

Office of the State Auditor & Inspector



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COUNTY PURCHASING AND BIDDING PROCEDURES



**Presented by:
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Deputy State Auditor**

Objectives:

- 1. How are purchases made in county government?**
- 2. General purchasing issues.**
- 3. Audit issues found by OSAI during the audit process.**

Purchasing Process:

- Requisitioning officer will start the process by requisitioning the goods or services.
- Purchasing Agent will *Encumber* funds – county cannot incur indebtedness past the current fiscal year.
(OK Constitution Article 10 § 26)
- Ordering goods/services – although the statutes direct the Purchasing Agent to order the goods and/or services, most officials do this for their offices.

Purchasing Process:

- **Receiving officer will complete a receiving report and certify that goods/services were received.**
- **Forwards invoice and receiving report to the Purchasing Agent.**
- **County Clerk/Purchasing Agent processes the PO and submits to the BOCC for approval for payment. (PO is 'red stamped' if proper purchasing procedures were not followed.)**

Purchasing Process:

- **BOCC approves all claims in an open meeting.**
- **County Clerk issues warrants for each purchase order.**
- **Chairman of the BOCC signs/stamps each warrant.**
- **County Clerk delivers warrants to Treasurer's office to be registered.**
- **When warrants reach the bank, the Treasurer issues a check to pay for the warrants.**

Officer Handbooks – Prepared by OSU:

- **Purchasing Handbook**
- **County Clerk Handbook**
- **County Treasurer Handbook**
- **Commissioners Handbook**
- **County Sheriff Handbook**
- **Court Clerk Handbook**
- **County Assessor Handbook**

<http://www.agecon.okstate.edu/ctp>

OSU – County Training Program

Classes Offered:

- **Purchasing**
- **Open meetings/Open records**
- **Budget process**

See website for complete listing of classes and dates.

Why does OSAI refer you to your District Attorney?

- Sometimes the law is not clear.
- County Government is only given authority expressly granted to it by the State.
- The statutes do not cover some issues/situations. In these instances, OSAI cannot make management decisions for you. OSAI can only offer alternative solutions.

When is Bidding Required?

The County is required to solicit bids when the purchase of goods and/or services will be \$10,000 or more.

This applies to purchases of equipment, inventory, and road materials.

Title 19 O.S. § 1501.A.3:

The Purchasing Agent can purchase items from:

- The State bid contract by contacting the purchasing division of OMES,**
- General Services Administration, or**
- A local vendor who wants to offer the exact item at the same price or lower price offered by Oklahoma Office of Management Enterprise Services (OMES) or General Services Administration (GSA).**

What is the Cost of Soliciting Bids?

- **Publication cost for general circulation newspaper in the County - \$50.**
- **Cost to mail bid packets to vendors who have requested the Clerk to include their name on the mailing list - \$25.**
- **If planned properly, an item can be properly bid and the bid can be awarded within 14-20 days.**
- **Notices must be mailed and published at least 10 days prior to opening bids.**

What is a Split Purchase Order?

A split purchase order is the deliberate attempt to circumvent the purchasing procedures. An item(s) costing \$10,000 or more is split between 2 or more purchase orders so that it does not have the appearance of requiring the item(s) to be properly bid.

What is bid spec'ing?

- Soliciting bids in such a specific format that it would exclude competitive vendors from submitting a bid.
- For example, soliciting bids for a Ford. This would exclude a competitive vendor such as GM from submitting a bid. Also, soliciting bids for a specific type of motor only made by a vendor would also violate competitive bidding laws.
- There are very few items that could ever be considered 'sole source.'

Title 19 O.S. § 1501.A.3.k:

What are the options if the vendor who was awarded the bid is no longer able to perform?

- **Cancel and re-bid,**
- **Solicit telephone quotes for the needed item(s) from the list of qualified bidders at the lowest and best quote available, or**
- **Use the next lowest bidder.**

***Note* - The next time a purchase is made, it must be re-bid.**

Title 19 O.S. § 1501.A.3.g:

How are purchases of fuel to be bid?

- **Most vendors will not commit to a firm price for fuel longer than 2 weeks,**
- **Telephone quotes should be requested,**
- **The lowest and best bid, including cost of delivery, should be accepted, and**
- **Documentation of why the lowest bid was not accepted should be noted in the minutes of the BOCC meetings.**

Statutory Requirement:

All action taken regarding the surplus, sale, or purchase of equipment should be taken in a BOCC meeting and properly documented in the minutes of the meeting.

Title 19 O.S. § 1501.A.3.c:

Purchases from single source:

- **Single source items are very rare. Often, the only sure way to make this determination is to open the purchase for bid.**
- **The Purchasing Agent should be reviewing the State Contract (OMES) and the GSA Contract prior to concluding the item is 'single source.'**
- **OSAI usually recommends the County consult with their legal counsel.**

Title 19 O.S. § 1505.D.3:

Purchasing item(s) at a public auction:

- **A PO with a description of the item and the maximum bid to be made should be encumbered prior to the auction date.**
- **The Purchasing Agent must certify that funds are available.**

Title 19 § 421.1C - Selling Items on Online Auctions:

- The board of county commissioners may hold a public auction or use an Internet auction, which may include online bidding, in lieu of advertising for sealed bids as provided above. Such auction shall be advertised as provided herein.**
- The board of county commissioners shall give notice of such sale by publication in a newspaper of general paid circulation in the county for two (2) successive weekly issues;**

Title 19 O.S. § 1501.A.3.h – Purchasing from the State or Political Subdivisions:

Purchases may be made from a state agency or political subdivision of the state without having to follow bidding procedures as provided for in Title 19 O.S. § 421.1.

Title 19 O.S. § 421.1 restricts the sale to a state agency subject to The Oklahoma Central Purchasing Act or a political subdivision subject to such act or a similar competitive bidding procedure.

When in doubt....BID.

Title 19 O.S. § 1501.A.3.q:

Emergency Purchases:

- **Requires the county officer to certify that an emergency exists requiring an immediate expenditure of funds.**
- **The amount shall not exceed \$5,000.**
- **The county officer shall provide the purchasing agent a written explanation of the emergency to attach to the PO.**
- **Examples: medical care for an inmate, A/C repair on the weekend for buildings, etc.**

Title 19 O.S. § 1501.A.3.q:

Emergency declared by the Governor or President:

- **The District Attorney has the authority to temporarily waive competitive bidding procedures for purchases that may expedite a response to an emergency situation.**
- **Should be provided in writing to the Purchasing Agent.**
- **Bids should be solicited as soon as possible.**

FEMA Purchases are Different:

- A waiver from the District Attorney will not meet FEMA requirements.
- The grant agreement the County signs with FEMA states that the County will follow the State's procurement procedures. Not those outlined in Title 19.
- Architectural and Engineering Services must be bid for FEMA projects. - *not necessarily in a competitive amount.*
- **44 CFR § 13.36**

MISCELLANEOUS

Title 19 O.S. § 1506:

County Sheriff's Offices are the only offices authorized by statute to have a credit card.

- Credit amount is limited by population of the County.**
- The card should be issued in the County's name.**
- All purchases should still follow purchasing procedures as outline in Title 19 O.S. § 1501-1505.**

Title 61 O.S. § 103:

Public Competitive Bidding Act:

- **All public construction contracts exceeding \$50,000 should be awarded to the lowest responsible bidder. A written contract, bond, and insurance are required.**
- **For construction contracts less than \$50,000, bid should be awarded to the lowest responsible bidder. Written bids are required. Work may be commenced in accordance with purchasing procedure of the entity.**
- **Construction contracts for less than \$5,000 may be negotiated with a qualified contractor.**

Work on Private Property or Other Entity:

- **OSAI strongly recommends you get guidance from your District Attorney before performing any work on private property.**
- **If the County is requested to perform work for any political subdivision, municipality, or school district, the County must have a local cooperative agreement approved by the District Attorney and approved by the BOCC in an open meeting.**

Title 19 O.S. § 333 – Restrictions on Officer Spending prior to Election:

- **Any county commissioner who fails to file for reelection or is defeated in any primary or general election or by any other manner it is impossible for the commissioner to serve another term in office, shall not acquire, purchase, contract for or dispose of any machinery or equipment, or expend or approve for expenditure any monies for any purpose other than normal or routine operating expenditures except as provided in this section.**

Sale of Recyclable Materials:

Title 19 § 421.1H:

The Board of County Commissioners may solicit telephone bids for the removal of recyclable materials.

Effective November 1, 2013

Accepting All 6-Month Bids:

Not an acceptable practice.

Title 19 § 1505B.4:

- **The BOCC shall open all sealed bids in an open meeting and compare them to the State contract price.**
- **The BOCC shall select the lowest and best bid based upon the availability of material and transportation cost to the job site within 30 days of the meeting.**

Accepting All 6-Month Bids:

- **Title 19 § 1505B.5 outlines procedures to follow when a vendor who is the lowest bidder cannot fulfill the terms of the bid.**
- **Documentation is extremely important to reflect compliance with this statute.**

Lease-Purchases from the State Contract:

The only way to purchase items from the State Contract is to pay in full.

An item *may not* be lease-purchased from the State Contract.

The terms of the financing must be bid as part of the purchase.

Trading-in Leased Equipment:

Note – A piece of equipment that is part of a lease-purchase cannot be ‘traded-in’.

The title to the lease-purchase is not in the County’s name.

Locating Items on State Contract:

Oklahoma Department of Central Purchasing
(part of OMES)

405-522-0955

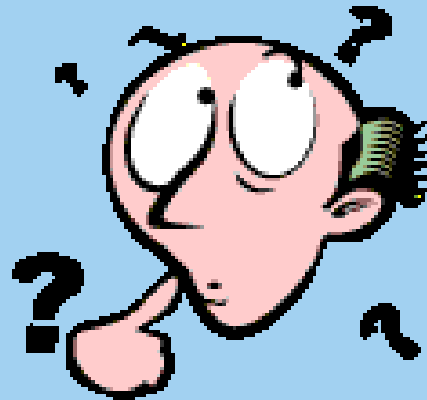
When Can A Bid Be Solicited?

ANYTIME!

It is always a good business practice to get the best deal for the taxpayers' money.



QUESTIONS?



OSAI OFFICES & IMPORTANT PHONE NUMBERS



OSAI Offices/ Important Phone Numbers:

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OKC - Manager, Marla Latham
(405) 713-1833 - mlatham@sai.ok.gov

Duncan - Manager, Ricky Branch
(580) 470-8208 - rbranch@sai.ok.gov

Helpful Websites and the information available on them

www.sai.ok.gov - Copies of prior year published audits, helpful forms and F.A.Q.

<http://www.agecon.okstate.edu/ctp> - Officer Handbooks prepared by OSU.

<http://www.agecon.okstate.edu/ctp/schedule.asp> - OSU Training Schedule for calendar of upcoming events.

