

An Act

ENROLLED SENATE
BILL NO. 630

By: Jolley of the Senate

and

Murphey of the House

An Act relating to sole source purchase contracts; amending 74 O.S. 2011, Section 85.22, which relates to competitive bidding; modifying certification requirements; authorizing substitution of certain products; prohibiting purchasing restrictions to certain geographical areas; authorizing promulgation of rules to implement act; providing for codification; providing for noncodification; and declaring an emergency.

SUBJECT: Competitive bidding procedures

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

SECTION 1. AMENDATORY 74 O.S. 2011, Section 85.22, is amended to read as follows:

Section 85.22 Any competitive bid submitted to the State of Oklahoma or contract executed by the state for goods or services in excess of Five Thousand Dollars (\$5,000.00) shall contain a certification, which shall be in substantially the following form:

A. For purposes of competitive bids, I certify:

1. I am the duly authorized agent of _____, the bidder submitting the competitive bid which is attached to this statement, for the purpose of certifying the facts pertaining to the existence

of collusion among bidders and between bidders and state officials or employees, as well as facts pertaining to the giving or offering of things of value to government personnel in return for special consideration in the letting of any contract pursuant to the bid to which this statement is attached;

2. I am fully aware of the facts and circumstances surrounding the making of the bid to which this statement is attached and have been personally and directly involved in the proceedings leading to the submission of such bid; and

3. Neither the bidder nor anyone subject to the bidder's direction or control has been a party:

- a. to any collusion among bidders in restraint of freedom of competition by agreement to bid at a fixed price or to refrain from bidding,
- b. to any collusion with any state official or employee as to quantity, quality or price in the prospective contract, or as to any other terms of such prospective contract, ~~nor~~
- c. in any discussions between bidders and any state official concerning exchange of money or other thing of value for special consideration in the letting of a contract, nor
- d. to any efforts or offers with state agency or political subdivision officials or others to create a sole brand acquisition or a sole source acquisition in contradiction to Section 2 of this act.

B. I certify, if awarded the contract, whether competitively bid or not, neither the contractor nor anyone subject to the contractor's direction or control has paid, given or donated or agreed to pay, give or donate to any officer or employee of the State of Oklahoma any money or other thing of value, either directly or indirectly, in procuring the contract to which this statement is attached.

Certified this _____ day of _____ 20__.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 85.45j.1 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. Notwithstanding any other provision of law or agency rule to the contrary, any bid submissions received by a state agency or any political subdivision pursuant to authorized sole source bidding procedures established by the provisions of Section 85.45j of Title 74 of the Oklahoma Statutes, which substitute an item with one that is alike in quality and design or which meets the required specifications of the bid shall be considered and shall not be prohibited. In terms of public construction contracts, with exception of specific products submitted and approved prior to release for bidding by the Oklahoma Attorney General for matching preexisting materials, at least three equivalent items from more than one manufacturer and more than one supplier or representative shall be included in the required specifications.

B. In addition, no sole source bid proposal shall require any limitation that materials must be supplied from a vendor within any specific geographical area. Geographic preference for vendors inside the geographical boundaries may be given, but only when the cost is the same or less.

SECTION 3. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

The Office of Management and Enterprise Services is authorized to promulgate rules as necessary to implement the provisions of this act.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval."

Passed the Senate the 30th day of April, 2013.

Kevin Daniel
Presiding Officer of the Senate

Passed the House of Representatives the 17th day of April, 2013.

Mike Fisher
Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 15th
day of May, 20 13, at 3:32 o'clock P M.
By: *Audrey Rockwell*

Approved by the Governor of the State of Oklahoma this 7th
day of May, 20 13, at 2:33 o'clock P M.

Mary Fallin
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 7th
day of May, 20 13, at 2:58 o'clock P. M.
By: *Chris Therese*