



OKLAHOMA STATE
DEPARTMENT *of* EDUCATION

August 12th, 2024

Gentner Drummond
Attorney General of the State of Oklahoma
Attn: Opinion Coordinator
313 NE 21st Street
Oklahoma City, Oklahoma 73105
Via email to opinion.coordinator@oag.ok.gov

Re: Request for an Attorney General Opinion Regarding SB 36x.

Greetings,

I write to request a formal Oklahoma Attorney General (“AG”) Opinion pursuant to Title 74 O.S. § 18(b)(A)(5) which state “[t]he duties of the Attorney General as the chief law office of the state shall be ... to give an opinion in writing upon all questions of law submitted to the Attorney General by the Legislature or either branch thereof, or by any state officer, board, commission or department, provided that the Attorney General shall not furnish opinions to any but district attorneys, the Legislature or either branch thereof, or any other state official, board, commission or department, and to them only upon matters in which they are officially interested[.] (emphasis added).

Senate Bill 36x, at page three (3), provides for inhalers for all schools and appropriates two hundred fifty thousand dollars and zero cents (\$250,000.00). Senate Bill 36x does not specify that the funds are to be delivered the McLarty Foundation.

The issue as framed is whether the entire \$250,000.00 may be provided to the McLarty Foundation for the purchase of inhalers absent a Request for Proposals (“RFP”) and absent proof of prior expenditures for the inhalers (i.e., that inhalers have been requested, purchased, and provided)?



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I am aware that the AG's Office has indicated an intent to investigate the sole sourcing of state contracts. I am also aware that legislators are lawfully prohibited from writing a vendor bill and therein preferring one vendor over others.

General Counsel for the Oklahoma State Department of Education ("OSDE"), Michael T. Beason, has concluded that the circumstances presented do not satisfy the sole source requirements under Oklahoma law. See e.g., Title 74 O.S. §85.44D.1.

A Request for Information ("RFI") has been done in these matters. The only Respondent was the McLarty Foundation. However, in consultation with the Oklahoma Office of Management and Enterprise Services ("OMES") and the OSDE Procurement Department, there appears no lawful means to convert an RFI to and RFP. Additionally, OSDE sought legal means in which to accomplish the goals as stated by Senator Chuck Hall. See the correspondence from Senator Hall attached here to as Exhibit 1 and incorporated fully by reference.

However, in contact with McLarty, it was discovered they could not produce a proposed contract.

In closing, this issue concerns the health of Oklahoma children. OSDE seeks clarification in the form of a written AG Opinion so that it may properly follow the law while still ensuring the safety of Oklahoma children. May OSDE proceed as a sole source contract, or must we seek an RFP? May OSDE pay all of the \$250,000.00 to McLarty in advance, or must we require McLarty to bill OSDE monthly and then pay after proof of products delivered has been given to OSDE?

Sincerely,

Ryan Walters
Superintendent of Public Instruction

Oklahoma State Senate

Chuck Hall
Senator

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Oklahoma City, OK 73105
(405) 521-5628
chuck.hall@oksenate.gov
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Committee Assignments

- Appropriations Subcommittee
- OMES/ ARPA Oversight - Chair
- Appropriations - Vice Chair
- Ag & Rural Affairs - Vice Chair
- Finance
- Health & Human Services
- Judiciary

July 17, 20024

Superintendent Ryan Walters,

In 2023 the State Department of Education (SDE) was appropriated \$250,000.00 (HB1004X) to purchase inhalers for all school districts in Oklahoma. The line item for this appropriation is included in SB 36X, Section 2. The intent at the time the appropriation was passed was that SDE would work with the Brendon McLarty Memorial Foundation to purchase inhalers for Oklahoma schools. As of today, none of the funds have been allocated for the purchase of inhalers. I am requesting the Department contract with the Foundation to get these funds out in the most expedient fashion possible before the school year begins. Government should not have this many roadblocks to potential life-saving medicines. I look forward to a quick process in getting these funds to the intended Foundation.

Sincerely,

A handwritten signature in black ink, appearing to read "Chuck Hall", with a stylized flourish at the end.

Senator Chuck Hall
Senate Appropriation Chairman

A handwritten signature in black ink, appearing to read "Kevin Wallace", with a stylized flourish at the end.

Representative Kevin Wallace
House Appropriation Chairman

Exhibit 1