

THE HOUSE OF REPRESENTATIVES
Thursday, February 5, 2009

House Bill No. 1347

HOUSE BILL NO. 1347 - By: COOKSEY of the House and JOLLEY of the Senate.

An Act relating to counties and county officers; amending 19 O.S. 2001, Section 1505, as last amended by Section 5, Chapter 132, O.S.L. 2007 (19 O.S. Supp. 2008, Section 1505), which relates to procedures to purchase equipment for county government; increasing value amount for equipment required to be disposed of pursuant to disposal procedure; amending 19 O.S. 2001, Section 421, which relates to entry on minutes when equipment is disposed; increasing value amount for equipment required for entry on minutes; amending 19 O.S. 2001, Section 421.1, as last amended by Section 1, Chapter 294, O.S.L. 2008 (19 O.S. Supp. 2008, Section 421.1), which relates to the ability of county to trade in equipment and establishes the procedure for the sale of equipment; increasing value amount for equipment available for trade-in and increasing value amount of equipment subject to procedure for sale; and providing an effective date.

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

1 SECTION 1. AMENDATORY 19 O.S. 2001, Section 1505, as last amended by
2 Section 5, Chapter 132, O.S.L. 2007 (19 O.S. Supp. 2008, Section 1505), is amended to
3 read as follows:

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

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

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

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

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

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

13 1. The county purchasing agent shall request written recommendations from all
14 county officers pertaining to commonly used supplies, materials, and equipment. From
15 such recommendations and available requisition, purchase, or inventory records, the
16 county purchasing agent shall prepare a list of items commonly used by county officers.
17 The county purchasing agent shall request from the Purchasing Division of the
18 Department of Central Services all contracts quoting the price the state is paying for the
19 items. The county purchasing agent shall either request the Purchasing Division of the
20 Department of Central Services to make the purchase for the county or solicit bids for
21 unit prices on the items for periods of not to exceed twelve (12) months in the manner
22 described in paragraph 2 of this subsection. If the county purchasing agent receives a

1 requisition for an item for which the county purchasing agent does not have a current
2 bid, the county purchasing agent shall request from the Purchasing Division of the
3 Department of Central Services all contracts quoting the price the state is paying for the
4 item. The county purchasing agent shall either request the Purchasing Division of the
5 Department of Central Services to make the purchase for the county or solicit bids in the
6 manner described in paragraph 2 of this subsection. Nothing in this paragraph shall
7 prohibit bids from being taken on an item currently on a twelve-month bid list, at any
8 time deemed necessary by the county purchasing agent. Whenever the county
9 purchasing agent deems it necessary to take a bid on an item currently on a twelve-
10 month bid list, the reason for the bid shall be entered into the minutes of the board of
11 county commissioners;

12 2. Bids shall be solicited by mailing a notice to all persons or firms who have made
13 a written request of the county purchasing agent that they be notified of such bid
14 solicitation and to all other persons or firms who might reasonably be expected to submit
15 bids. Notice of solicitation of bids shall also be published one time in a newspaper of
16 general circulation in the county. Notices shall be mailed and published at least ten (10)
17 days prior to the date on which the bids are opened. Proof of the mailing shall be made
18 by the affidavit of the person mailing the request for bids and shall be made a part of the
19 official records of the county purchasing agent. Whenever any prospective supplier or
20 vendor dealing in or listing for sale any particular item or article required to be
21 purchased or acquired by sealed bids fails to enter or offer a sealed bid for three

1 successive bid solicitations, the name of the supplier or vendor may be dropped from the
2 mailing lists of the board of county commissioners;

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

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

19 5. The county purchasing agent shall notify the successful bidders and shall
20 maintain a copy of the notification. The county purchasing agent shall prepare and
21 maintain a vendors list specifying the successful bidders and shall notify each county
22 officer of the list. The county purchasing agent may remove any vendor from such list

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BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 who refuses to provide goods or services as provided by contract if the removal is
2 authorized by the board of county commissioners. The county purchasing agent may
3 make purchases from the successful bidders for a price at or below the bid price. If a
4 vendor who is the low bidder cannot or will not sell goods or services as required by a
5 county bid contract, the county purchasing agent may purchase from the next low bidder
6 or take quotations as provided in paragraph 6 of this subsection, provided, however, such
7 purchase does not exceed Five Thousand Dollars (\$5,000.00); and

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

- 10 a. the county purchasing agent shall determine if potential vendors are
11 willing to commit to a firm price for a reduced period of time, and, if
12 such is the case, the bid procedure described in this subsection shall be
13 followed, or
- 14 b. if vendors are not willing to commit to a firm price for a reduced
15 period, the purchasing agent shall solicit and record at least three
16 quotes of current prices available to the county and authorize the
17 purchase of goods based on the lowest and best quote as it becomes
18 necessary to acquire such goods. The quotes shall be recorded on a
19 form prescribed by the State Auditor and Inspector and shall be
20 attached to the purchase order and filed with the county clerk's copy of
21 the purchase order. Any time the lowest quote was not considered to
22 be the lowest and best quote, the reason for this conclusion shall be

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1 recorded by the county purchasing agent and transmitted to the county
2 clerk, or

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

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

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

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

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

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

21 Dated this _____ day of _____, 20__.

22

1 County Clerk/Deputy
2 of _____ County.

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

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

13 D. 1. The procedure for the purchase of supplies, materials, and equipment at
14 public auction or by sealed bid to be used by a county shall be as follows:

- 15 a. the county purchasing agent shall prepare a purchase order in
16 quadruplicate and submit it with a copy of the requisition to the county
17 clerk,
18 b. the county clerk shall then encumber the amount stated on the
19 purchase order and assign a sequential number to the purchase order,
20 c. if there is an unencumbered balance in the appropriation made for
21 that purpose by the county excise board, the county clerk shall so
22 certify in the following form:

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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 _____, 20__.

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

- d. 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.

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1 2. The procedure for the purchase of supplies, materials and equipment at a public
2 auction when the purchase will be made with the proceeds from the sale of county
3 property at the same public auction are as follows:

- 4 a. the purchasing agent shall cause such items being sold to be appraised
5 in the manner determined in Section 421.1 of this title,
- 6 b. the county purchasing agent shall prepare a purchase order in
7 quadruplicate and submit it with a copy of the requisition to the county
8 clerk,
- 9 c. the county clerk shall then encumber the amount of the appraised
10 value and any additional funds obligated by the county on the
11 purchase order and assign a sequential number to the purchase order,
- 12 d. the county clerk shall certify that the amount of the encumbrance is
13 equal to the appraised value of the item being sold plus any additional
14 funds obligated by the county. In effect the recording of the
15 encumbrance is an estimate that is authorized by law. No purchase
16 order shall be valid unless signed by the county purchasing agent and
17 certified by the county clerk,
- 18 e. the county clerk shall file a copy of the purchase order and return the
19 original purchase order and two copies to the county purchasing agent
20 who shall file a copy, retain a copy for the county road and bridge
21 inventory officer if the purchase order is for the purchase of equipment,
22 supplies or materials for the construction or maintenance of roads and

1 bridges, and submit the original purchase order to the receiving officer
2 of the requesting department, and

3 f. a purchase shall not be bid until such time that the appraised item or
4 items are sold. Any item or items purchased shall not exceed the
5 appraised value plus any additional funds obligated by the county or
6 the actual selling price of the item or items, whichever is the lesser
7 amount.

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

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

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

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

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

19 5. The receiving officer shall complete a receiving report in quadruplicate which
20 shall state the quantity and quality of goods delivered. The receiving report form shall
21 be prescribed by the State Auditor and Inspector. The person delivering the goods shall
22 acknowledge the delivery by signature, noting the date and time;

- 1 6. The receiving officer shall file the original receiving report and submit:
- 2 a. the original purchase order and a copy of the receiving report to the
- 3 county purchasing agent, and
- 4 b. a copy of the receiving report with the delivery documentation to the
- 5 county clerk;
- 6 7. The county purchasing agent shall file the original purchase order and a copy of
- 7 the receiving report;
- 8 8. Upon receipt of the original receiving report and the delivery documentation, the
- 9 county clerk shall maintain a file until such time as an invoice is received from the
- 10 vendor;
- 11 9. The invoice shall state the name and address of the vendor and must be
- 12 sufficiently itemized to clearly describe each item purchased, the unit price when
- 13 applicable, the number or volume of each item purchased, the total price, the total
- 14 purchase price, and the date of the purchase;
- 15 10. Upon receipt of an invoice, the county clerk shall compare the following
- 16 documents:
- 17 a. requisition,
- 18 b. purchase order,
- 19 c. invoice with noncollusion affidavit as required by law,
- 20 d. receiving report, and
- 21 e. delivery document.

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

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

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

6 1. Purchase orders may be allowed and paid at the first meeting of the board of
7 county commissioners five (5) days after presentation for payment, provided that
8 purchase orders for the salaries of the county officers and their full-time assistants,
9 deputies and employees may be allowed and paid immediately after filing;

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

21 3. Whenever any allowance, either in whole or in part, is made upon any purchase
22 order presented to the board of county commissioners and is accepted by the person

1 making the claim, such allowance shall be a full settlement of the entire purchase order
2 and provided that the cashing of warrant shall be considered as acceptance by the
3 claimant.

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

6 1. For consumable road or bridge items or materials, a monthly report of the road
7 and bridge projects completed during such period shall be prepared and kept on file by
8 the consuming department. The report shall contain a record of the date, the place, and
9 the purpose for the use of the road or bridge items or materials. For purposes of
10 identifying county bridges, the board of county commissioners shall number each bridge
11 subject to its jurisdiction; and

12 2. For disposal of all equipment which originally cost more than ~~Two Hundred Fifty~~
13 ~~Dollars (\$250.00)~~ Five Hundred Dollars (\$500.00), resolution of disposal shall be
14 submitted by the officer on a form prescribed by the State Auditor and Inspector's Office
15 to the board of county commissioners. The approval of the resolution of disposal shall be
16 entered into the minutes of the board.

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

20 I. The procedures provided for in this section shall not apply when a county officer
21 certifies that an emergency exists requiring an immediate expenditure of funds. Such an
22 expenditure of funds shall not exceed Five Thousand Dollars (\$5,000.00). The county

1 officer shall give the county purchasing agent a written explanation of the emergency.
2 The county purchasing agent shall attach the written explanation to the purchase order.
3 The purchases shall be paid by attaching a properly itemized invoice, as described in this
4 section, to a purchase order which has been prepared by the county purchasing agent
5 and submitting them to the county clerk for filing, encumbering, and consideration for
6 payment by the board of county commissioners.

7 SECTION 2. AMENDATORY 19 O.S. 2001, Section 421, is amended to read as
8 follows:

9 Section 421. From and after the effective date of this act, each board of county
10 commissioners of the several counties in the state shall within thirty (30) days after the
11 disposition of any tools, apparatus, machinery, and equipment belonging to the county or
12 leased or otherwise let to it or any department thereof, the original cost of which is more
13 than ~~Two Hundred Fifty Dollars (\$250.00)~~ Five Hundred Dollars (\$500.00), whether sold,
14 exchanged, junked, leased or let where authorized by statute, shall enter, or cause to be
15 entered, in the minutes of the proceedings of the board the fact of such disposition,
16 including complete description of item, serial number, the date property was acquired,
17 the name and address of the person or firm from whom property was acquired, the cost
18 price at time of acquisition or contract price if acquired under lease-rental agreement,
19 the date of disposition, the name and address of the person or firm to whom property
20 transferred, the price received therefor and the reason for disposition.

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1 SECTION 3. AMENDATORY 19 O.S. 2001, Section 421.1, as last amended by
2 Section 1, Chapter 294, O.S.L. 2008 (19 O.S. Supp. 2008, Section 421.1), is amended to
3 read as follows:

4 Section 421.1 A. The board of county commissioners is hereby authorized to use
5 any tools, apparatus, machinery or equipment belonging to the county, the original cost
6 of which exceeded ~~Two Hundred Fifty Dollars (\$250.00)~~ Five Hundred Dollars (\$500.00),
7 as a trade-in on a cash purchase or lease purchase of any other tools, apparatus,
8 machinery or equipment.

9 B. To establish an appraised value for an item to be sold at public auction, the
10 purchasing agent may refer to an industry-recognized appraisal manual for used
11 construction equipment to estimate the value of the item being sold, or obtain appraisal
12 quotes from at least two vendors in the business of selling items like the one being sold.

13 C. Except when such items are disposed of pursuant to subsection F of this section,
14 the following procedures shall be used for the sale, by the board of county commissioners,
15 of any tools, apparatus, machinery or equipment, the original cost of which exceeded ~~Two~~
16 ~~Hundred Fifty Dollars (\$250.00)~~ Five Hundred Dollars (\$500.00), belonging to the
17 county:

18 1. The board of county commissioners shall give notice of such sale by publication
19 in a newspaper of general paid circulation in the county for two (2) successive weekly
20 issues;

21 2. Bids for such tools, apparatus, machinery or equipment on sale shall be in
22 writing, sealed and delivered to the county clerk of such county;

1 3. At the next regular meeting of the board of county commissioners after the
2 expiration of fifteen (15) days from the date of first publication of notice of the sale, the
3 board of county commissioners shall open such bids and award such tools, apparatus,
4 machinery or equipment to the highest and best bidder with the option of rejecting all
5 bids; and

6 4. The board of county commissioners may hold a public auction in lieu of
7 advertising for sealed bids as provided above. Such auction shall be advertised as
8 provided herein.

9 D. A board of county commissioners may sell any materials, tools, apparatus,
10 machinery or equipment to a state agency, if the agency is subject to The Oklahoma
11 Central Purchasing Act, or to a political subdivision of the state if the political
12 subdivision is subject to such act or a similar competitive bidding procedure. The board
13 of county commissioners may purchase materials, tools, apparatus, machinery or
14 equipment from a state agency, if the agency is subject to The Oklahoma Central
15 Purchasing Act, or from a political subdivision of the state if the political subdivision is
16 subject to such act or a similar competitive bidding procedure.

17 E. The board of county commissioners may, by resolution, enter into an agreement
18 with any other county or political subdivision for the purpose of selling, transferring,
19 trading or otherwise disposing of equipment or materials.

20 F. Advertisement of surplus property consigned to sell at a Circuit Engineering
21 District auction shall be provided by the auction company under contract to conduct the
22 sale. Advertising shall be provided to attract the most potential buyers. Advertising

1 media may include, but not be limited to, sale flyers, newspapers, radio, television, and
2 Internet postings.

3 G. Pursuant to the authority of Section 1 of this title, boards of county
4 commissioners shall have authority, under such statute and in consideration of the
5 procedures in this section to sell real property belonging to the county without declaring
6 such property surplus under the following conditions:

7 1. A certified appraisal of the county property shall be performed to determine the
8 market value of the property and accepted by the board of county commissioners;

9 2. After acceptance of the certified appraisal, the board of county commissioners
10 shall, pursuant to the requirements of this section, give notice of such sale by publication
11 in a newspaper of general paid circulation in the county for two successive weekly issues;

12 3. Bids for the real property shall be in writing, sealed and delivered to the county
13 clerk of such county;

14 4. At the next regular meeting of the board of county commissioners after the
15 expiration of fifteen (15) days from the date of first publication of notice of sale, the board
16 of county commissioners shall open such bids;

17 5. A successful bid must be no less than the market value of the real property to be
18 considered by the board of county commissioners for acceptance. The board of county
19 commissioners reserves the right to reject any and all bids;

20 6. If more than one bid is above the market value of the real property, the board of
21 county commissioners shall have the right to compel the potential buyers of the real
22 property who have bid above the market amount to enter into public auction conducted

1 by the chairman of the board of county commissioners after the opening of such bids, to
2 establish the highest bid for the property in order to assure that the county is receiving
3 adequate consideration for the property;

4 7. A majority vote of the board of county commissioners shall be required to
5 determine the successful bidder of the real property. Upon awarding the bid, either
6 through sealed bid or by conducting a public auction of those bidders who bid more than
7 the market value of the real property, the board of county commissioners shall have the
8 right to pledge the occupied property, using an irrevocable bond or letter of credit, as
9 provided for in paragraph 10 of this subsection, as collateral in order to finance bonds to
10 purchase other real property or build a replacement building, or both;

11 8. If the sale price is less than the estimated cost of new land purchase or
12 construction, then said sales contract shall be contingent upon the public approval of
13 bond funding or other authorized funding to allow the complete payment of the
14 contemplated project;

15 9. The board of county commissioners shall have authority pursuant to paragraphs
16 5 and 6 of Section 1 of this title to make any order concerning the sale of such property
17 contingent upon a closing date in the future in order to continue to use said real property
18 until a replacement building is completed. Upon completion of the replacement building,
19 the board of county commissioners shall execute all documents and title transfers
20 pertaining to said real property to the successful bidder; and

21 10. The successful bidder shall execute an irrevocable bond or letter of credit with a
22 surety company or bank licensed to do business in the State of Oklahoma and organized

1 under the corporate laws of the State of Oklahoma and registered with the Secretary of
2 State of Oklahoma equal to the amount of the purchase price of the real property within
3 fifteen (15) days of awarding of the bid. Failure to provide either an irrevocable bond or
4 letter of credit in favor of the board of county commissioners within said time limitation
5 shall act as a rejection and cancellation by the board of the award of bid and said board
6 may, at that point, enter into a contract with any secondary or subsequent bidder that
7 meets the aforementioned qualifications without further notice.

8 SECTION 4. This act shall become effective November 1, 2009.

9 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT, dated
10 02-04-09 - DO PASS, As Coauthored.