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Mary Fallin, Governor
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Secretary of State
Peggy Coe, Editor-in-Chief

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Notices of Rulemaking Intent

Prior to adoption and gubernatorial/legislative review of a proposed PERMANENT rulemaking action, an agency must publish a Notice of Rulemaking Intent in the *Register*. In addition, an agency may publish a Notice of Rulemaking Intent in the *Register* prior to adoption of a proposed EMERGENCY or PREEMPTIVE rulemaking action.

A Notice of Rulemaking Intent announces a comment period, or a comment period and public hearing, and provides other information about the intended rulemaking action as required by law, including where copies of proposed rules may be obtained.

For additional information on Notices of Rulemaking Intent, see 75 O.S., Section 303.

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 44. AGRICULTURE POLLUTANT DISCHARGE ELIMINATION SYSTEM

[OAR Docket #12-905]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking

PROPOSED RULES:

Subchapter 1. Agriculture Environmental Permitting and AGPDES

Part 1. General Provisions

35:44-1-3 [AMENDED]

Subchapter 3. Permit Conditions and Requirements

35:44-3-3 [AMENDED]

SUMMARY:

The proposed rule change updates Code of Federal Regulations citations found within the rules relating to agricultural pollutant discharge systems.

AUTHORITY:

OKLA. CONST., Art. 6, § 31; Oklahoma State Board of Agriculture 2 O.S. §§ 2-4; 2-18.2, 2A-1 et seq., and 2A-21 et seq.; 27A O.S. § 1-3-101(D).

COMMENT PERIOD:

Persons may submit written and oral comments to Bennett Abbott at bennett.abbott@ag.ok.gov, 2800 North Lincoln Boulevard, P.O. Box 528804, Oklahoma City, Oklahoma 73152-8804 during the period from October 15, 2012 through November 26, 2012.

PUBLIC HEARING:

A public hearing will be held at 9:30 a.m., November 26, 2012, in the Board Room of the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Bennett Abbott at the above address during the period from October 15, 2012 through November 26, 2012.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained by visiting www.ag.ok.gov/proposedrules, or by contacting Bennett Abbott, at the above address.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement is available at the above addresses.

CONTACT PERSON:

Bennett Abbott, (405) 522-5803, e-mail address: bennett.abbott@ag.ok.gov

[OAR Docket #12-905; filed 9-25-12]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 55. COMMERCIAL PET BREEDERS

[OAR Docket #12-906]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking

PROPOSED RULES:

Subchapter 1. Licensing [NEW]

35:55-1-1 [NEW]

35:55-1-2 [NEW]

35:55-1-3 [NEW]

35:55-1-4 [NEW]

35:55-1-5 [NEW]

35:55-1-6 [NEW]

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35:55-1-9 [NEW]

35:55-1-10 [NEW]

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35:55-1-13 [NEW]

Subchapter 3. Standards of Care [NEW]

35:55-3-1 [NEW]

35:55-3-2 [NEW]

35:55-3-3 [NEW]

35:55-3-4 [NEW]

35:55-3-5 [NEW]

35:55-3-6 [NEW]

35:55-3-7 [NEW]

35:55-3-8 [NEW]

35:55-3-9 [NEW]

35:55-3-10 [NEW]

Notices of Rulemaking Intent

Subchapter 5. Transportation [NEW]

35:55-5-1 [NEW]

35:55-5-2 [NEW]

35:55-5-3 [NEW]

35:55-5-4 [NEW]

35:55-5-5 [NEW]

Subchapter 7. Recordkeeping and Sales [NEW]

35:55-7-1 [NEW]

35:55-7-2 [NEW]

35:55-7-3 [NEW]

35:55-7-4 [NEW]

35:55-7-5 [NEW]

35:55-7-6 [NEW]

SUMMARY:

The purpose of the proposed rules is to implement the provisions of House Bill 2921 of the 2012 Legislative session related to commercial pet breeders. House bill 2921 transferred regulation of commercial pet breeders from the Oklahoma State Board of Commercial Pet Breeders to the Oklahoma Department of Agriculture, Food, and Forestry. These rules contain provisions related to licensing requirements, application contents, inspections, fees for licenses, annual reports, renewals, complaints, exemptions for training animals, standards of care, transportation, recordkeeping, and sale of animals. Section 17 of House Bill 2921 allows the Department to enforce the rules promulgated by the Oklahoma State Board of Commercial Pet Breeders.

AUTHORITY:

OKLA. CONST., Art. 6, § 31; Oklahoma State Board of Agriculture 2 O.S. §§ 2-4; 4 O.S. §30.1

COMMENT PERIOD:

Persons may submit written and oral comments to Bennett Abbott at bennett.abbott@ag.ok.gov, 2800 North Lincoln Boulevard, P.O. Box 528804, Oklahoma City, Oklahoma 73152-8804 during the period from October 15, 2012 through November 26, 2012.

PUBLIC HEARING:

A public hearing will be held at 10:00 a.m., November 26, 2012, in the Board Room of the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Bennett Abbott at the above address during the period from October 15, 2012 through November 26, 2012.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained by visiting www.ag.ok.gov/proposedrules, or by contacting Bennett Abbott, at the above address.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement is available at the above addresses.

CONTACT PERSON:

Bennett Abbott, (405) 522-5803, e-mail address: bennett.abbott@ag.ok.gov

[OAR Docket #12-906; filed 9-25-12]

TITLE 150. OKLAHOMA DEPARTMENT OF COMMERCE CHAPTER 140. OKLAHOMA QUICK ACTION CLOSING FUND

[OAR Docket #12-902]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

150:140-1-1. Purpose and scope [NEW]

150:140-1-2. Definitions [NEW]

150:140-1-3. Application process [NEW]

150:140-1-4. Award process [NEW]

150:140-1-5. Award agreement [NEW]

150:140-1-6. Disclosure of payments [NEW]

SUMMARY:

The proposed rules would set forth the process for making application to the Oklahoma Department of Commerce for funds from the Oklahoma Quick Action Closing Fund.

AUTHORITY:

The legislation establishing the Oklahoma Department of Commerce 74 O.S. §§ 5001 et seq., and the Oklahoma Quick Action Closing Fund 62 O.S. § 48.2(F).

COMMENT PERIOD:

Written and oral comments will be accepted from October 16, 2012 through November 15, 2012 during regular business hours by contacting Donald R. Hackler, Jr., Deputy General Counsel/Public Information Officer, Oklahoma Department of Commerce, 900 North Stiles Avenue, Oklahoma City, Oklahoma 73104 (405) 815-5359.

PUBLIC HEARING:

A public hearing will be held at 9:00 a.m. on Friday, November 16, 2012, at Gallery 1-2, 900 North Stiles Avenue, Oklahoma City, Oklahoma. Time limitations may be imposed on oral presentations to ensure that all persons who desire to make oral comments will have an opportunity to do so.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Donald R. Hackler, Jr., Deputy General Counsel/Public

Information Officer, Oklahoma Department of Commerce, 900 North Stiles Avenue, Oklahoma City, Oklahoma 73104.

COPIES OF THE PROPOSED RULES:

Copies of the proposed rules may be obtained without charge from the Oklahoma Department of Commerce, 900 North Stiles Avenue, Oklahoma City, Oklahoma 73104 by contacting Donald R. Hackler, Jr. at (405) 815-5359.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement has been prepared and is available at the offices of the Oklahoma Department of Commerce (address below).

CONTACT PERSON:

Donald R. Hackler, Jr., Attorney, Oklahoma Department of Commerce, 900 North Stiles Avenue, Oklahoma City, Oklahoma 73104 (405) 815-5359.

[OAR Docket #12-902; filed 9-25-12]

**TITLE 795. OKLAHOMA WHEAT COMMISSION
CHAPTER 1. ADMINISTRATIVE OPERATIONS**

[OAR Docket #12-904]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking

PROPOSED RULES:

- 795:1-1-3 [AMENDED]
- 795:1-1-4 [AMENDED]
- 795:1-1-5 [AMENDED]
- 795:1-1-10 [AMENDED]

SUMMARY:

The proposed rule changes revise the way information is distributed with regards to Due Notice, ensures wheat producers have a voice in electing a new wheat commission board member if an unforeseen vacancy should occur before the term is up with a current appointee, changes the election time for District elections from 2:00 p.m. to 1:00 p.m.

AUTHORITY:

Oklahoma Wheat Resources Act; 2 O.S. §§ 18-300 et seq.

COMMENT PERIOD:

Persons may submit written comments to Mike Schulte at mike.schulte@wheat.state.ok.us, 3800 North Classen Boulevard, Suite C-40, Oklahoma City, Oklahoma 73118-2829 during the period from October 15, 2012 through November 19, 2012.

PUBLIC HEARING:

A public hearing will be held at 9:00 a.m., December 19, 2012 in the Board Room, located at the Oklahoma Wheat Commission office, 3800 North Classen Boulevard-Second Floor, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Mike Schulte at the above address during the period from October 15, 2012 through November 19, 2012.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained by visiting www.wheat.state.ok.us or by contacting Mike Schulte at the above address.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement is available at the above website address.

CONTACT PERSON:

Mike Schulte, (405) 608-4350, e-mail address: at mike.schulte@wheat.state.ok.us

[OAR Docket #12-904; filed 9-25-12]

**TITLE 795. OKLAHOMA WHEAT COMMISSION
CHAPTER 10. FUNDING TERMS**

[OAR Docket #12-903]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking

PROPOSED RULES:

- 795:10-1-2 [AMENDED]
- 795:10-1-3 [AMENDED]
- 795:10-1-4 [AMENDED]
- 795:10-1-8 [AMENDED]

SUMMARY:

The proposed rule changes revise the way information is distributed with regards to Due Notice and updates the promotional fee; assessment and allocation; referendum to determine continuation of the fee; and refund process to follow the current law under the Wheat Resources Act.

AUTHORITY:

Oklahoma Wheat Resources Act; 2 O.S. §§ 18-300 et seq.

COMMENT PERIOD:

Persons may submit written comments to Mike Schulte at mike.schulte@wheat.state.ok.us, 3800 North Classen Boulevard, Suite C-40, Oklahoma City, Oklahoma 73118-2829 during the period from October 15, 2012 through November 19, 2012.

PUBLIC HEARING:

A public hearing will be held at 9:00 a.m., December 19, 2012 in the Board Room, located at the Oklahoma Wheat Commission office, 3800 North Classen Boulevard-Second Floor, Oklahoma City, Oklahoma.

Notices of Rulemaking Intent

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Mike Schulte at the above address during the period from October 15, 2012 through November 19, 2012.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained by visiting www.wheat.state.ok.us or by contacting Mike Schulte at the above address.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement is available at the above website address.

CONTACT PERSON:

Mike Schulte, (405) 608-4350, e-mail address: at mike.schulte@wheat.state.ok.us

[OAR Docket #12-903; filed 9-25-12]

Cancelled Hearings/Comment Periods

If an agency cancels a hearing or comment period announced in a published Notice of Rulemaking Intent, the agency must submit a notice of such cancellation to the Office of Administrative Rules (OAR). The OAR publishes the cancellation notice in the next possible issue of the *Register*.

For additional information on cancelled hearings and comment periods, see OAC 655:10-7-27.

**TITLE 450. DEPARTMENT OF MENTAL
HEALTH AND SUBSTANCE ABUSE
SERVICES
CHAPTER 60. STANDARDS AND CRITERIA
FOR CERTIFIED EATING DISORDER
TREATMENT PROGRAMS**

[OAR Docket #12-900]

RULEMAKING ACTION:

Cancelled comment period and public hearing relating to a proposed PERMANENT rulemaking action.

PROPOSED RULES:

Chapter 60. Standards and Criteria for Certified Eating Disorder Treatment Programs [AMENDED]

REGISTER PUBLICATION OF NOTICE:

The Notice of Rulemaking Intent for this action was published at 30 Ok Reg 6.

CANCELLED COMMENT PERIOD:

September 18, 2012 to October 17, 2012.

CANCELLED PUBLIC HEARING:

9:00 a.m., October 24, 2012, Oklahoma Department of Mental Health and Substance Abuse Services, 1200 NE 13th Street, Oklahoma City, Oklahoma.

ADDITIONAL INFORMATION:

Another comment period and public hearing will be announced at a later date. For additional information, contact Gretchen Geis, Administrative Rules Liaison, at (405) 521-6365 or ggeis@odmhsas.org.

[OAR Docket #12-900; filed 9-21-12]

Emergency Adoptions

An agency may adopt new rules, or amendments to or revocations of existing rules, on an emergency basis if the agency determines that "an imminent peril exists to the preservation of the public health, safety, or welfare, or that a compelling public interest requires an emergency rule[s] [A]n agency may promulgate, at any time, any such [emergency] rule[s], provided the Governor first approves such rule[s]" [75 O.S., Section 253(A)].

An emergency action is effective immediately upon approval by the Governor or on a later date specified by the agency in the preamble of the emergency rule document. An emergency rule expires on July 15 after the next regular legislative session following promulgation, or on an earlier date specified by the agency, if not already superseded by a permanent rule or terminated through legislative action as described in 75 O.S., Section 253(H)(2).

Emergency rules are not published in the *Oklahoma Administrative Code*; however, a source note entry, which references the *Register* publication of the emergency action, is added to the *Code* upon promulgation of a superseding permanent rule or expiration/termination of the emergency action.

For additional information on the emergency rulemaking process, see 75 O.S., Section 253.

TITLE 580. DEPARTMENT OF CENTRAL SERVICES CHAPTER 16. CENTRAL PURCHASING

[OAR Docket #12-898]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 3. Supplier Provisions
580:16-3-21. Supplier's protest [AMENDED]

AUTHORITY:

74 O.S., §85.5; Department of Central Services

DATES:

Comment period:

N/A

Public hearing:

N/A

Adoption:

August 6, 2012

Approved by Governor:

August 23, 2012

Effective:

Immediately upon Governor's approval

Expiration:

Effective through July 14, 2013, unless superseded by another rule or disapproved by the Legislature

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

This rule is necessary to satisfy the compelling public interest of requiring vendors seeking a stay of contract performance to seek such stay early in the bid protest process. This will ensure that stays can only be entered prior to or soon after contract performance begins. It is costly to the state and to the contractor when contract performance is stayed once the contract is partially performed.

CONTACT PERSON:

Keith Gentry, Central Purchasing Division, (405) 522-4878

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULE IS CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D):

SUBCHAPTER 3. SUPPLIER PROVISIONS

580:16-3-21. Supplier's Protest

(a) A supplier may protest a contract award by a state agency or the Central Purchasing Division to the State Purchasing Director. All remedies available to suppliers through the sealed bid process pursuant to the Oklahoma Central Purchasing Act are also available to online bidders in an online bidding process.

(1) **Supplier notification.** A supplier shall submit written notice to the State Purchasing Director of a protest of an award of contract by a state agency or the Central Purchasing Division within ten (10) business days of contract award. The supplier protest notice shall state all facts and reasons for protest.

(2) **State Purchasing Director review and determination.** The State Purchasing Director shall review the supplier's protest and contract award documents.

(A) The State Purchasing Director may determine to respond to the protest or delegate the responsibility by written notice to the state agency that awarded the contract.

(B) The State Purchasing Director or state agency, whichever is applicable, shall send written notice of the decision to deny or sustain the protest to the supplier within ten (10) business days of receipt of the protest.

(3) **Supplier appeal of decision to deny protest.** The supplier may appeal a denial of protest by the State Purchasing Director or a state agency to the DCS Director.

~~(A) The Such appeal shall be filed by the supplier shall file a written appeal~~ within ten (10) business days of the date of the State Purchasing Director's or state agency's notice of denial pursuant to 75 O.S. §§309 et seq.

(B) The DCS Director may enter an order staying contract performance upon such terms and conditions as the DCS Director determines to be proper. Any request for stay of contract performance must be made in writing and filed during the ten (10) business day time period in which an appeal may be commenced to the DCS Director. The DCS Director shall have continuing jurisdiction to modify any such orders made in connection with a stay during the pendency of the appeal as appropriate under the circumstances presented.

Emergency Adoptions

(4) **Director actions and determination.** The DCS director may hear the appeal or assign the supplier's appeal to an Administrative Law Judge retained by the agency.

(A) If the appeal is assigned to an Administrative Law Judge, the Administrative Law Judge shall review the appeal for legal authority and jurisdiction. If legal authority and jurisdictional requirements are met, the Administrative Law Judge shall conduct an administrative hearing and provide proposed findings of fact and conclusions of law to the DCS Director.

(B) If the appeal is heard by the DCS Director, the DCS Director shall have all powers granted by law including all powers delegated to the Administrative Law Judge by this section.

(C) The DCS Director shall send written notice of the final order sustaining or denying the supplier's appeal to the parties.

(D) The cost of actions necessary to process a supplier's appeal, together with any other expenses incurred due to the appeal, shall be paid by the state agency responsible for the initial solicitation.

(5) **Conduct of administrative hearing.** Administrative hearings shall be conducted in accordance with the Administrative Procedures Act [Reference 75 O.S. §§250 et seq.] and the following procedures:

(A) **Prehearing conference.** A prehearing conference shall be scheduled to determine the legal or factual issues which shall be limited to those brought by the supplier in its initial protest to the State Purchasing Director.

(B) **Burden of proof.** The burden of proof shall be upon the supplier, which must prove its case by a preponderance of the evidence. A preponderance of the evidence is that evidence which, in light of the record as a whole, leads the Administrative Law Judge to believe a fact is more probably true than not true.

(C) **Representation.** Corporations must be represented by legal counsel in accordance with Oklahoma law. Legal counsel must be licensed or registered pursuant to the Rules Creating and Controlling the Oklahoma Bar Association.

(D) **Proper parties.** In addition to the supplier protesting the contract award, the Department of Central Services, the supplier awarded the contract and the state agency for which the bid was let may participate in the bid protest proceedings as a proper party.

(E) **Discovery.** The conduct of discovery is governed by the Administrative Procedures Act, 75 O.S. §§ 309 et seq. and other applicable law.

(F) **Authority of the Administrative Law Judge.** The Administrative Law Judge may:

- (i) Establish a scheduling order;
- (ii) Establish reasonable procedures such as authorizing pleadings to be filed by facsimile or electronic mail;
- (iii) Rule on all interlocutory motions, ~~including requests for a temporary stay of the contract~~

~~award pending a final order from the DCS Director;~~

- (iv) Require briefing of any or all issues;
- (v) Conduct hearings;
- (vi) Rule on the admissibility of all evidence;
- (vii) Question witnesses; and
- (viii) Make proposed findings of facts and conclusions of law to the DCS Director.

(G) **Remedies.** The Administrative Law Judge may recommend that the DCS Director deny the supplier's appeal or that the contract award be cancelled and rebid.

(6) **Supplier appeal of DCS Director denial decision to deny appeal.** If the DCS Director denies a supplier's appeal, the supplier may appeal pursuant to provisions of 75 O.S. §§ 309 et seq.

(b) An agency making an acquisition pursuant to 74 O.S. §85.5(T) shall conduct all actions and bear all costs associated with the protest or appeal of a contract award.

[OAR Docket #12-898; filed 9-21-12]

TITLE 580. DEPARTMENT OF CENTRAL SERVICES CHAPTER 20. CONSTRUCTION AND PROPERTIES

[OAR Docket #12-899]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 27. Use of Best Value Competitive Proposals to Award a Contract
580:20-27-7. Vendor selection [NEW]

AUTHORITY:

61 O.S., §103; Department of Central Services

DATES:

Comment period:

N/A

Public hearing:

N/A

Adoption:

July 30, 2012

Approved by Governor:

August 23, 2012

Effective:

Immediately upon Governor's approval

Expiration:

Effective through July 14, 2013, unless superseded by another rule or disapproved by the Legislature

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

This rule is necessary to satisfy the compelling public interest of fully implementing statutory changes and creating greater transparency by fully informing the vendor population of the process and criteria for vendor selection in the Best Value process.

CONTACT PERSON:

Mike Jones, Construction and Properties Division, (405) 521-3171

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULE IS CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D):

**SUBCHAPTER 27. USE OF BEST VALUE
COMPETITIVE PROPOSALS TO AWARD A
CONTRACT**

580:20-27-7. Vendor selection

The Best Value Selection Phase uses a series of filters to identify which bidder provides the most value (lowest cost and highest performance) to the State. On or before the date stated in the solicitation, vendors submit documentation requested in the solicitation or bid documents information that will be evaluated, rated and/or weighted, and include, but are not limited to:

- (1) **Past performance information.** On forms specified by the Administrator, the vendor submits performance information collected from past customers about past projects/services the vendor has completed. The selection committee does not evaluate this information and does not see the past performance scores until the selection process enters the Prioritization filter.
- (2) **Project capability.** Using forms or formats specified by the Administrator, the vendor submits proof of their ability to perform the requirements of the proposed project/service specified in the solicitation, which includes

but is not limited to risk assessment and mitigation, technical capability and documented performance measurements, vendor's ability to provide additional value to the State, and pricing as information required by the solicitation.

(3) **Interviews.** The Selection Monitor will schedule interviews with representatives of short-listed organization as designated by the Committee. The interview provides a forum for the vendor to discuss the project and answer questions concerning their ability to deliver the project/service to the State.

(4) **Prioritization.** After completion of (1) through (3) of this subsection by the Selection Committee, the Selection Monitor prioritizes bidders from the highest performing to least performing based upon past performance scores and the committee ratings and evaluation of the information provided by each vendor.

(5) **Dominance check.** The Selection Monitor reviews the prioritization and scoring of the bidders to identify the apparent Best Value vendor. The Selection Monitor evaluates all information to ensure that the prioritization is justifiable and there is no evidence warranting adjustment of the prioritization and ratings in any way. If the committee's ratings are not balanced, supporting past performance information is absent or pricing is not competitive or justified, the Selection Monitor may override the prioritization by providing written justification of the actions taken.

[OAR Docket #12-899; filed 9-21-12]

Executive Orders

As required by 75 O.S., Sections 255 and 256, Executive Orders issued by the Governor of Oklahoma are published in both the *Oklahoma Register* and the *Oklahoma Administrative Code*. Executive Orders are codified in Title 1 of the *Oklahoma Administrative Code*.

Pursuant to 75 O.S., Section 256(B)(3), "Executive Orders of previous gubernatorial administrations shall terminate ninety (90) calendar days following the inauguration of the next Governor unless otherwise terminated or continued during that time by Executive Order."

TITLE 1. EXECUTIVE ORDERS

1:2012-21B.

SECOND AMENDED EXECUTIVE ORDER 2012-21

I, Mary Fallin, Governor of the State of Oklahoma, pursuant to the authority vested in me by Section 2 of Article VI of the Oklahoma Constitution, hereby declare the following:

1. Due to Exceptional and Extreme Drought conditions existing in 77 counties in Oklahoma, and the severe wildfires beginning July 22, 2012, and continuing, I issued Executive Order 2012-21 on July 30, 2012, and thereby declared a disaster emergency caused by wildfires and drought in the State of Oklahoma that threatened the lives and property of the people of this State and the public's peace, health, and safety. I issued amended Executive Order 2012-21 on August 24, 2012 due to continued drought conditions. Because said conditions warranting the issuance of Executive Order 2012-21 remain, I hereby amend Executive Order 2012-21 according to the terms contained herein.

This declaration may be amended as conditions warrant.

2. It may be necessary to provide for the rendering of mutual assistance among the State and political subdivisions of the State with respect to carrying out disaster emergency functions during the continuance of the State emergency pursuant to the provisions of the Oklahoma Emergency Management Act of 2003.

3. State agencies, in responding to this disaster emergency, may make necessary emergency acquisitions to fulfill the purposes of this proclamation without regard to limitations or bidding requirements on such acquisitions.

4. The State Emergency Operations Plan has been activated and resources of all State departments and agencies available to meet this emergency are hereby committed to the reasonable extent necessary to protect lives and to prevent, minimize, and repair injury and damage. These efforts shall be coordinated by the Director of the Department of Emergency Management with comparable functions of the federal government and political subdivisions of the State.

Further, pursuant to the authority vested in me by Sections 1 and 2 of Article VI of the Oklahoma Constitution and 63 O.S. §§683.1 et seq., hereby declare that because there is a state of emergency existing in the State of Oklahoma due to extremely dry weather and lack of significant rainfall, it is necessary to assist and expedite all efforts of drought relief and wildfire suppression. In order to accommodate this need and to provide assistance to the citizens of Oklahoma in this extraordinary situation, I hereby order the temporary suspension of the following as they apply to vehicles used in the support efforts:

- A. The requirements for special permits for use of oversized vehicles under Title 47 only when transporting hay. These vehicles shall not exceed 12' in width and 13' 6" in height.
- B. The requirements for licensing/operating authority as required by the Oklahoma Corporation Commission.
- C. The requirements for licensing/registration as required by the Oklahoma Tax Commission;
- D. The requirements contained in the Motor Carrier Safety Regulations, under the authority of CFR 49, Part 390.23. All other regulations in CFR 49 shall apply.

Due to the severe drought conditions occurring statewide it is necessary to expedite access to hay for livestock. In order to accommodate this need and to provide assistance to our farmers and ranchers in this extraordinary situation, I hereby order the temporary suspension of the requirements for special permits for use of oversized vehicles under Title 47 as they apply to vehicles used to transport round baled hay for livestock as outlined above.

5. This Amended Executive Order shall terminate at the end of thirty (30) days.

Copies of this Amended Executive Order shall be distributed to the Oklahoma Corporation Commission, the Oklahoma Tax Commission, the Commissioner of Public Safety, and the Director of Emergency Management who shall cause the provisions of this order to be implemented by all appropriate agencies of state government.

Executive Orders

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, this 21st day of September, 2012.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Mary Fallin

ATTEST:

Michelle R. Day
Assistant Secretary of State

[OAR Docket #12-901; filed 9-21-12]

1:2012-26.

EXECUTIVE ORDER 2012-26

I, Mary Fallin, Governor of the State of Oklahoma, hereby direct the appropriate steps be taken to fly all American and Oklahoma flags on State property at half-staff from 8:00 a.m. until 5:00 p.m. on Thursday, September 20, 2012, to honor Oklahoma Supreme Court Justice Hardy Summers, who died on Monday, September 10, 2012.

In 1976, Justice Summers was appointed district judge by Governor David Boren. For the next eight years he served as chief judge of Muskogee County. Justice Summers was appointed to the Oklahoma Supreme Court by Governor George Nigh in 1985. He served as Chief Justice from 1999 to 2000. Justice Summers will be remembered for his hard work, dedication, and the influence he had on the State of Oklahoma.

This executive order shall be forwarded to the Division of Capital Assets Management who shall cause the provisions of this order to be implemented by all appropriate agencies of state government.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 29th day of September, 2012.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Mary Fallin

ATTEST:

Michael D. Starchman
Acting Assistant Secretary of State

[OAR Docket #12-897; filed 9-20-12]

1:2012-27.

EXECUTIVE ORDER 2012-27

I, Mary Fallin, Governor of the State of Oklahoma, pursuant to 25 O.S. § 90.19, hereby direct the appropriate steps be taken to fly all American and Oklahoma flags on State property at half-staff from 8:00 a.m. until 5:00 p.m. on Friday, September 28, 2012, to honor Private First Class Jon R. Townsend, 19, an Oklahoma soldier, who died on September 16, 2012, at the age of 19 while on active duty supporting Operation Enduring Freedom in Afghanistan.

This executive order shall be forwarded to the Division of Capital Assets Management, who shall cause the provisions of this order to be implemented by all appropriate agencies of state government.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 25th day of September, 2012.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Mary Fallin

ATTEST:

Michelle R. Day
Assistant Secretary of State

[OAR Docket #12-908; filed 9-25-12]
