

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

SENATE BILL 763

By: Stanley

AS INTRODUCED

An Act relating to veteran-owned businesses; amending 74 O.S. 2021, Sections 85.44E, 3001, as amended by Section 1, Chapter 252, O.S.L. 2022, 3003, as amended by Section 3, Chapter 252, O.S.L. 2022, 3004.1, as amended by Section 5, Chapter 252, O.S.L. 2022, 3004.2, as amended by Section 6, Chapter 252, O.S.L. 2022, 3006, as amended by Section 8, Chapter 252, O.S.L. 2022, 3007, as amended by Section 9, Chapter 252, O.S.L. 2022, 3008, as amended by Section 10, Chapter 252, O.S.L. 2022 (74 O.S. Supp. 2022, Sections 3001, 3003, 3004.1, 3004.2, 3006, 3007, and 3008), which relate to veteran businesses, State Use Advisory Council, definitions, contract management fees, the State Use Advisory Council Revolving Fund, contracts with certain agencies, procurement of certain goods and services, and annual pricing review; modifying certain definitions; removing certain requirement; changing composition of council; expanding organization eligible or contracts or awards; expanding source of proceeds from certain source; expanding facilitation of certain products and services on certain schedule; allowing certain businesses to be considered; adding exemption for certain agency; expanding suppliers of goods and services; and providing an effective date.

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

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

Section 85.44E. A. ~~Disabled~~ Veteran Businesses.

1 As used in this section:

2 1. ~~"Service-disabled veteran"~~ means ~~any individual that is~~
3 ~~disabled as certified by the appropriate federal agency responsible~~
4 ~~for the administration of veterans' affairs~~ "Veteran" shall have the
5 same meaning as defined in Section 2 of Title 72 of the Oklahoma
6 Statutes; and

7 2. ~~"Service-disabled veteran~~ "Veteran-owned business" means a
8 business:

- 9 a. not less than fifty-one percent (51%) of which is
10 owned by one or more ~~service-disabled~~ veterans or, in
11 the case of any publicly owned business, not less than
12 fifty-one percent (51%) of the stock of which is owned
13 by one or more ~~service-disabled~~ veterans, and
14 b. the management and daily business operations of which
15 are controlled by one or more ~~service-disabled~~
16 veterans.

17 B. In awarding contracts for the performance of any job or
18 service, all agencies, departments, institutions and other entities
19 of this state and of each political subdivision of this state shall
20 give a three-percentage point bonus preference to ~~service-disabled~~
21 veteran businesses doing business as Oklahoma firms, corporations or
22 individuals, or which maintain Oklahoma offices or places of
23 business.

1 C. In implementing the provisions of subsection B of this
2 section, the following shall apply:

3 1. The Director of the Office of Management and Enterprise
4 Services shall have the goal of three percent (3%) of all such
5 contracts described in subsection B of this section to be awarded to
6 such veterans; and

7 2. If an insufficient number of such veterans doing business in
8 this state submit a bid or proposal for a contract by an agency,
9 department, institution or other entity of the state or a political
10 subdivision, such goal shall not be required and the provisions of
11 paragraph 1 of this subsection shall not apply.

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

15 SECTION 2. AMENDATORY 74 O.S. 2021, Section 3001, as
16 amended by Section 1, Chapter 252, O.S.L. 2022 (74 O.S. Supp. 2022,
17 Section 3001), is amended to read as follows:

18 Section 3001. A. There is hereby created in the Office of
19 Management and Enterprise Services an advisory council to be known
20 as the "State Use Advisory Council". The Council shall consist of
21 ~~seven (7)~~ eight (8) members:

22 1. A private citizen conversant with the employment needs of
23 people with significant disabilities who shall be appointed by and
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1 serve at the pleasure of the Governor to act as an advocate for the
2 employment needs of people with significant disabilities;

3 2. The Director of the Office of Management and Enterprise
4 Services or designee;

5 3. The Director of the Department of Rehabilitation Services,
6 or designee;

7 4. One member who shall be a state use provider who shall be
8 appointed by the President Pro Tempore of the Senate;

9 5. An individual or a parent or guardian of an individual with
10 significant disabilities who participates in vocational programming
11 through a qualified nonprofit agency for individuals with
12 disabilities, to be appointed by the Speaker of the House of
13 Representatives;

14 6. The Director of Human Services, or designee; ~~and~~

15 7. A person employed by the Office of Management and Enterprise
16 Services Central Purchasing Division as a contracting officer,
17 appointed by the State Purchasing Director; and

18 8. An Oklahoma Department of Veterans Affairs OKVetWorks
19 Program administrator, or designee.

20 B. The private citizens on the Council shall serve for a period
21 of two (2) years and may be reappointed by the appointing authority.
22 Any private citizen appointed pursuant to this section to fill a
23 vacancy occurring prior to the expiration of the term for which the
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1 predecessor was appointed shall be appointed only for the remainder
2 of the term.

3 The State Use Advisory Council shall meet a minimum of twice a
4 year for the purpose of exchanging ideas to market and improve the
5 State Use Program.

6 SECTION 3. AMENDATORY 74 O.S. 2021, Section 3003, as
7 amended by Section 3, Chapter 252, O.S.L. 2022 (74 O.S. Supp. 2022,
8 Section 3003), is amended to read as follows:

9 Section 3003. As used in Section 3001 et seq. of this title:

10 1. "Blind person" means a person having a visual acuity not to
11 exceed 20/200 in the better eye, with correcting lenses, or visual
12 acuity greater than 20/200 but with limitation in the field of
13 vision such that the widest diameter of visual field subtends an
14 angle no greater than twenty (20) degrees;

15 2. "Council" means the State Use Advisory Council;

16 3. "Qualified nonprofit agency for the employment of people
17 with significant disabilities" means a nonprofit agency employing
18 persons with significant disabilities who constitute at least
19 seventy-five percent (75%) of the direct labor hours engaged in
20 direct production, manufacturing, processing and/or assembling of
21 products or services offered by the agency for procurement by this
22 state or who meet the definition of blind person as provided for in
23 paragraph 1 of this section, ~~or which is certified as a sheltered~~
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1 ~~workshop by the Wage and Hour Division of the United States~~
2 ~~Department of Labor;~~

3 4. "Person with significant disabilities" means an individual
4 with a physical or mental disability constituting a substantial
5 handicap to employment and preventing the person from engaging in
6 normal competitive employment and/or includes any blind person;

7 5. "Qualified organization" means a blind person or qualified
8 nonprofit agency for the employment of people with significant
9 disabilities or veteran-owned business contracting to supply goods
10 or services;

11 6. "Manufactured" means goods made by manual labor;

12 7. "Produced" means to have brought into existence or created
13 from raw materials;

14 8. "Processed" means the action of taking something through an
15 established and mostly routine set of procedures or steps to
16 substantially convert a potential product from one form to another.
17 This action involves a sequence of multiple steps each requiring a
18 distinct decision-making process to evolve a potential product to
19 the next step;

20 9. "Assemble" means to put or fit together or put together the
21 parts of a potential product;

22 10. "Central nonprofit agency (CNA)" means a qualified 501(c)3
23 nonprofit entity meeting the qualifications in the Request for
24 Procurement (RFP) issued by the Office of Management and Enterprise
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1 Services selected to administer and oversee the State Use Program;
2 ~~and~~

3 11. "Procurement schedule" means a designated schedule of
4 products and services currently approved by the Office of Management
5 and Enterprise Services Central Purchasing Division as suitable to
6 procure from qualified organizations participating in the State Use
7 Program; and

8 12. "Veteran-owned business" means any disabled veteran-owned
9 business as defined in Section 63.22 of Title 72 of the Oklahoma
10 Statutes.

11 SECTION 4. AMENDATORY 74 O.S. 2021, Section 3004.1, as
12 amended by Section 5, Chapter 252, O.S.L. 2022 (74 O.S. Supp. 2022,
13 Section 3004.1), is amended to read as follows:

14 Section 3004.1. The State Purchasing Director may enter or
15 award contracts for products or services to a qualified organization
16 or veteran-owned business as defined in Section 3003 of this title
17 and assess a contract management fee or levy. The contract
18 management fee or levy shall be deposited in the State Use Advisory
19 Council Revolving Fund, as created in Section 3004.2 of this title,
20 for the salary, administrative costs, annual trainings, professional
21 association memberships, qualified agency operational improvement
22 grants, periodic economic advantage study, Annual Report
23 development, and other expenses incurred by the Central Purchasing
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1 Division of the Office of Management and Enterprise Services for
2 promoting goods and services provided by qualified organizations.

3 SECTION 5. AMENDATORY 74 O.S. 2021, Section 3004.2, as
4 amended by Section 6, Chapter 252, O.S.L. 2022 (74 O.S. Supp. 2022,
5 Section 3004.2), is amended to read as follows:

6 Section 3004.2. There is hereby created in the State Treasury a
7 revolving fund for the Office of Management and Enterprise Services
8 to be designated the "State Use Advisory Council Revolving Fund".
9 The fund shall be a continuing fund, not subject to fiscal year
10 limitations, and shall consist of all proceeds from the management
11 fee or levy on contracts for purchases of products or services of
12 people with significant disabilities or veteran-owned businesses, as
13 provided in Section 3004.1 of this title. The fund shall be
14 invested in any of the types of instruments in which the State
15 Treasurer is authorized by law to invest. Interest earned shall be
16 retained by the fund. All monies accruing to the credit of the fund
17 are hereby appropriated and may be budgeted and expended by the
18 Office of Management and Enterprise Services for the salary and
19 other administrative expenses of the buyer and clerical and
20 technical support in the Central Purchasing Division of the Office
21 of Management and Enterprise Services responsible for contracts for
22 the products and services of people with significant disabilities,
23 veteran-owned businesses, and expenses the Office incurs to support
24 State Use operations including services of the Centralized Non-

1 Profit Agency (CNA). Expenditures from the fund shall be made upon
2 warrants issued by the State Treasurer against claims filed as
3 prescribed by law with the Director of the Office of Management and
4 Enterprise Services for approval and payment.

5 SECTION 6. AMENDATORY 74 O.S. 2021, Section 3006, as
6 amended by Section 8, Chapter 252, O.S.L. 2022 (74 O.S. Supp. 2022,
7 Section 3006), is amended to read as follows:

8 Section 3006. The State Purchasing Director may contract with a
9 central nonprofit agency to facilitate:

- 10 1. Management of the day-to-day operations of the program;
- 11 2. The facilitation, promotion, and the distribution of orders
12 of the state for products or services on the procurement schedule
13 among qualified nonprofit agencies for people with significant
14 disabilities and veteran-owned businesses;
- 15 3. Scheduling and conducting annual training sessions;
- 16 4. Publishing the approved State Use Procurement Schedule;
- 17 5. Promotion of the State Use Program through development and
18 distribution of program marketing material, promotion of program
19 through continued contact with current and future customers; and
- 20 6. All other duties assigned by the RFP through the Office of
21 Management and Enterprise Services.

22 SECTION 7. AMENDATORY 74 O.S. 2021, Section 3007, as
23 amended by Section 9, Chapter 252, O.S.L. 2022 (74 O.S. Supp. 2022,
24 Section 3007), is amended to read as follows:

1 Section 3007. A. Whenever this state or any of its agencies
2 intends to procure any product or service included in the
3 procurement schedule, that entity shall secure the product or
4 service from a qualified nonprofit agency providing employment to
5 people with significant disabilities or a veteran-owned business at
6 the fair market price determined by the Office of Management and
7 Enterprise Services Central Purchasing Division, if the product or
8 service is available within the period required by the entity and
9 meets the specifications of the entity.

10 B. An agency of this state shall not evade the intent and
11 meaning of this section by slight variations from standards adopted
12 by the Office of Management and Enterprise Services Central
13 Purchasing Division.

14 C. Provided, the requirements of this section shall not apply
15 to the Oklahoma Department of Veterans Affairs for any purchase made
16 from a veteran-owned business as defined in Section 63.22 of Title
17 72 of the Oklahoma Statutes or procurement of janitorial services by
18 the Oklahoma State Bureau of Investigation. The Bureau shall
19 conduct background investigations and national criminal history
20 record checks on companies and individuals with which it contracts
21 to provide janitorial services.

22 D. Any municipality or county agency of this state is
23 authorized to purchase products and services from any qualified
24 organization as defined in Section 3003 of this title. The

1 qualified organization shall be able to meet the needs and
2 specifications for the products or services required by the
3 purchasing body at the fair market price. Procurements made
4 pursuant to the provisions of this section shall not be subject to
5 competitive bid requirements.

6 SECTION 8. AMENDATORY 74 O.S. 2021, Section 3008, as
7 amended by Section 10, Chapter 252, O.S.L. 2022 (74 O.S. Supp. 2022,
8 Section 3008), is amended to read as follows:

9 Section 3008. A. Nothing in Section 3001 et seq. of this title
10 pursuant to purchases of products and services from people with
11 significant disabilities or a veteran-owned business shall be
12 construed to prohibit any department or agency of the state from
13 manufacturing or supplying its own products or services for its own
14 use. Procurements made pursuant to Section 3001 et seq. of this
15 title shall not be subject to the competitive bid requirements of
16 the Oklahoma Central Purchasing Act, Section 85.1 et seq. of this
17 title.

18 B. The Office of Management and Enterprise Services Central
19 Purchasing Division shall require an annual qualified organization
20 pricing review for all products and services approved and designated
21 on the procurement schedule. The method of the pricing review shall
22 be defined in the promulgated rules.

23 C. When the fair market price for a product or service approved
24 by the Office of Management and Enterprise Services Central
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1 Purchasing Division exceeds a current market price for the same
2 product or service and such lower market price has been verified by
3 the agency through compliance with the fair market analysis process
4 approved by the Office of Management and Enterprise Services Central
5 Purchasing Division, the State Use contracting officer may grant a
6 temporary exception to a requesting agency so that the agency may
7 purchase the product or service from the supplier offering the lower
8 market price.

9 SECTION 9. This act shall become effective November 1, 2023.

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