ENGROSSED HOUSE
BILL NO. 1436

By: Taylor of the House

and

Shurden of the Senate

An Act relating to counties and county officers; amending 19 O.S. 1991, Sections 1501, as last amended by Section 2, Chapter 172, O.S.L. 1995, 1505, as last amended by Section 2, Chapter 45, O.S.L. 1996, and 1723, as amended by Section 1, Chapter 7, O.S.L. 1995 (19 O.S. Supp. 1998, Sections 1501, 1505 and 1723), which relate to county purchasing procedures; increasing dollar amount counties may spend without bids under certain circumstances; and providing an effective date.

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

SECTION 1. AMENDATORY 19 O.S. 1991, Section 1501, as last amended by Section 2, Chapter 172, O.S.L. 1995 (19 O.S. Supp. 1998, Section 1501), is amended to read as follows:

Section 1501. A. The county purchasing agent:

1. Shall, within the amount of the unencumbered balance, make all purchases that are paid from county funds for the various institutions, departments, officers, and employees of the county, except at public auctions and as otherwise provided for by law;

2. May make purchases for political subdivisions of this state within the county if authorized by appropriate action of the governing board or body of the political subdivision affected;

3. Shall make purchases and rental or lease-purchase agreements only after following the bidding procedures as provided for by law, except:

a. when the purchase does not exceed Two Thousand Five Hundred Dollars ($2,500.00). <u>If purchases are in excess of Two Thousand Five Hundred Dollars</u>

($2,500.00) but not in excess of Seven Thousand Five Hundred Dollars ($7,500.00), the purchasing agent shall solicit quotes in writing, by facsimile or by telephone from a list of qualified bidders and the purchase shall be at the lowest and best quote available. All purchases made pursuant to this subparagraph shall be by a single purchase order. Splitting purchase orders which would result in paying an amount in excess of the limitations specified in this subparagraph is expressly prohibited. Any person convicted of violating the provisions of this subparagraph shall be guilty of a misdemeanor and such person shall forfeit the person's position or office,

b. when the total payments of a rental or lease-purchase agreement do not exceed Two Thousand Five Hundred Dollars ($2,500.00). When the total payments of a rental or lease-purchase agreement exceed Two Thousand Five Hundred Dollars ($2,500.00) but do not exceed Seven Thousand Five Hundred Dollars ($7,500.00), the purchasing agent shall solicit quotes in writing, or by facsimile or by telephone from a list of qualified bidders and the payments shall be at the lowest and best quote available,

c. when articles and items are covered by single source contracts,

d. service or maintenance contracts on equipment or machinery which are entered into at the time of the purchase of the equipment or machinery,

e. purchases made pursuant to a blanket purchase order as provided for in Section 310.8 of Title 62 of the Oklahoma Statutes,

f. when unprocessed native materials for road or bridge improvements do not exceed Two Dollars ($2.00) per yard or per ton,

g. purchases of fuel if the county purchasing agent obtains telephone quotes from at least three vendors prior to the purchase and the lowest and best quote is selected. Documentation of these quotes shall be recorded in the permanent records of the clerk,

h. purchases of products available to the county through a General Services Administration contract or other federal contract if the item is not on current state contract or the terms of such contract are more favorable to the county than the terms of a state contract for the same products,

i. purchases of tools, apparatus, machinery or equipment from a state agency or a political subdivision of the state as provided for in subsection C of Section 421.1 of this title,

j. purchases of food for prisoners incarcerated in the county jail; provided, in counties having a population in excess of one hundred thousand (100,000) persons, the county purchasing agent shall follow bidding procedures as provided by law unless the county purchasing agent obtains telephone quotes pursuant to the whole total of food items requisitioned prior to the purchase and the lowest and best quote is selected. Documentation of these quotes shall be recorded in the permanent records of the county clerk,

k. when a county solicits bids for the purchase of processed native materials for road and bridge improvements, the county may accept all bids received, with the lowest and best bid from those accepted to be

selected at the time of opening of any construction project. The selection of the bid shall be based upon availability, bid price, plus transportation costs,

l. when a vendor has been selected as the lowest and best bidder to furnish a particular item or items to the county during a specified time period and in the event the vendor is unable to perform, the purchasing agent may solicit telephone quotes for the item or items needed from the list of qualified bidders and provide for the purchase of the items at the lowest and best quote available,

m. when considering the purchase of an item or items from the state bid list as provided by the Department of Central Services, if the same exact item is available from a local vendor at or below the price listed on the state bid list, the item may be obtained from the vendor, or

n. any item or items bid by the Department of Central Services which may be purchased by the county, provided the vendor is willing to supply the item or items to the county at the bid price.

The purchases shall be paid by attaching properly itemized invoices, as described in Section 1505 of this title, to a purchase order which has been prepared by the county purchasing agent and submitting both to the county clerk for filing, encumbering, and consideration for payment by the board of county commissioners;

4. Shall not furnish any supplies, materials, equipment, or other articles, except upon receipt of a requisition signed by a county officer. Written requisitions will not be required for blanket purchase orders as provided for in Section 310.8 of Title 62 of the Oklahoma Statutes. Each county officer may designate not more than two employees who also shall be authorized to sign

requisitions in the absence of the county officer. A written designation of the employees shall be filed with the county clerk and shall be entered in the minutes of the board of county commissioners;

5. Shall make lease or lease-purchase agreements for road machinery and equipment if the county has adequate funds appropriated during any fiscal year for such purpose and only after following the bidding procedures as provided for in Section 1505 of this title. The term of any lease or lease-purchase agreement authorized pursuant to this paragraph may be for any period up to one (1) year, provided, the term shall not extend beyond the end of any fiscal year, with an option to renew such agreement subject to the requirement that adequate funds are appropriated during the fiscal year by the county for such purpose. The State Auditor and Inspector's office shall be notified by the county of the terms and conditions of a lease or lease-purchase agreement authorized pursuant to this paragraph before any such agreement is made by the county purchasing agent; and

6. Shall perform such other duties as may be delegated by the appointing authority or as may be provided for by law.

B. Each department of county government needing repairs to equipment, machinery or vehicles shall make estimates and requisition a purchase order from the county purchasing agent for repairs not in excess of Two Thousand Five Hundred Dollars ($2,500.00). <u>If estimates for repairs are in excess of Two Thousand Five Hundred Dollars ($2,500.00) but not in excess of Seven Thousand Five Hundred Dollars ($7,500.00), the purchasing agent shall solicit quotes in writing, or by facsimile or by telephone from a list of qualified bidders and the purchase shall be at the lowest and best quote available.</u> Repairs in excess of Two Thousand Five Hundred Dollars ($2,500.00)<u>, and in the case of written, facsimile, or telephone quotes not in excess of Seven Thousand Five Hundred</u>

Dollars ($7,500.00), shall be submitted on a blanket purchase order as provided in Section 310.8 of Title 62 of the Oklahoma Statutes.

SECTION 2. AMENDATORY 19 O.S. 1991, Section 1505, as last amended by Section 2, Chapter 45, O.S.L. 1996 (19 O.S. Supp. 1998, Section 1505), is amended to read as follows:

Section 1505. The following procedures shall be used by counties for the requisition, purchase, lease-purchase, rental, and receipt of supplies, materials, and equipment for the maintenance, operation, and capital expenditures of county government unless otherwise provided for by law.

A. The procedure for requisitioning items for county offices shall be as follows:

1. The requesting department shall prepare a requisition form in triplicate. The requisition shall contain any specifications for an item as deemed necessary by the requesting department. The form shall be prescribed by the State Auditor and Inspector;

2. The requesting department shall retain a copy of the requisition and forward the original requisition and a copy to the county purchasing agent; and

3. Upon receipt of the requisition, the county purchasing agent, within two (2) working days, shall begin the bidding and purchasing process as provided for in this section. Nothing in this section shall prohibit the transfer of supplies, materials, or equipment between county departments upon a written agreement between county officers.

B. The bid procedure for selecting a vendor for the purchase, lease-purchase, or rental of supplies, materials, and equipment used by a county shall be as follows:

1. The county purchasing agent shall request written recommendations from all county officers pertaining to commonly used supplies, materials, and equipment. From such recommendations and available requisition, purchase, or inventory records, the county

purchasing agent shall prepare a list of items commonly used by county officers. The county purchasing agent shall request from the Purchasing Division of the Department of Central Services all contracts quoting the price the state is paying for ~~said~~ the items. The county purchasing agent shall either request the Purchasing Division of the Department of Central Services to make the purchase for the county or solicit bids for unit prices on ~~said~~ the items for periods of not to exceed twelve (12) months in the manner described in paragraph 2 of this subsection. If the county purchasing agent receives a requisition for an item for which the county purchasing agent does not have a current bid, the county purchasing agent shall request from the Purchasing Division of the Department of Central Services all contracts quoting the price the state is paying for the item. The county purchasing agent shall either request the Purchasing Division of the Department of Central Services to make the purchase for the county or solicit bids in the manner described in paragraph 2 of this subsection. Nothing in this paragraph shall prohibit bids from being taken on an item currently on a twelve-month bid list, at any time deemed necessary by the county purchasing agent. Whenever the county purchasing agent deems it necessary to take a bid on an item currently on a twelve-month bid list, the reason for the bid shall be entered into the minutes of the board of county commissioners;

2. Bids shall be solicited by mailing a notice to all persons or firms who have made a written request of the county purchasing agent that they be notified of such bid solicitation and to all other persons or firms who might reasonably be expected to submit bids. Notice of solicitation of bids shall also be published one time in a newspaper of general circulation in the county. Notices shall be mailed and published at least ten (10) days prior to the date on which the bids are opened. Proof of the mailing shall be made by the affidavit of the person mailing the request for bids and

shall be made a part of the official records of the county purchasing agent. Whenever any prospective supplier or vendor dealing in or listing for sale any particular item or article required to be purchased or acquired by sealed bids fails to enter or offer a sealed bid for three successive bid solicitations, the name of the supplier or vendor may be dropped from the mailing lists of the board of county commissioners;

3. The sealed bids received from vendors and the state contract price received from the Purchasing Division of the Department of Central Services shall be given to the county clerk by the county purchasing agent. The county clerk shall forward the sealed bids and state contract price, if any, to the board of county commissioners;

4. The board of county commissioners, in an open meeting, shall open the sealed bids and compare them to the state contract price. The board of county commissioners shall select the lowest and best bid based upon the availability of material and transportation cost to the job site within thirty (30) days of ~~said~~ the meeting. For any special item not included on the list of commonly used items, the requisitioning official shall review the bids and submit a written recommendation to the board before final approval. The board of county commissioners shall keep a written record of the meeting as required by law, and any time the lowest bid was not considered to be the lowest and best bid, the reason for ~~said~~ such conclusion shall be recorded. Whenever the board of county commissioners rejects the written recommendation of the requisitioning official pertaining to a special item, the reasons for the rejection shall be entered in their minutes and stated in a letter to the requisitioning official and county purchasing agent;

5. The county purchasing agent shall notify the successful bidders and shall maintain a copy of the notification. The county purchasing agent shall prepare and maintain a vendors list

specifying the successful bidders and shall notify each county officer of the list. The county purchasing agent may remove any vendor from such list who refuses to provide goods or services as provided by contract if the removal is authorized by the board of county commissioners. The county purchasing agent may make purchases from the successful bidders for a price at or below the bid price. If a vendor who is the low bidder cannot or will not sell goods or services as required by a county bid contract, the county purchasing agent may purchase from the next low bidder or take quotations as provided in paragraph 6 of this ~~section~~ subsection, provided, however, such purchase does not exceed Two Thousand Five Hundred Dollars ($2,500.00), or in the case of written, facsimile, or telephone quotes, Seven Thousand Five Hundred Dollars ($7,500.00). Bids in excess of Two Thousand Five Hundred Dollars ($2,500.00), or in the case of written, facsimile, or telephone quotes, Seven Thousand Five Hundred Dollars ($7,500.00) shall be re-bid; and

6. When bids have been solicited as provided for by law and no bids have been received, the procedure shall be as follows:

a. the county purchasing agent shall determine if potential vendors are willing to commit to a firm price for a reduced period of time, and, if such is the case, the bid procedure described in this subsection shall be followed, or

b. if vendors are not willing to commit to a firm price for a reduced period, the purchasing agent shall solicit and record at least three quotes of current prices available to the county and authorize the purchase of goods based on the lowest and best quote as it becomes necessary to acquire such goods. The quotes shall be recorded on a form prescribed by the State Auditor and Inspector and shall be attached to

the purchase order and filed with the county clerk's copy of the purchase order. Any time the lowest quote was not considered to be the lowest and best quote, the reason for this conclusion shall be recorded by the county purchasing agent and transmitted to the county clerk, or

c. if three quotes are not available, a memorandum to the county clerk from the county purchasing agent shall describe the basis upon which a purchase is authorized. The memorandum shall state the reasons why the price for such a purchase is the lowest and best under the circumstances. The county clerk shall then attach the memorandum to the county clerk's copy of the purchase order and file both in the office of the county clerk.

C. After selection of a vendor, the procedure for the purchase, lease-purchase, or rental of supplies, materials, and equipment used by a county shall be as follows:

1. The county purchasing agent shall prepare a purchase order in quadruplicate and submit it with a copy of the requisition to the county clerk;

2. The county clerk shall then encumber the amount stated on the purchase order and assign a sequential number to the purchase order;

3. If there is an unencumbered balance in the appropriation made for that purpose by the county excise board, the county clerk shall so certify in the following form:

I hereby certify that the amount of this encumbrance has been entered against the designated appropriation accounts and that this encumbrance is within the authorized available balance of said appropriation.

Dated this _____ day of _____, 19__.

_____

County Clerk/Deputy

of _____ County.

In instances where it is impossible to ascertain the exact amount of the indebtedness sought to be incurred at the time of recording the encumbrance, an estimated amount may be used. No purchase order shall be valid unless signed by the county purchasing agent and certified by the county clerk; and

4. The county clerk shall file a copy of the purchase order and return the original purchase order and two copies to the county purchasing agent who shall file a copy, retain the other copy for the county road and bridge inventory officer if the purchase order is for the purchase of equipment, supplies, or materials for the construction or maintenance of roads and bridges, and submit the original purchase order to the receiving officer of the requesting department.

D. The procedure for the purchase of supplies, materials, and equipment at public auction or by sealed bid to be used by a county shall be as follows:

1. The county purchasing agent shall prepare a purchase order in quadruplicate and submit it with a copy of the requisition to the county clerk;

2. The county clerk shall then encumber the amount stated on the purchase order and assign a sequential number to the purchase order;

3. If there is an unencumbered balance in the appropriation made for that purpose by the county excise board, the county clerk shall so certify in the following form:

I hereby certify that the amount of this encumbrance has been entered against the designated appropriation accounts and that this encumbrance is within the authorized available balance of said appropriation.

Dated this _____ day of _____, 19__.

_____

County Clerk/Deputy

of _____ County.

In instances where it is impossible to ascertain the exact amount of the indebtedness sought to be incurred at the time of recording the encumbrance, an estimated amount may be used. No purchase order shall be valid unless signed by the county purchasing agent and certified by the county clerk; and

4. The county clerk shall file a copy of the purchase order and return the original purchase order and two copies to the county purchasing agent who shall file a copy, retain the other copy for the county road and bridge inventory officer if the purchase order is for the purchase of equipment, supplies, or materials for the construction or maintenance of roads and bridges, and submit the original purchase order to the receiving officer of the requesting department.

E. The procedure for the receipt of items shall be as follows:

1. A receiving officer for the requesting department shall be responsible for receiving all items delivered to that department;

2. Upon the delivery of an item, the receiving officer shall determine if a purchase order exists for the item being delivered;

3. If no such purchase order has been provided, the receiving officer shall refuse delivery of the item;

4. If a purchase order is on file, the receiving officer shall obtain a delivery ticket, bill of lading, or other delivery document and compare it with the purchase order. If any item is back ordered, the back order and estimated date of delivery shall be noted in the receiving report;

5. The receiving officer shall complete a receiving report in quadruplicate which shall state the quantity and quality of goods delivered. The receiving report form shall be prescribed by the

State Auditor and Inspector. The person delivering the goods shall acknowledge the delivery by signature, noting the date and time;

6. The receiving officer shall file the original receiving report and submit:

a. the original purchase order and a copy of the receiving report to the county purchasing agent, and

b. a copy of the receiving report with the delivery documentation to the county clerk;

7. The county purchasing agent shall file the original purchase order and a copy of the receiving report;

8. Upon receipt of the original receiving report and the delivery documentation, the county clerk shall maintain a file until such time as an invoice is received from the vendor;

9. The invoice shall state the name and address of the vendor and must be sufficiently itemized to clearly describe each item purchased, the unit price when applicable, the number or volume of each item purchased, the total price, the total purchase price, and the date of the purchase;

10. Upon receipt of an invoice, the county clerk shall compare the following documents:

a. requisition,

b. purchase order,

c. invoice with noncollusion affidavit as required by law,

d. receiving report, and

e. delivery document.

The documents shall be available for public inspection during regular business hours; and

11. If the documents conform as to the quantity and quality of the items, the county clerk shall prepare a warrant for payment according to procedures provided for by law.

F. The following procedures are for the processing of purchase orders:

1. Purchase orders may be allowed and paid at the first meeting of the board of county commissioners after five (5) days have elapsed following the date of the filing of the purchase order, provided that purchase orders for the salaries of the county officers and their full-time assistants, deputies and employees may be allowed and paid immediately after filing;

2. The board of county commissioners shall consider ~~said~~ the purchase orders so presented and act upon ~~said~~ the purchase orders, by allowing in full or in part or by holding for further information or disallowing the same. The disposition of purchase orders shall be indicated by the board of county commissioners, showing the amounts allowed or disallowed and shall be signed by at least two members of the board of county commissioners. Any claim held over for further information shall be acted upon by allowing or disallowing same at any future meeting of the board held within seventy-five (75) days from the date of filing of the purchase order. Any purchase order not acted upon within the seventy-five (75) days from the date of filing shall be deemed to have been disallowed, but such disallowance shall not prevent the refiling of ~~said~~ the purchase order at the proper time; and

3. Whenever any allowance, either in whole or in part, is made upon any purchase order presented to the board of county commissioners and is accepted by the person making the claim, such allowance shall be a full settlement of the entire purchase order and provided that the cashing of warrant shall be considered as acceptance by the claimant.

G. The procedure upon consumption or disposal of supplies, materials, or equipment shall be as follows:

1. For consumable items other than road or bridge items having an original cost greater than Five Hundred Dollars ($500.00), a

record of the date and place of consumption shall be prepared by the consuming department and filed bimonthly with the board of county commissioners;

2. For consumable road or bridge items or materials, a monthly report of the road and bridge projects completed during said period shall be prepared by the consuming department and filed with the county clerk. The report shall contain a record of the date, the place, and the purpose for the use of the road or bridge items or materials. For purposes of identifying county bridges, the board of county commissioners shall number each bridge subject to its jurisdiction;

3. For equipment other than road or bridge equipment which originally cost more than Two Hundred Fifty Dollars ($250.00), a copy of the minutes required by Section 421 of this title shall be filed with the board of county commissioners; and

4. For road or bridge equipment which originally cost more than Two Hundred Fifty Dollars ($250.00), a copy of the minutes required by Section 421 of this title shall be filed with the board of county commissioners.

H. Inventory forms and reports shall be retained for not less than two (2) years after all audit requirements for the state and federal government have been fulfilled and after any pending litigation involving the forms and reports has been resolved.

I. The procedures provided for in this section shall not apply when a county officer certifies that an emergency exists requiring an immediate expenditure of funds. Such an expenditure of funds shall not exceed One Thousand Five Hundred Dollars ($1,500.00). The county officer shall give the county purchasing agent a written explanation of the emergency. The county purchasing agent shall attach the written explanation to the purchase order. ~~Said~~ The purchases shall be paid by attaching a properly itemized invoice, as described in this section, to a purchase order which has been

prepared by the county purchasing agent and submitting them to the county clerk for filing, encumbering, and consideration for payment by the board of county commissioners.

SECTION 3. AMENDATORY 19 O.S. 1991, Section 1723, as amended by Section 1, Chapter 7, O.S.L. 1995 (19 O.S. Supp. 1998, Section 1723), is amended to read as follows:

Section 1723. Purchases by any board which are in excess of Two Thousand Five Hundred Dollars ($2,500.00)<u>, or in the case of written, facsimile, or telephone quotes, purchases in excess of Seven Thousand Five Hundred Dollars ($7,500.00),</u> shall be by competitive bid.

SECTION 4. This act shall become effective November 1, 1999.

Passed the House of Representatives the 24th day of February, 1999.

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Speaker of the House of Representatives

Passed the Senate the ____ day of _____, 1999.

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President of the Senate