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March 28, 2024

ENGROSSED HOUSE
BILL NO. 1019

By: Munson, Lawson, Roe,
McEntire, Talley, and Swope
of the House

and

Gollihare of the Senate

An Act relating to the Central Purchasing Act; amending 74 O.S. 2021, Section 85.44D.1, which relates to sole source acquisition or sole brand acquisition, certification, and report; creating an exemption; providing a termination date; and declaring an emergency.

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

SECTION 1. AMENDATORY 74 O.S. 2021, Section 85.44D.1, is amended to read as follows:

Section 85.44D.1 A. 1. A sole source acquisition is exempt from competitive bidding procedures as a sole source or requirements of this act, but a sole brand acquisition is subject to such competitive bidding requirements.

2. For each sole source or sole brand acquisition, the state agency shall retain in the state agency's acquisition file and attach to the requisition, a certification signed by the chief administrative officer of the state agency, in the following form:

SOLE SOURCE OR SOLE BRAND ACQUISITION

CERTIFICATION

STATE AGENCY _____

SUPPLIER NAME _____

SUPPLIER ADDRESS _____

SUPPLIER CONTACT INFORMATION _____

In connection with the attached requisition or contract, I
hereby affirm that

(Name of Supplier)

is the only business entity singularly qualified to provide the
acquisition, or is the only brand satisfying the acquisition
requirements, for the following reasons:

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

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

6 _____
7 (Chief administrative officer)

8 3. A court order requiring a particular acquisition, but which
9 does not specify a brand or supplier shall not substitute for the
10 certification required by this section or otherwise invalidate
11 acquisition procedures required by the Oklahoma Central Purchasing
12 Act.

13 4. Upon a determination by the Director of the Office of
14 Management and Enterprise Services that there are reasonable grounds
15 to believe that a violation of this section has occurred, the
16 Director shall send findings to the Attorney General that support
17 the determination. The Attorney General shall review the findings
18 and determine whether to investigate or prosecute the person.

19 5. Prior to approving a requisition for a sole source or sole
20 brand acquisition, the Purchasing Division shall require the signed
21 certification documenting the need for a sole source or sole brand
22 acquisition and shall retain the certification in accordance with
23 state record retention requirements.
24

1 6. For a sole source or sole brand acquisitions exceeding the
2 fair and reasonable acquisition threshold amount and not requiring
3 submission of a requisition to the Purchasing Division, the state
4 agency's certified procurement officer shall retain, in the
5 acquisition file, the signed certification documenting the need for
6 the sole source or sole brand acquisition in accordance with state
7 record retention requirements.

8 B. By the fifteenth day of each month, or the first working day
9 thereafter, the Office of Management and Enterprise Services shall
10 provide a report to:

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

13 2. Any member of the Legislature requesting the report.

14 The report shall detail sole source and sole brand acquisitions
15 by state agencies for the month prior to the month preceding the
16 submission of the report. The report shall be titled "Monthly Sole
17 Source and Sole Brand Contracting Report of Oklahoma State Agencies"
18 and indicate the time period of the report. The report shall be
19 provided by the Director of the Office of Management and Enterprise
20 Services or the Director's designee. The report shall be in
21 columnar database format and shall include at least the following
22 fields of information: state agency number; state agency name; date
23 created by the Office of Management and Enterprise Services for the
24 requisition; date of either approval or disapproval of the

1 requisition; if disapproved, the reason why such contract
2 requisition was disapproved; estimated amount of the requisition
3 acquisition; purchase order amount; purchase order number; actual
4 business name of supplier; supplier federal employer identification
5 number; and the commodity classification listing at the appropriate
6 level to distinguish between similar acquisitions. Information
7 required by this subsection shall be reported and maintained on each
8 report through the next reporting period after an acquisition is
9 made. The applicable data in the fields of information specified in
10 this subsection shall be listed even if the state agency requisition
11 is disapproved.

12 C. 1. The State Department of Health shall be exempt from
13 requests for proposals for sole source acquisitions for the Nurse-
14 Family Partnership Program and the Children First Program.

15 2. The provisions of this subsection shall cease to have the
16 force and effect of law on November 1, 2029.

17 SECTION 2. It being immediately necessary for the preservation
18 of the public peace, health or safety, an emergency is hereby
19 declared to exist, by reason whereof this act shall take effect and
20 be in full force from and after its passage and approval.

21 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT
22 March 28, 2024 - DO PASS
23
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