual or business entity entering into a contract for goods and/or services with the state as a result of a solicitation;~~

~~13. 10. "Electronic commerce" means the use of electronic methods to enable solicitation, supplier response, notice of contract award, state agency acquisition processes, or any other function to make an acquisition;~~

~~14. 11. "Electronic payment mechanism" means a method of electronic payment for authorized acquisitions;~~

~~15. 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;~~

~~16. "Equipment" means personal property a state agency acquires for its use which is an item or product and shall include all personal property used or consumed by a state agency that is not included within the category of materials and supplies;~~

~~17. "Item" or "product" means some quantity or kind of such supplies, materials or equipment;~~

~~18. 13. "Local governmental entity" means any unit of local government including, but not limited to, any school district, county, or municipality of this state;~~

~~19. 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;

~~20. "Materials" or "supplies" includes all property except real property or equipment that a state agency acquires for its use or consumption;~~

~~21.~~ 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;

~~22.~~ 16. "Nonprofessional services" means services which are predominantly physical or manual in character and may involve the supplying of products;

~~23. "Political subdivision" means local governmental entities and such other entities specified as political subdivisions pursuant to The Governmental Tort Claims Act;~~

~~24. "Open market contract" means a contract for a one time acquisition not exceeding the acquisition amount requiring competitive bid pursuant to Section 85.7 of this title~~

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;

~~25.~~ 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;

~~26.~~ 20. "Purchase order" means an offer by a state agency to make an acquisition utilizing simplified procedures;

~~27.~~ 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;

~~28.~~ 22. "Requisition" means a written request by a state agency for an acquisition;

~~29.~~ ~~"Services" or "contractual services" means direct engagement of the time and effort of a contractor for the primary purpose of performing an identifiable task rather than for the furnishing of an end item of supply;~~

~~30.~~ 23. "Sole brand acquisition" means an acquisition that by specification restricts the acquisition to one manufacturer or brand name;

~~31.~~ 24. "Sole source acquisition" means an acquisition which, by specification, restricts the acquisition to one supplier;

~~32.~~ 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;

~~33.~~ 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;

~~34.~~ 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;

~~35.~~ 28. "State purchase card" means ~~an electronic transaction device used for making acquisitions~~ a type of commercial card that

allows state agencies to take advantage of existing credit card infrastructure to make electronic payments for acquisitions;

~~36.~~ 29. "State Purchasing Director" ~~or "Director of Central Purchasing"~~ includes any employee or agent of the State Purchasing Director, acting within the scope of delegated authority;

~~37.~~ 30. "Statewide contract" means a contract for specific acquisitions for a specified period with a provision allowing ~~the~~ some or all state agencies and local governmental entities to place orders as the acquisitions are needed for delivery during the period specified; and

~~38.~~ 31. "Supplier" or "vendor" means an individual or business entity that ~~sells~~ provides or desires to ~~sell~~ provide acquisitions to state agencies.

SECTION 3. AMENDATORY 74 O.S. 2011, Section 85.3, as last amended by Section 1, Chapter 6, O.S.L. 2015 (74 O.S. Supp. 2019, Section 85.3), is amended to read as follows:

Section 85.3. A. 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.

B. The Director of the Office of Management and Enterprise Services shall hire the State Purchasing Director. The State Purchasing Director shall:

1. Have a thorough knowledge of office practices and buying procedures in volume purchasing; and

2. 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.

C. ~~The Purchasing Division~~ State Purchasing Director, with the approval of the Director of the Office of Management and Enterprise Services, may include the following employees, and employment of such employees is hereby authorized:

- ~~1. One assistant director;~~
- ~~2. One qualified specifications engineer;~~
- ~~3. Buyers who have at least three (3) years' procurement experience for:~~
 - ~~a. food;~~
 - ~~b. hardware;~~
 - ~~c. textiles;~~
 - ~~d. petroleum;~~
 - ~~e. office supplies;~~
 - ~~f. building materials;~~
 - ~~g. pharmaceutical supplies;~~
 - ~~h. automotive equipment, parts, and accessories; and~~
 - ~~i. any other commodity group found by the Director of the Office of Management and Enterprise Services to justify special purchasing attention;~~
- ~~4. One buyer for products and services of the severely disabled as provided in Section 3001 et seq. of this title;~~
- ~~5. One dietitian, who shall have the qualifications required by the State Department of Health; and~~
- ~~6. Such other technical and clerical personnel as shall be assigned to the Purchasing Division by the Director of the Office of Management and Enterprise Services employ such personnel as may be necessary to exercise authority and perform duties under the Oklahoma Central Purchasing Act.~~

D. 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~~ the Oklahoma Central Purchasing Act.

E. 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.

F. Each state agency, department, and institution shall designate personnel to coordinate its purchasing functions with the Purchasing Division.

G. 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, ~~department, or institution.~~ The state agency shall pay all expenses incurred for any buyer required to be placed within its agency.

H. ~~No~~ Except as provided in Section 34.36 of Title 62 of the Oklahoma Statutes, no state agency, department, or institution subject to ~~The~~ 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~~ the Oklahoma Central Purchasing Act nor shall such purchasing section perform purchasing functions for another state agency.

I. 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.

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

1. Sell to or otherwise provide acquisitions to any state agency subject to ~~The~~ the Oklahoma Central Purchasing Act;

2. 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~~ the Oklahoma Central Purchasing Act;

3. 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~~ the Oklahoma Central Purchasing Act; ~~or~~

4. 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~~ 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 ~~Five~~ Twenty-five Thousand Dollars ~~(\$5,000.00)~~ (\$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~~ the Oklahoma Central Purchasing Act; or

5. 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.

SECTION 4. AMENDATORY 74 O.S. 2011, Section 85.3A, as last amended by Section 1, Chapter 472, O.S.L. 2019 (74 O.S. Supp. 2019, Section 85.3A), is amended to read as follows:

Section 85.3A. A. Compliance with the provisions of ~~The~~ the Oklahoma Central Purchasing Act shall not be required of:

1. County government;
2. The Oklahoma State Regents for Higher Education, the institutions, centers, or other constituent agencies of The Oklahoma State System of Higher Education;
3. The telecommunications network known as OneNet;
4. The Department of Public Safety gun range;
5. The State Treasurer for the following purchases:
 - a. 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

- b. 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;

6. ~~CompSource Oklahoma if CompSource Oklahoma is operating pursuant to a pilot program authorized by Sections 3316 and 3317 of this title~~ Statutorily allowed interagency agreements between state agencies; or

7. The Oklahoma Department of Veterans Affairs, in accordance with Section ~~2 of this act~~ 63.22 of Title 72 of the Oklahoma Statutes; or

8. 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.

B. The State Purchasing Director may form an advisory committee consisting of representatives from entities exempted from the provisions of ~~The the~~ 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.

C. At the invitation of the State Purchasing Director entities exempted from the provisions of ~~The the~~ the Oklahoma Central Purchasing Act shall participate in the advisory committee referenced in subsection B of this section.

D. The State Purchasing Director may invite representatives of ~~local government~~ political subdivisions, and local common education entities to participate as members of the advisory committee.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 85.41A of Title 74, unless there is created a duplication in numbering, reads as follows:

A. 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:

1. An acquisition declared as an emergency by a state agency;

2. 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:

- a. 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
- b. a situation in which human life or safety is in imminent danger or significant property interests are threatened with imminent destruction;

3. 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;

4. 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;

5. 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

6. A condition certified by the Governor as an emergency.

B. 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.

SECTION 6. AMENDATORY 74 O.S. 2011, Section 85.5, as last amended by Section 1, Chapter 359, O.S.L. 2014 (74 O.S. Supp. 2019, Section 85.5), is amended to read as follows:

Section 85.5. A. Except as otherwise provided in this section, ~~pursuant to the provisions of Section 85.4 of this title,~~ 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 ~~used or consumed~~ by state agencies. In order to carry out the powers and duties ~~established in Section 34.11.1 of Title 62 of the Oklahoma Statutes~~ 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 ~~used or consumed~~ 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~~ 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 ~~pursuant to in connection with provisions of The the Oklahoma Central Purchasing Act governing, providing for, prescribing, or authorizing any act, practice, or requirement for which regulatory power is delegated~~ for:

1. The time, manner, authentication, and form of making requisitions for acquisitions;
2. Inspection, analysis, and testing of acquisitions or samples ~~suppliers~~ bidders submit prior to contract award;
3. The form and manner of submission for bids or proposals a ~~supplier~~ 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. ~~Storage and storage facilities necessary to accomplish responsibilities of the Director of the Office of Management and Enterprise Services,~~

~~9.~~ 9. 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;

~~10.~~ 9. The form of any estimate, order, or other document the ~~Director of the Office of Management and Enterprise Services~~ requires information required in connection with an acquisition;

~~11.~~ 10. State agency acquisitions not exceeding the acquisition purchase threshold amount requiring competitive bid ~~pursuant to Section 85.7 of this title~~ to ensure competitiveness, fairness, compliance with ~~provisions of all sections of The the~~ Oklahoma Central Purchasing Act, and ~~compliance with provisions of~~ Section 3001 et seq. of this title, which ~~relate~~ relates to the State Use Committee. The rules shall include separate provisions based on acquisition purchase price amounts as follows:

- a. state agencies shall make acquisitions not exceeding ~~Five Thousand Dollars (\$5,000.00)~~ 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 of the Office of Management and Enterprise Services pursuant to this section~~ may make acquisitions in excess of ~~Five Thousand Dollars (\$5,000.00)~~ the fair and reasonable acquisition threshold amount provided for in this section and not exceeding ~~One Hundred Thousand Dollars (\$100,000.00)~~ Two Hundred Fifty Thousand Dollars (\$250,000.00), pursuant to rules authorized by this section;

~~12.~~ 11. Training by the State Purchasing Director of state agency procurement officers;

~~13.~~ 12. Review and audit by the State Purchasing Director of state agency acquisitions;

~~14.~~ 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;

~~15.~~ 14. Use of a state purchase card to make acquisitions;

~~16.~~ 15. Any other matter or practice which relates to the responsibilities of the ~~Director of the Office of Management and Enterprise Services~~ State Purchasing Director;

~~17.~~ 16. Conditions for determination and authorization of acquisition ~~limits~~ threshold amounts of state agencies ~~pursuant to Section 85.7 of this title~~; and

~~18.~~ 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 purchasing procurement officials, and other purchasing 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 ~~shall~~ may include ~~principles of state procurement practices, basic contracting, provisions of The Oklahoma Central Purchasing Act, rules promulgated pursuant to The Oklahoma Central Purchasing Act, provisions of Section 3001 et seq. of this title, which relate to the State Use Committee, and any other 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 the~~ Oklahoma Central Purchasing Act and associated rules authorized by this section. The State Purchasing Director ~~shall~~ 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~~ the Oklahoma Central Purchasing Act;
2. Ensuring state agency compliance with rules promulgated by the Office of Management and Enterprise Services pursuant to ~~The~~ 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; ~~and~~
5. ~~Recommending that the~~ A determination by the State Purchasing Director of the Office of Management and Enterprise Services to reduce the a state agency's acquisition competitive bid limit authority amount for any when the state agency is found not to be in compliance with The the Oklahoma Central Purchasing Act or associated rules promulgated pursuant thereto 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. ~~When recommended by the State Purchasing Director, based~~ Based on written findings and when recommended by the State Purchasing Director, the Director of the Office of Management and Enterprise Services may:

1. ~~Require retraining of state agency procurement officials and other purchasing staff found not to be in compliance with provisions of The Oklahoma Central Purchasing Act, or rules promulgated pursuant to The Oklahoma Central Purchasing Act;~~
2. ~~Reduce the acquisition competitive bid limit for any state agency found not to be in compliance with provisions of The Oklahoma~~

~~Central Purchasing Act or rules promulgated pursuant to The Oklahoma Central Purchasing Act;~~

3. 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 ~~provisions pursuant to The the~~ Oklahoma Central Purchasing Act or associated rules ~~promulgated pursuant to The Oklahoma Central Purchasing Act;~~ or

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

~~5. Increase the state agency acquisition purchase amount requiring competitive bid, not to exceed the acquisition purchase amount requiring competitive bid, pursuant to Section 85.7 of this title.~~

G. 1. Pursuant to the requirements of ~~The 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. ~~The State Purchasing Director~~ 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 ~~for use by state agencies~~ 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 ~~provided the State Purchasing Director shall not renegotiate the term of the contract.~~

5. 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 established in Section 34.11.1 of Title 62 of the Oklahoma Statutes, 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 ~~for state agencies~~ 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 and, procedures and innovations that hold potential for making ~~the Purchasing Division~~ 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~~ 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 ~~vendors with poor delivery and~~ 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, ~~contract modifications~~ 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. ~~Development of electronic means of making state agencies aware of office furniture, equipment, machinery, tools, and hardware available for purchase from the surplus property programs~~ 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. In cooperation with the Office of Management and Enterprise Services and the State Treasurer, develop an electronic payment mechanism for use in the settlement of accounts payable invoices, with no limit, to make payment for products or services acquired in accordance with The Oklahoma Central Purchasing Act and any rules promulgated pursuant thereto; and~~

~~9. Implement a policy to approve the ability of the department, agencies, boards, commissions and trusts to accept the terms of service for usage of social media services and contract for technology products and services provided the terms of service or contract contains standard language including a liability agreement which is considered customary or largely similar to terms of service agreed to or contracts entered into by other government entities and private sector enterprises.~~

~~K. The State Purchasing Director shall, in cooperation with the Oklahoma Department of Agriculture, Food, and Forestry, identify the needs of state agencies and institutions for agricultural products grown and produced in Oklahoma.~~

~~L. The State Purchasing Director may authorize the use of a state purchase card for acquisitions within the following parameters:~~

~~1. No limit on the amount of the transaction for the following:~~

- ~~a. purchases from statewide contracts issued by the State Purchasing Director,~~
- ~~b. utilities,~~
- ~~c. interagency payments, and~~
- ~~d. professional services as defined in Section 803 of Title 18 of the Oklahoma Statutes; and~~

~~2. For any other transaction with a state purchase card, the transaction shall not exceed Five Thousand Dollars (\$5,000.00).~~

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.

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

~~N. 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 the State of Oklahoma 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 Twenty five Thousand Dollars (\$25,000.00) Two Hundred Fifty Thousand Dollars (\$250,000.00) or greater.~~

~~O. As a condition of awarding a contract in excess of the dollar amount prescribed by paragraph 11 of subsection C of this section pursuant to The Oklahoma Central Purchasing Act, the State Purchasing Director shall verify with the Oklahoma Tax Commission that the business entity to which the state contract is to be awarded, whether subject to the procedures required by Section 85.7 of this title or not, has obtained a sales tax permit pursuant to the provisions of Section 1364 of Title 68 of the Oklahoma Statutes if such entity is required to do so.~~

~~P. The State Purchasing Director is hereby 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 the State of Oklahoma.~~

~~Q. The Office of Management and Enterprise Services, with input from the State Purchasing Director, shall promulgate payment~~

~~procedure rules for state agencies to adhere to regarding statewide contracts issued by the State Purchasing Director.~~

~~R. The Office of Management and Enterprise Services, Central Purchasing Division, shall promulgate payment procedure rules for agencies to adhere to regarding statewide contracts issued by the Division.~~

~~S. 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 State 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. The report shall document the reasons for the failure to issue a mandatory statewide contract for any items comprising total statewide spend in the amount of Five Million Dollars (\$5,000,000.00) or greater and include in the report information regarding emergency acquisitions.~~

~~F. N. The acquisition limitations provided for in subparagraph b of paragraph 11 of subsection C of this section and paragraph 1 of subsection A of Section 85.7 of this title 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 said 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.

SECTION 7. AMENDATORY Section 1, Chapter 264, O.S.L. 2013 (74 O.S. Supp. 2019, Section 85.5.1), is amended to read as follows:

Section 85.5.1. A. ~~This act shall be known and may be cited as the "Oklahoma Privatization Act"~~ Privatization Projects.

B- The Office of Management and Enterprise Services shall establish a repository of the best privatization ~~and surplus asset sales~~ 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.

~~C- B.~~ B. 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 act section.

SECTION 8. AMENDATORY 74 O.S. 2011, Section 85.5a, is amended to read as follows:

Section 85.5a. A. 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.

B. 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.

C. 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.

D. The State Purchasing Director may authorize the use of a state purchase card for acquisitions within the following parameters:

1. No limit on the amount of the transaction for the following:
 - a. purchases from statewide contracts and from contracts awarded by the State Purchasing Director for the benefit of a state agency,
 - b. utilities,
 - c. interagency payments,
 - d. 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

e. professional services as defined in Section 803 of Title 18 of the Oklahoma Statutes; and

2. 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.

E. The State Purchasing Director may authorize personnel ~~assigned to the Office of Global Business Services~~ 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.

SECTION 9. AMENDATORY 74 O.S. 2011, Section 85.6, is amended to read as follows:

Section 85.6. State agencies shall have the right to question the grade and quality of any merchandise acquisition delivered to the agency. ~~The Central Purchasing Division procuring agency must shall determine, through postaward contract administration procedures, whether the supplies and services meet acquisition meets~~ the grade and quality specified in the contract, and take remedial action with the appropriate ~~vendor~~ supplier if the ~~supply or service acquisition~~ does not.

SECTION 10. AMENDATORY 74 O.S. 2011, Section 85.7, as last amended by Section 2, Chapter 244, O.S.L. 2013 (74 O.S. Supp. 2019, Section 85.7), is amended to read as follows:

Section 85.7. 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 ~~One Hundred Thousand Dollars (\$100,000.00)~~ Two Hundred Fifty Thousand Dollars (\$250,000.00), without submission of a requisition to the State Purchasing Director and submission of suppliers' competitive bids or proposals to the State Purchasing Director 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.

2. 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.

3. The provisions of this 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.

2- 4. Any acquisition a state agency makes shall be made pursuant to ~~The Oklahoma Central Purchasing Act~~ this act and associated rules promulgated pursuant thereto.

a. ~~Split~~ No agency shall use split purchasing for the purpose of evading the requirement of competitive bidding shall be a felony 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.

b.

5. The State Purchasing Director may waive or increase the limit authorized for a state agency acquisition ~~by not more than ten percent (10%) to~~ made pursuant to its own competitive procedures. ~~To perfect an otherwise valid acquisition inadvertently exceeding the limit due to administrative error by the a state agency or unforeseeable circumstances. The,~~ the state agency shall request a limited waiver or increase upon the discovery of the error or circumstance to the State Purchasing Director on a form the Director requires.

e. The State Purchasing Director shall report ~~all~~ requests for waivers or increases, stating the amount and whether the request was granted or denied, ~~monthly to~~ upon request by the Governor, President Pro Tempore of the Senate, ~~and~~ or Speaker of the House of Representatives.

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

3- a. ~~Contracts~~ contracts for master custodian banks or trust companies, investment managers, investment consultants, and actuaries for the state retirement systems, ~~CompSource Oklahoma,~~ and Oklahoma Employees Insurance and Benefits Board, pension fund management consultants of the Oklahoma State Pension Commission and the Commissioners of the Land Office, 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 shall be exempt from competitive bidding procedures of this section and

~~requisition requirements of Section 85.4 of this title.~~

~~b. Contracts with financial institutions to act as depositories and managers of the Oklahoma College Savings Plan accounts shall be exempt from competitive bidding procedures. 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,~~

~~e. A~~

~~b. a state agency that makes making such an acquisition pursuant to this paragraph shall notify the State Purchasing Director within fifteen (15) days following completion of the acquisition. The Office of Management and Enterprise Services shall compile a A list of the exempt contracts and send the list 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, if the member requests.~~

~~4. Requisitions pursuant to this section shall not be required prior to emergency acquisitions by a state agency not exceeding One Hundred Thousand Dollars (\$100,000.00). The state agency shall submit a requisition to the State Purchasing Director within five (5) days following the acquisition together with a statement of the emergency. The State Purchasing Director shall send the requisition and a written analysis to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives specifying the facts and circumstances giving rise to the emergency requisition.~~

~~5. Requisitions pursuant to this section for acquisitions to alleviate a serious environmental emergency shall not be required 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 section, "serious environmental emergency" means a situation within the jurisdiction of the Commission:~~

- ~~a. 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~~
- ~~b. a situation in which human life or safety is in imminent danger or significant property interests are threatened with imminent destruction.~~

~~6. Acquisitions for repairs of equipment in emergencies, of livestock through a market agency, dealer, commission house, or livestock auction market bonded or licensed under federal or state law, the purchase or collection of semen or embryos, and the placement of embryos into recipient livestock shall not require requisitions pursuant to this section or any other provisions of The Oklahoma Central Purchasing Act.~~

~~7. The Board of Directors of the Oklahoma Historical Society shall select suppliers for the restoration of historical sites and museums and shall not be subject to the requisition requirements of this section or any other provision of The Oklahoma Central Purchasing Act. The Board may send a requisition to the State Purchasing Director and request supplier bid or proposal submission procedures, but supplier and bid selection will be the prerogative of the Board and will be based on contractors' documented qualifications and experience.~~

~~8. Purchases~~

- ~~c. purchases of postage by state agencies shall be made pursuant to Sections 90.1 through 90.4 of this title-,~~

~~9. Sole~~

- ~~d. a sole source or sole brand acquisitions acquisition by a state agency or the State Purchasing Director shall comply made in compliance with Section 85.45j of this title-,~~

~~10. Acquisitions~~

e. an acquisition for the design, development, communication, or implementation of the state employees flexible benefits plan shall not be subject to the requirements of this section; provided, that the Flexible Benefits Advisory Council shall use procedures used for the acquisition are consistent with the competitive bid requirements of The Oklahoma Central Purchasing Act. this act and associated rules,

~~11. a. Any~~

f. any acquisition of a service which the Office of Management and Enterprise Services has approved as qualifying for a fixed and uniform rate shall be made pursuant to provisions of this paragraph, subject to the following:

~~b. The Office of Management and Enterprise Services~~

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

~~e. Fixed~~

(2) fixed and uniform rate contracts authorized by this paragraph 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,

~~d. Any~~

(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 Office of Management and Enterprise Services State Purchasing Director and submit documentation to

support the request. ~~The Office of Management and Enterprise Services~~ State Purchasing Director shall approve or deny the request. ~~If the Office of Management and Enterprise Services approves the request~~ 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 ~~Director of the Office of Management and Enterprise Services~~ 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. ~~The state agency shall and deliver to the Director of the Office of Management and Enterprise Services~~ a copy of the agenda items concerning the proposed rate with supporting documentation. ~~The State Purchasing Director of the Office of Management and Enterprise Services~~ 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 of the Office of Management and Enterprise Services~~ shall specifically note in the written communications whether the ~~Director of the Office of Management and Enterprise Services~~ has determined the rate to be excessive. Any written communication presented in the absence of the ~~State Purchasing Director of the Office of Management and Enterprise Services~~ shall be presented orally during the public hearing. Whether made in person or in writing, any comment made by the ~~State Purchasing Director of the Office of Management and Enterprise Services~~

shall be made a part of the minutes of the hearing in full.,

e. ~~Within~~

- (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 of the Office of Management and Enterprise Services shall be specifically identified in the list by the state agency., and

f. ~~At~~

- (5) at any time, the State Purchasing Director of the Office of Management and Enterprise Services may review, suspend, or terminate a contract entered into pursuant to the provisions of this paragraph if the Director ~~of the Office of Management and Enterprise Services~~ determines the contract is not necessary, is excessive, or is not justified.,

~~12. Specifically prescribed nonmedical adaptive technology-related acquisitions for individuals with disabilities who are clients~~

- g. an acquisition for a client of the State Department of Rehabilitation Services and which are prescribed by a physician, rehabilitation engineer, qualified rehabilitation technician, speech therapist, speech pathologist, occupational therapist, physical

~~therapist, or qualified sensory aids specialist, and other client acquisitions, shall not be subject to the requisition requirements of this section. The Commission for Rehabilitation Services shall develop; provided, the agency develops and maintains standards for the purchase of such acquisitions and 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.~~

~~13. The Department of Human Services shall develop procedures for acquisitions of specifically prescribed nonmedical assistive technology related items not exceeding the acquisition purchase amount requiring a requisition pursuant to this section for individuals under sixteen (16) years of age who are recipients of Supplemental Security Income which are prescribed by a physician, qualified sensory aids specialist or qualified special education instructor. The procedures shall reflect standards for the acquisition of such nonmedical assistive technology related items, may provide for utilization of the Purchasing Division when appropriate, shall foster economy, provide a short response time, shall include appropriate safeguards and written records to ensure appropriate competition and economical and efficient purchasing, and shall be approved by the State Purchasing Director.~~

~~14. a. Structured~~

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 shall not be subject to the competitive bidding requirements of this section 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.

~~b. A list of any such structured settlement agreements entered into by the Attorney General with summary thereon for the previous calendar year shall be submitted to the Speaker of the House of Representatives and the President Pro Tempore of the Senate on January 31 of each year.~~

~~15. Acquisitions~~

- ~~i. an acquisition by a state agency makes 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 shall be exempt from competitive bidding procedures.~~

~~16. The Commission on Marginally Producing Oil and Gas Wells shall be exempt from the competitive bid requirements of this section for contracts~~

- ~~j. an acquisition by the Committee for Sustaining Oklahoma's Energy Resources pursuant to a contract with a local vendors supplier for the purpose of holding special events and exhibitions a special event or an exhibition throughout the state.~~

~~17. Agreements entered into by any state agency with the United States Army Corps of Engineers in order to provide emergency response or to protect the public health, safety, or welfare shall not require requisitions and shall not be subject to competitive bidding requirements of this section.~~

~~18. 7. Notwithstanding any other provision of law, an acquisition may be exempted from requirements of this section by the~~

State Purchasing Director ~~may exempt a procurement from the requirements of this section~~ 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" ~~means the administrative head of the Purchasing Division of the Office of Management and Enterprise Services~~ and shall not mean a designee. Any such acquisitions ~~made pursuant to this paragraph~~ shall be described in detail and publicly posted ~~through the transparency portal as provided in Section 34.11.2 of Title 62 of the Oklahoma Statutes~~ as a data feed. The description shall include the name of the supplier, cost of the acquisition, reason for exemption ~~under the provisions of this subsection, the and, as applicable, detailed comparison of the acquisition with comparable items, any identified cost savings resulting from the purchase, acquisition~~ and a description of benefits to the state. The State Purchasing Director shall take no action under the provisions of this ~~paragraph subsection~~ prior to the ~~publication of a document describing the significant savings that will be realized by the state. The document shall provide a detailed comparison of the acquisition with comparable items and clearly detail the savings such public posting.~~

B. ~~Acquisitions~~ Competitively bid acquisitions shall be awarded to the lowest and best, or best value, bidder ~~at a specified time and place, which shall be open to the public or bidders.~~

C. ~~Bids for professional service contracts~~ for an amount requiring submission of requisitions to the State Purchasing ~~Director~~ Division shall be evaluated by the State Purchasing ~~Director~~ Division and the state agency ~~contracting for such service receiving the acquisition.~~ Both 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 State Purchasing ~~Director and Division~~ or the state agency contracting for such service shall be completed prior to the ~~awarding of a professional service contract~~ award and such report shall be a matter of public record.

~~D. When requested by CompSource Oklahoma, the Oklahoma Employees Insurance and Benefits Board, or the governing board of a state retirement system authorized to hire investment managers, the Office of Management and Enterprise Services shall assist the requesting body in the process of selecting investment managers. When requested by the Flexible Benefits Advisory Council, the Office of Management and Enterprise Services shall assist the Council in the process of selecting contracts for the design, development, communication, or implementation of the state employees flexible benefits plan.~~

~~E. 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 procedures pursuant to the provisions requirements of this section.~~

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

~~F. 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.~~

~~G. 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.~~

SECTION 11. AMENDATORY 74 O.S. 2011, Section 85.12, as last amended by Section 2, Chapter 71, O.S.L. 2017 (74 O.S. Supp. 2019, Section 85.12), is amended to read as follows:

Section 85.12. A. 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.

B. 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~~ the Oklahoma Central Purchasing Act:

1. Food and other products produced by state institutions and agencies;

2. 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 ~~The Oklahoma Central Purchasing Act~~ this act and associated rules;

3. Department of Transportation and Transportation Commission contractual services or right-of-way ~~purchases~~, 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, ~~the acquisitions of equipment or materials~~ material acquisitions accruing to the Department of Transportation required in Federal-Aid contracts, ~~and contracts~~ acquisitions for public service type announcements initiated by the Department of Transportation, but not ~~contractual services~~ acquisitions for advertising ~~or~~, public relations or employment services;

4. Utility services regulated by a state or federal regulatory commission, ~~or by~~ municipal ordinance, ~~or by~~ an Indian Tribal Council;

5. 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;

6. ~~Contracts for custom~~ Custom harvesting by the Department of Corrections for the Department or its institutions;

7. ~~Contracts with~~ Subject to prior approval of the State Purchasing Director, acquisitions from private prison contractors suppliers which are subject to the contracting procedures of Section 561 of Title 57 of the Oklahoma Statutes;

8. Acquisitions by the Oklahoma Municipal Power Authority;

9. Acquisitions by the Grand River Dam Authority;

10. 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;

11. Acquisitions by the Oklahoma Ordnance Works Authority, the Northeast Oklahoma Public Facilities Authority, or the Midwestern Oklahoma Development Authority;

12. ~~Contracts entered into by the Oklahoma Industrial Finance Authority for the services of an appraiser or for acquisition of insurance when the Authority's Board of Directors determines that an emergency exists, and contracts for the services of legal counsel when approved by the Attorney General,~~

~~13.~~ 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;

~~14.~~ 13. 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;

~~15.~~ 14. 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;

~~16.~~ 15. Contracts entered into by the Oklahoma Center for the Advancement of Science and Technology for professional services;

~~17.~~ 16. Contracts entered into by the Oklahoma Department of Commerce pursuant to the provisions of Section 5066.4 of this title;

~~18.~~ 17. Acquisitions made by the Oklahoma Historical Society from monies used to administer the White Hair Memorial;

~~19. Acquisitions available to an agency through a General Services Administration (GSA) contract or other federal contract if the acquisition is on current statewide contract and the terms of the GSA or other federal contract, as determined by the State Purchasing Director, are more favorable to the agency than the terms of a statewide contract for the same products;~~

~~20.~~ 18. 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;

~~21.~~ 19. 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;

~~22.~~ 20. Acquisitions by the ~~Forestry Service of the Oklahoma Department of Agriculture, Food, and Forestry as authorized by the federal General Services Administration~~ 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;

~~23.~~ 21. 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;

~~24.~~ 22. Acquisitions by the Oklahoma Energy Resources Board;

~~25.~~ 23. 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;

~~26.~~ 24. State contracts for flexible benefits plans pursuant to the Oklahoma State Employees Benefits Act, Section 1361 et seq. of this title;

~~27.~~ 25. 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;

~~28.~~ Acquisitions by the Native American Cultural and Educational Authority and acquisitions by the Oklahoma Department of Commerce to assist the Native American Cultural and Educational Authority pursuant to Section 5017 of this title;

~~29.~~ 26. 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;

~~30.~~ 27. 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;

~~31.~~ 28. 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;

~~32.~~ 29. 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;

~~33.~~ 30. 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;

~~34.~~ 31. 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;

~~35. Contracts not to exceed One Hundred Thousand Dollars (\$100,000.00) entered into by the Department of Environmental Quality for engineering services to assist qualifying small municipalities or rural water or sewer districts with engineering reports or plans and specifications needed for construction or repairs to achieve compliance with federal and state public water supply or wastewater laws and regulations;~~

~~36.~~ 32. Contracts for annuities for structured settlements provided for in Section 158 of Title 51 of the Oklahoma Statutes; and

~~37. Contracts entered into by the State Department of Education with current or retired employees of Oklahoma public school districts to assist the Department when the expertise and qualifications of an Oklahoma certified educator are required, as provided for in Section 1 of this act~~

33. 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; and

34. 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.

C. 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~~ 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.

D. The State Purchasing Director ~~shall~~ may make periodic audits of the purchasing procedures of ~~the Oklahoma Ordnance Works Authority, the Northeast Oklahoma Public Facilities Authority, the University Hospitals Authority, and the Midwestern Oklahoma Development Authority~~ acquisitions listed in subsection B of this section to ensure that the procedures are being followed.

E. 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.

SECTION 12. AMENDATORY 74 O.S. 2011, Section 85.12b, as amended by Section 747, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2019, Section 85.12b), is amended to read as follows:

Section 85.12b. All agencies or departments of this state shall lease, charter or contract for the use of any aircraft pursuant to the provisions of ~~The~~ the Oklahoma Central Purchasing Act, except for use of aircraft owned and operated by another state agency ~~or department of this state. The Office of Management and Enterprise Services shall develop and implement guidelines for the use of such aircraft.~~

SECTION 13. AMENDATORY 74 O.S. 2011, Section 85.17A, is amended to read as follows:

Section 85.17A. A. 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~~ the Oklahoma Central Purchasing Act. ~~The State Purchasing Director Division shall annually prepare and distribute to provide to certified procurement officers a schedule providing which states give bidders in their states a preference and the extent of the preference information regarding the reciprocity provided by other states. This schedule information shall be used by state agencies in evaluating bids.~~

B. For purposes of awarding contracts state agencies shall:

1. 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;

2. 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

3. 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.

SECTION 14. AMENDATORY 74 O.S. 2011, Section 85.22, as last amended by Section 1, Chapter 255, O.S.L. 2014 (74 O.S. Supp. 2019, Section 85.22), is amended to read as follows:

Section 85.22. Any competitive bid submitted to ~~the State of Oklahoma~~ this state or contract executed by the state for ~~goods or services~~ an acquisition in excess of ~~Five Thousand Dollars (\$5,000.00)~~ the fair and reasonable acquisition threshold amount shall contain a certification, ~~which shall be~~ dated and in substantially the following form:

A. ~~For purposes of competitive bids,~~ I certify:

1. I am the duly authorized agent of _____, ~~the bidder submitting the competitive bid which is attached to this statement,~~ for the purpose of certifying the facts pertaining to the existence of collusion among and between bidders and between bidders 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 letting of any contract pursuant to the bid to which this statement is attached prospective acquisition;

2. I am fully aware of the facts and circumstances surrounding the acquisition or making of the bid to which this statement is attached relates and have been personally and directly involved in ~~the proceedings~~ events leading to the acquisition or submission of such bid; and

3. Neither the ~~bidder~~ business entity that I represent in this certification nor anyone subject to the ~~bidder's~~ business entity's direction or control has been a party:

- a. 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,

- b. 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
- c. ~~in~~ to any discussions between bidders or suppliers and any state official concerning exchange of money or other thing of value for special consideration in ~~the letting of a~~ connection with the prospective contract,
~~nor~~
- ~~d. to any collusion with any state agency or political subdivision official or employee as to create a sole source acquisition in contradiction to Section 85.45j.1 of this title.~~

B. I certify, if awarded the contract, whether competitively bid or not, neither the ~~contractor~~ business entity I represent nor anyone subject to the ~~contractor's~~ business entity's direction or control has paid, given or donated or agreed to pay, give or donate to any officer or employee of ~~the State of Oklahoma~~ this state any money or other thing of value, either directly or indirectly, in procuring the contract to which this statement ~~is attached~~ relates.

Certified this _____ day of _____ 20__.

SECTION 15. AMENDATORY 74 O.S. 2011, Section 85.33, as last amended by Section 3, Chapter 244, O.S.L. 2013 (74 O.S. Supp. 2019, Section 85.33), is amended to read as follows:

Section 85.33. 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 ~~for commodity research, classification, and analysis and expenses the Office incurs to support Purchasing Division operations.~~ Warrants for expenditures from said 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, ~~and to receive one copy of the State's Commodity Classification Manual when published.~~ All fees collected in accordance with this ~~section~~ subsection shall be deposited in the revolving fund created in subsection A of this section.

SECTION 16. AMENDATORY 74 O.S. 2011, Section 85.33A, as amended by Section 753, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2019, Section 85.33A), is amended to read as follows:

Section 85.33A. A. 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 ~~for operations of the Purchasing Division and expenses the Office of Management and Enterprise Services incurs to support operation 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 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.

SECTION 17. AMENDATORY 74 O.S. 2011, Section 85.39, as amended by Section 755, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2019, Section 85.39), is amended to read as follows:

Section 85.39. A. 1. 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.

2. The State Purchasing Director shall review the procedures submitted pursuant to paragraph 1 of this subsection to determine compliance with ~~The 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 ~~provide written findings, including details of noncompliance, if any, to the Director of the Office of Management and Enterprise Services.~~

~~3. The Director of the Office of Management and Enterprise Services shall, within fifteen (15) days after the procedures are submitted, notify the state agency that the procedures are in compliance or indicate revisions necessary to bring the procedures into compliance.~~

B. A state agency shall not make acquisitions exceeding ~~Five Thousand Dollars (\$5,000.00) pursuant to Section 85.5 of this title~~ the fair and reasonable acquisition threshold amount, unless the

State Purchasing Director of the Office of Management and Enterprise Services provides notice of compliance.

C. 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.

SECTION 18. AMENDATORY 74 O.S. 2011, Section 85.41, is amended to read as follows:

Section 85.41. A. A state agency that acquires professional services shall comply with the provisions of this section.

B. The state agency ~~shall~~ may evaluate the performance of the professional services provided pursuant to all professional services contracts exceeding the ~~"fair and reasonable" dollar~~ 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.

C. 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.

D. A state agency shall administer, monitor, and audit the professional services contract. ~~The State Purchasing Director may require the state agency and may be required to report the status of an unfinished professional services contract to the State Purchasing Director the status of an unfinished professional services contract.~~

E. 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.

F. 1. ~~If 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.~~

~~2. Any state agency renewing a contract with a supplier shall not be subject to the provisions of paragraph 1 of this subsection.~~

G. 1. ~~Contracts for professional services shall provide for payment for services at a uniform rate throughout the duration of the contract if the services throughout the duration of the contract are similar and consistent.~~

~~2. No state agency shall execute a contract for professional services providing for nonuniform payments throughout the duration of the contract without authorization of the State Purchasing Director.~~

SECTION 19. AMENDATORY 74 O.S. 2011, Section 85.42, as amended by Section 1, Chapter 252, O.S.L. 2019 (74 O.S. Supp. 2019, Section 85.42), is amended to read as follows:

Section 85.42. A. 1. Except as otherwise provided for in this section or other applicable law, any agency, whether or not such agency is subject to ~~The~~ 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.

2. 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.

B. 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 of Oklahoma~~ 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 ~~personnel of the Capital Resources Division of the Oklahoma Department of Commerce~~ personnel who contract to provide services to the Oklahoma Capital Investment Board.

C. 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.

D. ~~An agency may enter into a sole source contract or a~~ Notwithstanding anything to the contrary in this section, the following sole source or professional services contracts are allowed at any time:

1. A contract for professional services at any time with a person who is a qualified interpreter for the deaf; and

2. 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.

E. Provided the provisions specified in subsection B of this section are satisfied, the following professional services contracts are allowed:

~~1. 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 enter into a contract for professional services at any time with a person who has retired from state service, provided the provisions specified in subsection B of this section are satisfied.~~

~~F. The Department of Human Services may enter into a contract for professional services related to computer application development support and network engineering at any time with a person who has separated from state service, provided the provisions specified in subsection B of this section are satisfied.;~~

~~G. 2. To maintain public health infrastructure and preparedness, the State Department of Health and city-county health departments may enter into a contract for professional services at any time with a physicians 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; provided, the provisions specified in subsection B of this section are also satisfied. and~~

~~H. 3. The Department of Mental Health and Substance Abuse Services may enter into a contract for professional services at any time 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, provided that the provisions specified in subsection B of this section are satisfied.~~

~~I. The Administrative Office of the Courts may, on behalf of the district courts, enter into a sole source contract or a contract for professional services at any time with a person who is a part-time certified court reporter.~~

SECTION 20. AMENDATORY 74 O.S. 2011, Section 85.43, as amended by Section 756, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2019, Section 85.43), is amended to read as follows:

Section 85.43. A. 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 ~~Fifty Thousand Dollars (\$50,000.00) but not exceeding One Hundred Thousand Dollars (\$100,000.00) of the state agency~~ the agency's acquisition threshold amount for the preceding fiscal year which will include and identify the following information:

1. Professional services contracts;
2. Nonprofessional services contracts; and
3. ~~Contracts for the leasing of property including real property contracts and any lease agreements for products or equipment~~ Sole source and sole brand acquisitions; and
4. Contracts for the leasing of personal property other than a lease acquisition utilizing a statewide contract.

B. The report shall contain:

1. The name of the supplier;
2. A description of each acquisition;
3. The purchase price of the acquisition; and
4. The total amount expended to date for the preceding fiscal year for the acquisition.

C. ~~The report shall specifically identify sole source and sole brand acquisitions.~~

D. ~~The state agency shall additionally submit the report to the State Auditor and Inspector and to the Office of Management and Enterprise Services. The state agency shall submit the report, upon request, to any member of the Appropriations and Budget Committee of the House of Representatives or Appropriations Committee of the Senate if a member so requests.~~

~~E. D.~~ 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.

SECTION 21. AMENDATORY 74 O.S. 2011, Section 85.44B, is amended to read as follows:

Section 85.44B. A. 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, ~~Section 85.1 et seq. of this title,~~ shall be made only after products or services have been ~~provided or services rendered~~ 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. ~~This section shall not prohibit payment for services provided by the United States Army Corps of Engineers prior to the services being rendered if the action is taken pursuant to a cooperative agreement between a state agency and the Corps to provide emergency response or to protect the public health, safety, or welfare.~~

B. 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.

SECTION 22. AMENDATORY 74 O.S. 2011, Section 85.44C, is amended to read as follows:

Section 85.44C. ~~It shall be unlawful for any state agency, whether~~ Whether or not such a state agency is subject to the Oklahoma Central Purchasing Act, ~~to~~ 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 ~~vendor or service provider~~ 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.

SECTION 23. AMENDATORY Section 1, Chapter 179, O.S.L. 2015 (74 O.S. Supp. 2019, Section 85.44E), is amended to read as follows:

Section 85.44E. A. ~~This act shall be known and may be cited as the "Disabled Veteran Business Enterprise Act"~~ Disabled Veteran Businesses.

~~B.~~ As used in this section:

1. "Service-disabled veteran" means any individual that is disabled as certified by the appropriate federal agency responsible for the administration of veterans' affairs; and
2. "Service-disabled veteran business" means a business:
 - a. 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
 - b. the management and daily business operations of which are controlled by one or more service-disabled veterans.

~~E.~~ B. 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 point~~ 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.

~~D.~~ C. In implementing the provisions of subsection E B of this section, the following shall apply:

1. 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 E B of this section to be awarded to such veterans; and

2. 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.

~~E.~~ D. The Director of the Office of Management and Enterprise Services may promulgate rules in order to implement the provisions of this section.

SECTION 24. AMENDATORY 74 O.S. 2011, Section 85.45j, as amended by Section 763, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2019, Section 85.45j), is amended to read as follows:

Section 85.45j. A. 1. ~~Pursuant to the provisions of this section, an~~ A sole source acquisition may be 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.

2. ~~If a state agency desires to make a~~ For each sole source or sole brand acquisition, the state agency shall retain in the state agency's acquisition file ~~or~~ 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 ~~TELEPHONE~~ CONTACT INFORMATION

In connection with the attached requisition or contract, I hereby affirm that pursuant to the provisions of the attached requisition or contract that

(Name of Supplier)

is the only ~~person or~~ business entity singularly qualified to provide the acquisition, ~~and if a product or~~ is the only brand ~~or product which is unique~~ satisfying the acquisition requirements, for the following reasons:

The following is a brief description of all efforts ~~which were made to verify that the services or products to be purchased pursuant to the provisions of the attached requisition or contract~~ qualify 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 ~~subject me to punishment for perjury~~ 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 ~~the purchase of specific products or services~~ a particular acquisition, but which does not specify a brand or supplier shall not substitute for the certification required by this ~~subsection~~ section or otherwise invalidate the acquisition procedures required ~~pursuant to The~~ by the Oklahoma Central Purchasing Act.

4. ~~Any chief administrative officer of a state agency affirming the certification required by this subsection who knows the information to be false shall be deemed guilty of perjury and upon conviction shall be punished by fine or by imprisonment or both fine and imprisonment pursuant to law. Upon conviction or upon entering a plea of nolo contendere pursuant to this paragraph, the chief administrative officer shall immediately forfeit his or her position and shall be ineligible for appointment to or employment in the state service for a period of five (5) years after entering a plea of nolo contendere or being convicted.~~

5. 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 ~~subsection~~ 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.

6. ~~If the acquisition's purchase price is such that the state agency is required to submit a requisition to the State Purchasing Director, the State Purchasing Director shall approve or deny the requisition for a sole source or sole brand acquisition.~~

5. Prior to approving a requisition pursuant to this paragraph for a sole source or sole brand acquisition, the State Purchasing Director Division shall document reasons require the signed certification documenting the need for a sole source or sole brand purchase is necessary acquisition and shall retain a written record for three (3) fiscal years following the end of the fiscal year during which the sole source or sole brand acquisition was made the certification in accordance with state record retention requirements.

~~7. 6. For a sole source or sole brand acquisitions exceeding Five Thousand Dollars (\$5,000.00) the fair and reasonable acquisition threshold amount and not requiring submission of a requisition to the State Purchasing Director Division, the state agency's certified procurement officer shall document reasons a sole source or sole brand acquisition is necessary and shall retain a written record for three (3) fiscal years following the end of the fiscal year during which the sole source or sole brand acquisition was made.~~

~~8. The chief administrative officer of each state agency shall submit to the State Purchasing Director a monthly listing of all sole source and sole brand acquisitions exceeding Five Thousand Dollars (\$5,000.00) executed by the state agency in the preceding month. The report shall indicate whether requisitions for sole source and sole brand acquisitions were disapproved or modified by the State Purchasing Director and information the State Purchasing Director requires.~~

~~9. The State Purchasing Director shall electronically provide to the Office of Management and Enterprise Services the information received pursuant to paragraph 8 of this subsection in machine-readable format and in the form the Office of Management and Enterprise Services requires, 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 from the information received pursuant to this section to:

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

~~2. The Majority and Minority Leaders of both the House of Representatives and the Senate;~~

~~3. The Chair and Vice chair of the Appropriations and Budget Committee of the House of Representatives and the Appropriations Committee of the Senate; and~~

~~4. Any member of the Legislature requesting the report.~~

The report shall detail ~~all~~ 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 ~~in physical form unless the requesting person specifies the electronic version. The report shall be signed~~ 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; ~~contact person~~; 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.

~~C. The Office of Management and Enterprise Services shall maintain electronic historic data or any other data received pursuant to this section for at least two (2) years.~~

~~D. By August 15 of each year, from the data received pursuant to this section, the Office of Management and Enterprise Services shall complete and submit a report detailing the number of sole source or sole brand contracts issued by each state agency and a list of the business names of the suppliers who received sole source or sole brand awards during the previous fiscal year and if more than one such award, the number of awards so executed.~~

SECTION 25. AMENDATORY 74 O.S. 2011, Section 85.45q, is amended to read as follows:

Section 85.45q. As used in the Oklahoma Online Bidding Act:

~~1. "Information technology" means data processing, telecommunications, and office systems technologies and services;~~

~~2. "Services" means the furnishing of labor, time, or effort by a contractor not required to deliver a specific end product, other than reports which are merely incidental to required performance;~~

~~3. "Construction" shall be defined as provided by Section 202 of Title 61 of the Oklahoma Statutes for online bids subject to the Public Building Construction and Planning Facilities Act;~~

~~4. 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;~~

~~5. 3. "State agencies" or "agencies" shall be defined as provided by state agency is defined in Section 85.2 of Title 74 of the Oklahoma Statutes 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 Building Construction and Planning Facilities Act;~~

~~6. 4. "Online bidding" means an electronic procurement process in which state agencies receive bids from vendors for goods;~~

~~services, construction, or information services~~ over the Internet in a real-time, competitive bidding event; and

~~7. "Internet" means the international computer network of both federal and nonfederal interoperable packet switched data networks, including the graphical subnetwork called the World Wide Web; and~~

8. 5. "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 acquisitions to the state. A solicitation may be an invitation to bid, request for proposal, or request for quotation shall be defined as provided in Section 85.2 of this title.

SECTION 26. AMENDATORY 74 O.S. 2011, Section 85.45r, as amended by Section 766, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2019, Section 85.45r), is amended to read as follows:

Section 85.45r. A. When a state agency ~~purchasing agent~~ determines that ~~electronic or~~ online bidding is more advantageous than other procurement methods provided by the laws of this state, the ~~purchasing agent~~ agency may use online bidding to obtain bids as authorized by ~~The the~~ the Oklahoma Central Purchasing Act or the Public Building Construction and Planning Facilities Act for the purchase of goods, services, construction, or information services purchases or acquisitions as defined in Section 85.2 of this title.

B. The online bidding process shall provide:

1. A designated opening and closing date and time. At the opening date and time, state agencies shall begin accepting online ~~electronic~~ bids. Online bids shall be accepted until the designated closing date and time, except as provided by paragraph 6 of this subsection;

2. The posting of all online bids electronically and updating of bids on a real-time basis by state agencies;

3. 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 ~~of the solicitation or applicable acts;~~

4. 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;

5. The retention of the authority of state agencies to determine the criteria that will be used as the basis for making awards; and

6. The authorization for the State Purchasing Director of the Office of Management and Enterprise Services, 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.

C. 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 the~~ the Oklahoma Central Purchasing Act or the Public Building Construction and Planning Facilities Act.

D. All bids submitted electronically 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 the~~ the Oklahoma Central Purchasing Act or the Public Building Construction and Planning Facilities Act.

E. All remedies available to state agencies and suppliers through the sealed bid process pursuant to ~~The the~~ the Oklahoma Central Purchasing Act or the Public Building Construction and Planning Facilities Act are also available to state agencies and online bidders in an online bidding process.

SECTION 27. AMENDATORY 74 O.S. 2011, Section 85.58A, as last amended by Section 1, Chapter 244, O.S.L. 2014 (74 O.S. Supp. 2019, Section 85.58A), is amended to read as follows:

Section 85.58A. A. The Office of Management and Enterprise Services (OMES) shall establish for all state agencies, whether or not subject to ~~The~~ the Oklahoma Central Purchasing Act, and other entities as provided by law a comprehensive professional risk management program which shall:

1. Identify and evaluate risks of loss and exposures to loss to officers, employees and properties;

2. Minimize risks through loss-prevention and loss-control programs;

3. Transfer risks, if economically advantageous to the state, by acquiring commercial insurance, contractual pass through of liability, or by other means;

4. Consolidate and administer risk management plans and programs including self-insurance programs, except State Employees Group Insurance;

5. Determine feasibility of and, if feasible, establish self-insurance programs, considering whether a program may be self-supporting to remain financially and actuarially sound;

6. Provide a system to allocate insurance and program costs to determine payment for insurance coverage and program expenses provided by the Office of Management and Enterprise Services;

7. When requested by a state retirement system or the State and Education Employees Group Insurance Board, assist in obtaining insurance authorized by law. If requested by the Oklahoma State Regents for Higher Education, assist trust funds for which the State Regents serve as trustees in obtaining insurance authorized by law;

8. Assist state agencies and officers, employees, and members thereof, charged with licensing authority, in obtaining insurance for liability for judgments, based on the licensing authority, rendered by any court pursuant to federal law;

9. When requested by a public trust established pursuant to Title 60 of the Oklahoma Statutes of which the State of Oklahoma is the beneficiary, obtain, provide or assist the public trust in

obtaining insurance authorized by law or trust indenture covering any board member, trustee, official, officer, employee or volunteer for errors and omissions or liability risks arising from the performance of official duties pursuant to law or trust indenture; and

10. When requested by the Oklahoma State Regents for Higher Education, for the purpose of insuring real property required pursuant to Section 4018 of Title 70 of the Oklahoma Statutes, of which the Oklahoma State Regents for Higher Education is the beneficiary, obtain, provide or assist the Oklahoma State Regents for Higher Education in obtaining insurance for the real property pursuant to the provisions of this section; and

11. Authorize the Risk Management Administrator to declare an emergency for the purpose of mitigating damages to any state-owned property insured under the comprehensive professional risk management program administered by OMES.

B. The Director of the Office of Management and Enterprise Services may hire or contract for the services of a Risk Management Administrator to supervise the Comprehensive Professional Risk Management Program established pursuant to this section. If appointed by the Director as a state employee, the Risk Management Administrator shall be in the unclassified service.

C. The Risk Management Administrator shall evaluate insurance coverage needs and in force for state agencies, whether or not subject to ~~The~~ the Oklahoma Central Purchasing Act, and other entities as provided by law. All entities shall submit to the Risk Management Administrator all information which the Risk Management Administrator deems necessary to perform this duty.

D. The Risk Management Administrator in conjunction with the State Purchasing Director under the authority of the Director of the Office of Management and Enterprise Services may negotiate insurance coverage and insurance-related services, including, but not limited to, insurance brokerage and consulting services. The State Purchasing Director shall ensure open processes for solicitation and qualification of insurance coverage and services providers. The State Purchasing Director shall award contracts for insurance coverage and services to the provider or providers which offer the

best and final terms and conditions. The State Purchasing Director may authorize the Risk Management Administrator to bind for insurance coverage with providers.

E. The school districts of this state may request the Risk Management Administrator to advise for the purchase of insurance coverage for the school districts.

F. A state agency, whether or not subject to ~~The~~ the Oklahoma Central Purchasing Act, that contemplates purchase of property and casualty insurance, shall provide details of the proposed purchase to the Risk Management Administrator for approval or disapproval prior to the purchase.

G. The Director of the Office of Management and Enterprise Services shall promulgate rules to effect the provisions of the comprehensive professional risk management program.

H. 1. a. Any community action agency established pursuant to Sections 5035 through 5040 of this title may participate in the comprehensive professional risk management program established pursuant to this section for risks incurred as a result of operating a Head Start program or providing transportation services to the public. The Risk Management Administrator shall obtain or provide for insurance coverage for such community action agencies or bonding for employees of such community action agencies. Any liability insurance coverage obtained or provided shall include expenses for administrative and legal services obtained or provided by the Risk Management Administrator.

b. The Risk Management Administrator shall determine criteria for participation in the risk management program by such community action agencies. In addition, the Risk Management Administrator may require each such community action agency to:

(1) provide adequate qualified personnel and suitable facilities and equipment for operating a Head

Start program or providing transportation services to the public, and

- (2) comply with such standards as are necessary for the protection of the clients it serves.

2. To receive coverage pursuant to this section, a community action agency shall make payments for any insurance coverage and shall otherwise comply with the provisions of this section and rules promulgated by the Office pursuant to the provisions of this section.

3. Requests for the insurance coverage provided pursuant to the provisions of this subsection shall be submitted in writing to the Risk Management Administrator by the community action agencies.

I. The Risk Management Administrator may provide or obtain for any state agency, public trust with the state as a beneficiary and a director, officer, employee or member thereof, insurance for liability for loss, including judgments, awards, settlements, costs and legal expenses, resulting from violations of rights or privileges secured by the Constitution or laws of the United States of America which occur while a director, officer, employee or member is acting within the scope of service to the State of Oklahoma. The insurance shall be for coverage in excess of the limits on liability established by The Governmental Tort Claims Act but shall not limit or waive any immunities now or hereafter available to the State of Oklahoma or any state agency, any public trust with the state as a beneficiary, or any director, officer, employee or member thereof, including, but not limited to, any immunities under the Eleventh Amendment to the Constitution of the United States, state sovereign immunity, and any absolute or qualified immunity held by any director, officer, employee or member.

SECTION 28. AMENDATORY 62 O.S. 2011, Section 34.62, as amended by Section 385, Chapter 304, O.S.L. 2012 (62 O.S. Supp. 2019, Section 34.62), is amended to read as follows:

Section 34.62. 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 ~~said~~ 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 ~~purchases~~ acquisitions without the submission of competitive bids or compliance with the state purchase card program as otherwise required by ~~Sections 85.7 and 85.12 of Title 74 of the Oklahoma Statutes~~ 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 bank 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.

SECTION 29. RECODIFICATION 74 O.S. 2011, Sections 85.26, as amended by Section 749, Chapter 304, O.S.L. 2012, 85.27, 85.28, 85.29, as last amended by Section 31, Chapter 254, O.S.L. 2015, 85.30 and 85.31, as amended by Section 751, Chapter 304, O.S.L. 2012, shall be recodified as Sections 85.58Q through 85.58V of Title 74 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 30. RECODIFICATION 74 O.S. 2011, Section 85.45j, as last amended by Section 24 of this act, shall be recodified as Section 85.44D.1 of Title 74 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 31. REPEALER 74 O.S. 2011, Section 85.4, as amended by Section 736, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2019, Section 85.4), is hereby repealed.

SECTION 32. REPEALER Section 1, Chapter 29, O.S.L. 2019 (74 O.S. Supp. 2019, Section 85.5b), is hereby repealed.

SECTION 33. REPEALER 74 O.S. 2011, Section 85.7a, as amended by Section 739, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2019, Section 85.7a) is hereby repealed.

SECTION 34. REPEALER 74 O.S. 2011, Section 85.7e, as amended by Section 741, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2019, Section 85.7e), is hereby repealed.

SECTION 35. REPEALER 74 O.S. 2011, Section 85.7g, is hereby repealed.

SECTION 36. REPEALER 74 O.S. 2011, Section 85.8, as amended by Section 742, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2019, Section 85.8), is hereby repealed.

SECTION 37. REPEALER 74 O.S. 2011, Section 85.9B, as amended by Section 743, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2019, Section 85.9B), is hereby repealed.

SECTION 38. REPEALER 74 O.S. 2011, Section 85.9D, as amended by Section 744, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2019, Section 85.9D), is hereby repealed.

SECTION 39. REPEALER 74 O.S. 2011, Section 85.9G, is hereby repealed.

SECTION 40. REPEALER 74 O.S. 2011, Section 85.10, is hereby repealed.

SECTION 41. REPEALER 74 O.S. 2011, Section 85.11, is hereby repealed.

SECTION 42. REPEALER 74 O.S. 2011, Section 85.12a, as amended by Section 746, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2019, Section 85.12a), is hereby repealed.

SECTION 43. REPEALER 74 O.S. 2011, Section 85.12c, is hereby repealed.

SECTION 44. REPEALER 74 O.S. 2011, Section 85.13, as amended by Section 748, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2019, Section 85.13), is hereby repealed.

SECTION 45. REPEALER 74 O.S. 2011, Section 85.14, is hereby repealed.

Passed the Senate the 3rd day of March, 2020.

Stephanie L. Bice
Presiding Officer of the Senate

Passed the House of Representatives the 14th day of May, 2020.

W. Mark Berry
Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 14th
day of May, 20 20, at 5:31 o'clock pm M.
By: Sumner Berry

Approved by the Governor of the State of Oklahoma this 20th
day of May, 20 20, at 10:24 o'clock am M.

K. S. A.
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 20
day of May, 20 20, at 1:32 o'clock pm M.
By: Michael Rogers