

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 57th Legislature (2019)

4 HOUSE BILL 1291

 By: Miller

7 AS INTRODUCED

8 An Act relating to prisons and reformatories;
9 amending 57 O.S. 2011, Section 549.1, as last amended
10 by Section 2, Chapter 197, O.S.L. 2018 (57 O.S. Supp.
11 2018, Section 549.1), which relates to materials and
12 services provided by the prison industries program of
13 the Department of Corrections; requiring Director of
14 the Department of Corrections to report certain
15 violations; and providing an effective date.

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

16 SECTION 1. AMENDATORY 57 O.S. 2011, Section 549.1, as
17 last amended by Section 2, Chapter 197, O.S.L. 2018 (57 O.S. Supp.
18 2018, Section 549.1), is amended to read as follows:

19 Section 549.1 A. The Department of Corrections is authorized
20 to purchase in the manner prescribed by law, facilities, equipment,
21 raw materials and supplies, and to engage the supervisory personnel
22 necessary to establish and maintain for this state at the penal
23 institutions, now or hereafter under the control of the State Board
24 of Corrections, industries and agricultural programs for the

1 utilization of services of prisoners in the manufacture, production,
2 processing or assembly of the articles or products as may be needed
3 for the construction, operation, maintenance or use of any office,
4 department, institution or agency supported in whole or in part by
5 this state and the political subdivisions thereof. Upon the request
6 of the Oklahoma Historical Society or the Oklahoma Tourism and
7 Recreation Department, the Department of Corrections shall provide
8 labor for and shall produce or manufacture articles, products or
9 materials needed for the repair, construction and maintenance of
10 historical sites and state parks including, but not limited to, the
11 production of materials and products needed for the reconstruction
12 of historic forts in the state.

13 B. All articles and services provided by the Department of
14 Corrections in the state correctional institutions, and not required
15 for use therein, shall be purchased as required by all offices,
16 departments, institutions, agencies, counties, schools, colleges,
17 universities, or political subdivisions or any agency thereof of
18 this state which are supported in whole or in part by this state, if
19 such article or service is the lowest and best bid, and no such
20 article or product may be purchased by any such office, department,
21 institution, agency, county, school, college, university, or
22 political subdivisions or agency thereof from any other source
23 unless excepted from the provisions as hereinafter provided.
24 Purchases made by the above-described state agencies may be made by

1 submitting the proper requisition through the Office of Management
2 and Enterprise Services or by direct order to the prison industries
3 program of the Department of Corrections.

4 C. If a requisition is received by the Office of Management and
5 Enterprise Services or a direct order is received by the Prison
6 Industries Program of the Department of Corrections from a state
7 agency for any product or service provided by the Department of
8 Corrections and such product or service is also available from a
9 severely handicapped person or a qualified nonprofit agency for the
10 severely handicapped as provided in Section 3001 et seq. of Title 74
11 of the Oklahoma Statutes at a comparable price, then the product or
12 service shall be purchased from such severely handicapped person or
13 qualified nonprofit agency for the severely handicapped. If the
14 product or service is not available within the time period required
15 by the purchasing state agency, then such product or service shall
16 be purchased from the Department of Corrections under the provisions
17 of this section.

18 D. All offices, departments, institutions, agencies, counties,
19 cities, districts or political subdivisions, schools, colleges, or
20 universities, or any agency thereof, or any agencies of the state,
21 which are supported in whole or in part by this state, may purchase
22 the goods or services manufactured, produced, processed or assembled
23 by the prison industries of the Department of Corrections through
24 their properly authorized purchasing authority, or they may place a

1 direct order without competitive bid, with the prison industries of
2 the Department of Corrections.

3 E. Not-for-profit corporations or charitable agencies chartered
4 in Oklahoma or other states may purchase such goods and services.
5 Units of the federal government and units of government in other
6 states may also purchase such goods and services. All entities
7 which contract with the state, its political units, its agencies,
8 its public institutions, not-for-profit corporations or charitable
9 agencies chartered in Oklahoma may purchase goods or services from
10 the Department of Corrections which are used in the performance of
11 such contracts. Any church located in the State of Oklahoma may
12 also purchase goods and services manufactured, produced, processed
13 or assembled by the prison industries of the Department of
14 Corrections. Any community action agency or council of governments
15 within this state may purchase housing components produced by the
16 prison industries of the Department of Corrections. Nothing shall
17 prohibit the Department from bidding on portions of a state contract
18 which are subcontracted by the primary contractor.

19 F. Others are prohibited from purchasing such goods and
20 services, with the exception that all surplus agricultural products
21 may be sold on the open market or bartered and exchanged for other
22 food, feed or seed products of comparable value. The Department of
23 Corrections shall keep complete and accurate records of any such
24 barter or exchanges in such form and manner as the Office of

1 Management and Enterprise Services may prescribe. A copy of such
2 records shall be filed with the Office of Management and Enterprise
3 Services no later than March 1 of each year for all barters or
4 exchanges occurring in the previous calendar year. When
5 practicable, the Department of Corrections may accept and process
6 agricultural products from the public and may export the resulting
7 products to foreign markets.

8 G. Products manufactured, produced, processed or assembled by
9 the Department of Corrections shall be of styles, patterns, designs
10 and quantities specified by the Department of Corrections except
11 where the same have been or may be specified by the Office of
12 Management and Enterprise Services. Products shall be provided at a
13 fair market price for comparable quality.

14 H. State agencies shall make maximum utilization of such
15 products and no similar products shall be purchased by state
16 agencies from any other source than the Department of Corrections
17 except as provided in subsection C of this section, unless the
18 Department of Corrections certifies to the State Purchasing Director
19 that it is not able to provide products, and no claim therefor shall
20 be paid without such certification.

21 I. Exceptions from the mandatory provisions hereof may be made
22 in any case where, in the opinion of the Office of Management and
23 Enterprise Services, the article or product does not meet the
24 reasonable requirements of or for such offices, departments,

1 institutions or agencies, or in any case where the requisitions made
2 cannot be reasonably complied with. No such offices, departments,
3 institutions or agencies, shall be allowed to evade the intent and
4 meaning of this section by slight variations from standards adopted
5 by the Office of Management and Enterprise Services, when the
6 articles, services or products produced, manufactured, processed or
7 assembled by the Department of Corrections, in accordance with
8 established standards, are reasonably adapted to the actual needs of
9 such offices, departments, institutions or agencies. The Director
10 of the Department of Corrections shall report any violations of the
11 provisions of this section to the Office of the Attorney General
12 within thirty (30) days of the determination of such violations.

13 J. In the event of disagreement between the Department of
14 Corrections and the State Purchasing Director on fairness of price,
15 ability to comply to specifications, reasonableness of
16 specifications and timeliness of delivery of products the matter
17 will be resolved by the Purchasing Director of the Office of
18 Management and Enterprise Services.

19 K. The Office of Management and Enterprise Services shall
20 cooperate with the Department of Corrections in seeking to promote
21 for use in state agencies and by all other eligible customers, the
22 products manufactured and services provided by the prison
23 industries.

1 L. The Department of Corrections shall prepare catalogs
2 containing the description of all goods and services provided, with
3 the pricing of each item. Copies of such catalog shall be sent by
4 the Department of Corrections to all offices, departments,
5 institutions and agencies of this state, and shall be available for
6 distribution to all other eligible customers. In lieu of preparing
7 and distributing catalogs, the Department of Corrections may
8 maintain a website that contains a description of all goods and
9 services provided, with the pricing of each item.

10 M. The Department of Corrections may keep confidential:

11 1. Business plans, feasibility studies, financing proposals,
12 marketing plans, financial statements or trade secrets submitted by
13 a person or entity seeking a corrections industries partnership with
14 the Department ~~of Corrections~~; and

15 2. Proprietary information of the business submitted to the
16 Department for the purposes of a corrections industries partnership,
17 and related confidentiality agreements detailing the information or
18 records designated as confidential; ~~and~~.

19 ~~3.~~ The Department of Corrections may not keep confidential
20 information when and to the extent that the person or entity
21 submitting the information consents to disclosure.

22 SECTION 2. This act shall become effective November 1, 2019.

23 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY, dated 02/14/2019 -
24 DO PASS.