

1 STATE OF OKLAHOMA

2 2nd Session of the 59th Legislature (2024)

3 HOUSE BILL 2953

By: Williams

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6 AS INTRODUCED

7 An Act relating to central purchasing; amending 62
8 O.S. 2021, Section 2309, which relates to the Tobacco
9 Settlement Endowment Trust; modifying exemptions to
10 the Central Purchasing Act; amending 74 O.S. 2021,
11 Section 85.12, as amended by Section 2, Chapter 339,
12 O.S.L. 2023 (74 O.S. Supp. 2023, Section 85.12),
13 which relates to the Oklahoma Central Purchasing Act;
14 removing certain exemptions; amending 74 O.S. 2021,
15 Section 5013.2, which relates to the Minority
16 Business Development Program Fund; modifying
17 exemption to the Oklahoma Central Purchasing Act;
18 amending 74 O.S. 2021, Section 5066.4, which relates
19 to authority of the Department of Commerce; removing
20 exemption from the Oklahoma Central Purchasing Act;
21 and providing an effective date.

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

23 SECTION 1. AMENDATORY 62 O.S. 2021, Section 2309, is
24 amended to read as follows:

Section 2309. A. The Board of Directors of the Tobacco
Settlement Endowment Trust Fund shall be empowered to:

1. Appoint an executive director and other staff necessary to
perform the duties of the Board of Directors;

1 2. Make and execute contracts and other instruments necessary
2 or convenient to the exercise of its powers on such terms and for
3 such period of time as the Board of Directors shall determine; and

4 3. Promulgate rules in accordance with the Administrative
5 Procedures Act and not inconsistent with the Tobacco Settlement
6 Endowment Trust Fund Act to implement its duties and
7 responsibilities as provided by law.

8 B. Funding for capital expenditures and operating expenses
9 incurred by the University of Oklahoma Health Sciences Center and
10 the Oklahoma State University College of Osteopathic Medicine, for
11 educational programs and residency training to maintain or improve
12 the health of Oklahomans or to enhance the provision of health care
13 services to Oklahomans, is hereby deemed to be an allowable purpose
14 for which earnings from the trust fund may be expended pursuant to
15 the provisions of paragraph 3 of subsection E of Section 40 of
16 Article X of the Oklahoma Constitution. Pursuant to its authority
17 as set forth in subsection G of Section 40 of Article X of the
18 Oklahoma Constitution, the Legislature hereby authorizes the Board
19 to expend earnings from the trust fund for such purposes, in
20 addition to other purposes provided by law.

21 C. The Board shall develop a multiyear strategy by January 1,
22 2002, and annually update it in order to guide the Board's funding
23 for those programs set forth in Section 40 of Article X of the
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1 Oklahoma Constitution. The strategy shall be used to maximize the
2 outcomes of the grants awarded by the Board of Directors.

3 D. The Board of Directors shall develop grant programs for
4 private, nonprofit, and public entities for the purposes set forth
5 in Section 40 of Article X of the Oklahoma Constitution.

6 1. The selection and awarding of grants, ~~whether in the form of~~
7 ~~professional service contracts or any other funding mechanism~~
8 ~~developed by the Board of Directors,~~ awarded pursuant to grant
9 programs developed under this subsection, shall be exempt from the
10 requirements of The Oklahoma Central Purchasing Act.

11 2. The Board of Directors shall develop competitive processes
12 for awarding grants under programs developed under this subsection.
13 ~~Such competitive processes for selection shall not be required for~~
14 ~~contracts~~ Contracts awarded directly by the Tobacco Settlement
15 Endowment Trust Fund for program support services, including, but
16 not limited to, professional service contracts to evaluate, audit or
17 provide budgeting, accounting, auditing or legal services for
18 specific programs or program grantees, contractors or participants,
19 shall be subject to the Central Purchasing Act.

20 3. The Board of Directors may promulgate rules to assist in the
21 implementation and administration of grant programs developed under
22 this subsection.

23 4. The terms of any request for proposals, request for
24 applications, invitation for bid, bid notice, or grant proposal or

1 any other solicitation issued by the Board of Directors to solicit
2 or invite applications, proposals, bids or responses to obtain
3 funding under grant programs developed under this subsection shall
4 be confidential until the date and time at which the solicitation is
5 to be made equally and uniformly known to all prospective applicants
6 and the public, at which point all such documents and information
7 shall be uniformly known to all prospective applicants and the
8 public, at which point all such documents and information shall be
9 subject to the Oklahoma Open Records Act and Oklahoma Open Meeting
10 Act. Any application, proposal, bid, or any other document to
11 obtain funding responsive to any solicitation of the Board of
12 Directors under grant programs developed under this subsection shall
13 be confidential until the date and time of award of the grant or
14 contract, at which point all such documents and information shall be
15 subject to the Oklahoma Open Records Act and Oklahoma Open Meeting
16 Act. Any unsolicited application, proposal, bid, or any other
17 document to obtain funding shall not be considered to be
18 confidential and shall be subject to the Oklahoma Open Records Act
19 and Oklahoma Open Meeting Act at all times.

20 E. The Board of Directors shall encourage grantees to match
21 grant monies awarded with monetary commitments and in-kind matches.

22 F. The Board of Directors shall be required to develop a
23 performance evaluation component for the Board of Directors'

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1 activities and those of its grantees so that the performance of
2 grantees can be measured by their attainment of outcomes.

3 G. The Board of Directors shall contract periodically for
4 performance evaluations. Copies of the evaluations shall be filed
5 with the Governor, the Speaker of the House of Representatives, and
6 the President Pro Tempore of the Senate.

7 H. The Board of Directors shall prepare an annual report
8 detailing the Board of Directors' activities and reporting its
9 expenditures and the outcomes achieved by the expenditures. A copy
10 of the report shall be submitted to the Governor, the Speaker of the
11 House of Representatives, and the President Pro Tempore of the
12 Senate.

13 I. All records associated with the expenditure of monies
14 received by the Board of Directors or its grantees pursuant to the
15 Tobacco Settlement Endowment Trust Fund Act shall be subject to the
16 Oklahoma Open Records Act.

17 SECTION 2. AMENDATORY 74 O.S. 2021, Section 85.12, as
18 amended by Section 2, Chapter 339, O.S.L. 2023 (74 O.S. Supp. 2023,
19 Section 85.12), is amended to read as follows:

20 Section 85.12 A. The provisions of this section shall not be
21 construed to affect any law relating to fiscal or accounting
22 procedure except as they may be directly in conflict herewith; and
23 all claims, warrants, and bonds shall be examined, inspected, and
24 approved as now provided by law.

1 B. Except as otherwise provided by this section, the
2 acquisitions specified in this subsection shall be made in
3 compliance with Section 85.39 of this title and purchasing card
4 program requirements but are not subject to other provisions of the
5 Oklahoma Central Purchasing Act:

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

8 2. The printing or duplication of publications or forms of
9 whatsoever kind or character by state agencies if the work is
10 performed upon their own equipment by their own employees. Pursuant
11 to this paragraph, the state agency may only use equipment owned or
12 leased by the agency and may only utilize that equipment for
13 printing services required by the agency in performing duties
14 imposed upon the agency or functions authorized to be performed by
15 the agency. Any use of the equipment by the agency pursuant to an
16 agreement or contract with any other entity resulting in delivery of
17 intermediate or finished products to the entity purchasing or using
18 the products shall be subject to the provisions of the Oklahoma
19 Central Purchasing Act and associated rules;

20 3. Department of Transportation and Transportation Commission
21 contractual services or right-of-way acquisitions, contracts awarded
22 pursuant to bids let by the Transportation Commission for the
23 maintenance or construction of streets, roads, highways, bridges,
24 underpasses or any other transportation facilities under the control

1 of the Department of Transportation, equipment or material
2 acquisitions accruing to the Department of Transportation required
3 in federal aid contracts and acquisitions for public-service-type
4 announcements initiated by the Department of Transportation, but not
5 acquisitions for advertising, public relations or employment
6 services;

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

9 ~~5. Acquisitions by the University Hospitals Authority. The~~
10 ~~Authority shall develop standards for the acquisition of products~~
11 ~~and services and may elect to utilize the Purchasing Division. The~~
12 ~~standards shall foster economy and short response time and shall~~
13 ~~include appropriate safeguards and record-keeping requirements to~~
14 ~~ensure appropriate competition and economical and efficient~~
15 ~~purchasing;~~

16 ~~6.~~ Custom harvesting by the Department of Corrections for the
17 Department or its institutions;

18 ~~7.~~ 6. Subject to prior approval of the State Purchasing
19 Director, acquisitions from private prison suppliers which are
20 subject to the contracting procedures of Section 561 of Title 57 of
21 the Oklahoma Statutes;

22 ~~8.~~ 7. Acquisitions by the Oklahoma Municipal Power Authority;

23 ~~9.~~ 8. Acquisitions by the Grand River Dam Authority;

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1 ~~10.~~ 9. Acquisitions by rural water, sewer, gas or solid waste
2 management districts created pursuant to the Rural Water, Sewer, Gas
3 and Solid Waste Management Districts Act;

4 ~~11.~~ 10. Acquisitions by the Oklahoma Ordnance Works Authority,
5 the Northeast Oklahoma Public Facilities Authority or the Midwestern
6 Oklahoma Development Authority;

7 ~~12.~~ 11. Expenditure of monies appropriated to the State Board
8 of Education for local and state-supported financial support of
9 public schools, except monies allocated therefrom for the
10 Administrative and Support Functions of the State Department of
11 Education;

12 ~~13.~~ 12. Expenditure of monies appropriated to the State
13 Department of Rehabilitation Services for educational programs or
14 educational materials for the Oklahoma School for the Blind and the
15 Oklahoma School for the Deaf;

16 ~~14.~~ 13. Contracts entered into by the Oklahoma Department of
17 Career and Technology Education for the development, revision or
18 updating of vocational curriculum materials, and contracts entered
19 into by the Oklahoma Department of Career and Technology Education
20 for training and supportive services that address the needs of new
21 or expanding industries;

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

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

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

5 ~~18. Purchases of pharmaceuticals available through a multistate~~
6 ~~or multigovernmental contract if such pharmaceuticals are or have~~
7 ~~been on state contract within the last fiscal year, and the terms of~~
8 ~~such contract are more favorable to the state or agency than the~~
9 ~~terms of a state contract for the same products, as determined by~~
10 ~~the State Purchasing Director. The state entity designated by law,~~
11 ~~as specified in Section 1010.3 of Title 56 of the Oklahoma Statutes,~~
12 ~~shall participate in the purchase of pharmaceuticals available~~
13 ~~through such contracts;~~

14 ~~19. Contracts for managed health care services entered into by~~
15 ~~the state entity designated by law or the Department of Human~~
16 ~~Services, as specified in paragraph 1 of subsection A of Section~~
17 ~~1010.3 of Title 56 of the Oklahoma Statutes;~~

18 ~~20.~~ 14. Acquisitions by a state agency through a General
19 Services Administration contract or other federal contract if the
20 acquisitions are not on current statewide contract or the terms of
21 the federal contract are more favorable to the agency than the terms
22 of a statewide contract for the same products;

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1 ~~21.~~ 15. Acquisitions of clothing for clients of the Department
2 of Human Services and acquisitions of food for group homes operated
3 by the Department of Human Services;

4 ~~22.~~ 16. Acquisitions by the Oklahoma Energy Resources Board;

5 ~~23.~~ 17. Acquisitions of clothing for juveniles in the custody
6 of the Office of Juvenile Affairs and acquisitions of food for group
7 homes operated by the Office of Juvenile Affairs;

8 ~~24.~~ 18. State contracts for flexible benefits plans pursuant to
9 the Oklahoma State Employees Benefits Act, Section 1361 et seq. of
10 this title;

11 ~~25.~~ 19. Acquisitions by the Oklahoma Department of Securities
12 to investigate, initiate, or pursue administrative, civil or
13 criminal proceedings involving potential violations of the acts
14 under the Department's jurisdiction and acquisitions by the Oklahoma
15 Department of Securities for its investor education program;

16 ~~26.~~ 20. Acquisitions for resale in and through canteens
17 operated pursuant to Section 537 of Title 57 of the Oklahoma
18 Statutes and canteens established at an institution or facility
19 operated by the Office of Juvenile Affairs;

20 ~~27.~~ 21. Acquisitions by the Oklahoma Boll Weevil Eradication
21 Organization for employment and personnel services, and for
22 acquiring sprayers, blowers, traps and attractants related to the
23 eradication of boll weevils in this state or as part of a national
24 or regional boll weevil eradication program;

1 ~~28.~~ 22. Contracts entered into by the Oklahoma Indigent Defense
2 System for expert services pursuant to the provisions of subsection
3 D of Section 1355.4 of Title 22 of the Oklahoma Statutes;

4 ~~29.~~ 23. Acquisitions by the Oklahoma Correctional Industries
5 and the Agri-Services programs of the Department of Corrections of
6 raw materials, component parts and other products, any equipment
7 excluding vehicles, and any services excluding computer consultant
8 services used to produce goods or services for resale and for the
9 production of agricultural products;

10 ~~30.~~ 24. Contracts entered into by the Department of Human
11 Services for provision of supported living services to members of
12 the plaintiff class in Homeward Bound, Inc., et al. v. The Hissom
13 Memorial Center, et al., Case Number 85-C-437-E, United States
14 District Court for the Northern District of Oklahoma;

15 ~~31.~~ 25. Contracts negotiated by the Office of Juvenile Affairs
16 with designated Youth Services Agencies and the Oklahoma Association
17 of Youth Services, or another Oklahoma nonprofit corporation whose
18 membership consists solely of Youth Services Agencies and of whom at
19 least a majority of Youth Services Agencies are members, pursuant to
20 the provisions of Section 2-7-306 of Title 10A of the Oklahoma
21 Statutes and contracts entered into by the Department of Human
22 Services pursuant to Section 1-9-110 of Title 10A of the Oklahoma
23 Statutes with designated Youth Services Agencies;

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1 ~~32.~~ 26. Contracts for annuities for structured settlements
2 provided for in Section 158 of Title 51 of the Oklahoma Statutes;

3 ~~33.~~ 27. Subject to subsection E of this section, purchases made
4 from funds received by local offices administered by the Department
5 of Human Services or administered by the Office of Juvenile Affairs
6 for fund-raising activities and donations for the benefit of clients
7 and potential clients at the local offices where such purchases may
8 not otherwise be paid for from appropriated funds;

9 ~~34.~~ 28. Acquisitions by the Oklahoma Historical Society for
10 restoration of historical sites and museums although the agency may
11 elect to utilize the Purchasing Division for an acquisition with
12 supplier and bid selection being the prerogative of the agency,
13 based on the supplier's documented qualifications and experience;
14 and

15 ~~35.~~ 29. Acquisitions of clothing and food for patients in the
16 care of the J.D. McCarty Center for Children with Developmental
17 Disabilities.

18 C. Pursuant to the terms of a contract the State Purchasing
19 Director enters into or awards, a state agency, common school,
20 municipality, rural fire protection district, county officer or any
21 program contract, purchase, acquisition or expenditure that is not
22 subject to the provisions of the Oklahoma Central Purchasing Act,
23 may, unless acting pursuant to a contract with the state that
24 specifies otherwise, make use of statewide contracts and the

1 services of the Purchasing Division and the State Purchasing
2 Director. Any political subdivision or rural fire protection
3 district may designate the State Purchasing Director as its agent
4 for any acquisition from a statewide contract or otherwise available
5 to the state.

6 D. The State Purchasing Director shall review and audit all the
7 purchasing procedures of acquisitions listed in subsection B of this
8 section to ensure that the procedures are being followed. Nothing
9 in this section shall be construed to authorize bid splitting as
10 prohibited by the Oklahoma Central Purchasing Act.

11 E. With respect to the Department of Human Services or the
12 Office of Juvenile Affairs, as applicable, monies received by
13 fundraising activities or donations from the local office, vending
14 operations administered by employees of the agency and all other
15 nonrestricted cash and cash-equivalent items received by employees
16 of the agency shall be deposited in the agency special account
17 established for this purpose. The deposits shall be made at local
18 banking institutions approved by the State Treasurer.

19 F. With respect to the Oklahoma Tourism and Recreation
20 Department, no exemption provided in this section shall be construed
21 for the use of leasing or contracting for state-owned restaurants in
22 Oklahoma state parks. The Department shall not be required to
23 purchase furniture, fixtures, equipment, and soft goods associated
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1 with decor of the state parks, lodges, golf courses, and tourism
2 information centers from Oklahoma prisons or reformatories.

3 Additionally, the Department shall not be required to make
4 purchases pursuant to a statewide contract for materials, supplies,
5 and services necessary for the efficient and economical operation of
6 revenue-generating, Department-operated facilities, including those
7 made to maintain or improve guest perception of quality and service;
8 provided, that the State Purchasing Director shall review and audit
9 all uses of the exemptions provided in this subsection biannually.

10 SECTION 3. AMENDATORY 74 O.S. 2021, Section 5013.2, is
11 amended to read as follows:

12 Section 5013.2 A. The Oklahoma Department of Commerce shall
13 expend so much as appropriated to the Minority Business Development
14 Program Fund as may be necessary to accomplish contractual
15 responsibilities for job creation and enhancement and business
16 creation and expansion of Oklahoma minority-owned businesses. The
17 Department may contract with organizations which support minority
18 businesses for these purposes only after:

19 1. An applicant organization has submitted an approved business
20 plan;

21 2. An applicant organization has demonstrated through education
22 and experience capabilities of offering management tools and
23 technical assistance to minority-owned businesses;

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1 3. An applicant organization has demonstrated that it can
2 provide financial capacity and responsibility to manage a program to
3 aid minority-owned businesses in the manner set out herein;

4 4. A panel of peer reviewers has received applications and
5 recommended such applications for contracting;

6 5. The Department has given due consideration to those
7 applicants that demonstrate an ability to attract matching funding
8 from other governmental or private or charitable organizations;

9 6. The Department has given due consideration to those
10 applicants that demonstrate an ability to aid minority-owned
11 businesses located in communities with a population of less than ten
12 thousand (10,000); and

13 7. The Department has developed, adopted and published
14 additional criteria, upon receipt of advice and comment from
15 qualified peer reviewers.

16 B. Any contract entered into pursuant to this section shall
17 require quarterly reports of activities and expenditures upon forms
18 prescribed by the Department. Said quarterly reports shall be
19 reviewed by Oklahoma Futures. The Department or Oklahoma Futures
20 may disallow expenditures and withhold funds accordingly, if reports
21 reflect failure to comply with approved applications. All
22 contractors shall submit annual audits as required by the Department
23 of Commerce which may be paid from allocated, appropriated funds.
24 The Department may utilize an amount not to exceed twenty percent

1 (20%) of appropriated funds for administration of the minority-owned
2 business program.

3 C. Contracts entered into by the Oklahoma Department of
4 Commerce, with approved applicant organizations, for the purpose of
5 implementing the Minority Business Development Program shall be
6 exempt from the requirements of the Oklahoma Central Purchasing Act.

7 SECTION 4. AMENDATORY 74 O.S. 2021, Section 5066.4, is
8 amended to read as follows:

9 Section 5066.4 The Oklahoma Department of Commerce shall have
10 the authority to:

11 1. Enter into contracts with public and private agencies,
12 institutions, organizations and individuals for the purpose of
13 providing assistance to and services for Oklahoma manufacturing and
14 marketing firms as required by this act. ~~Such contracts shall be
15 exempt from the provisions of Section 85.1 et seq. of Title 74 of
16 the Oklahoma Statutes;~~

17 2. Solicit the support and contributions of public and private
18 agencies, organizations, institutions and individuals;

19 3. Receive and administer funds for the purpose of operating
20 the product development program;

21 4. Advertise and promote the product development program; and

22 5. Promulgate rules and regulations to implement the provisions
23 of this act.

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SECTION 5. This act shall become effective November 1, 2024.

59-2-8454 LRB 11/08/23