

EHB 3006

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THE STATE SENATE
Wednesday, March 17, 2010

ENGROSSED

House Bill No. 3006

ENGROSSED HOUSE BILL NO. 3006 - By: Peterson of the House and
Bingman of the Senate.

An Act relating to counties and county officers; amending 19
O.S. 2001, Section 1505, as last amended by Section 1,
Chapter 289, O.S.L. 2009 (19 O.S. Supp. 2009, Section 1505),
which relates to county purchasing procedures; modifying
requirement for approval of certain payments by board of
county commissioners; amending 19 O.S. 2001, Section 177.2,
which relates to certain county audit fees; providing for
certification by State Auditor and Inspector related to
funds for county audits; providing an effective date; and
declaring an emergency.

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

SECTION 1. AMENDATORY 19 O.S. 2001, Section 1505, as
last amended by Section 1, Chapter 289, O.S.L. 2009 (19 O.S. Supp.
2009, 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 1. The requesting department shall prepare a requisition form
2 in triplicate. The requisition shall contain any specifications for
3 an item as deemed necessary by the requesting department. The form
4 shall be prescribed by the State Auditor and Inspector;

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

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

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

17 1. The county purchasing agent shall request written
18 recommendations from all county officers pertaining to commonly used
19 supplies, materials, and equipment. From such recommendations and
20 available requisition, purchase, or inventory records, the county
21 purchasing agent shall prepare a list of items commonly used by
22 county officers. The county purchasing agent shall request from the
23 Purchasing Division of the Department of Central Services all

1 contracts quoting the price the state is paying for the items. The
2 county purchasing agent shall either request the Purchasing Division
3 of the Department of Central Services to make the purchase for the
4 county or solicit bids for unit prices on the items for periods of
5 not to exceed twelve (12) months in the manner described in
6 paragraph 2 of this subsection. If the county purchasing agent
7 receives a requisition for an item for which the county purchasing
8 agent does not have a current bid, the county purchasing agent shall
9 request from the Purchasing Division of the Department of Central
10 Services all contracts quoting the price the state is paying for the
11 item. The county purchasing agent shall either request the
12 Purchasing Division of the Department of Central Services to make
13 the purchase for the county or solicit bids in the manner described
14 in paragraph 2 of this subsection. Nothing in this paragraph shall
15 prohibit bids from being taken on an item currently on a twelve-
16 month bid list, at any time deemed necessary by the county
17 purchasing agent. Whenever the county purchasing agent deems it
18 necessary to take a bid on an item currently on a twelve-month bid
19 list, the reason for the bid shall be entered into the minutes of
20 the board of county commissioners;

21 2. Bids shall be solicited by mailing a notice to all persons
22 or firms who have made a written request of the county purchasing
23 agent that they be notified of such bid solicitation and to all

1 other persons or firms who might reasonably be expected to submit
2 bids. Notice of solicitation of bids shall also be published one
3 time in a newspaper of general circulation in the county. Notices
4 shall be mailed and published at least ten (10) days prior to the
5 date on which the bids are opened. Proof of the mailing shall be
6 made by the affidavit of the person mailing the request for bids and
7 shall be made a part of the official records of the county
8 purchasing agent. Whenever any prospective supplier or vendor
9 dealing in or listing for sale any particular item or article
10 required to be purchased or acquired by sealed bids fails to enter
11 or offer a sealed bid for three successive bid solicitations, the
12 name of the supplier or vendor may be dropped from the mailing lists
13 of the board of county commissioners;

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

20 4. The board of county commissioners, in an open meeting, shall
21 open the sealed bids and compare them to the state contract price.
22 The board of county commissioners shall select the lowest and best
23 bid based upon the availability of material and transportation cost

1 to the job site within thirty (30) days of the meeting. For any
2 special item not included on the list of commonly used items, the
3 requisitioning official shall review the bids and submit a written
4 recommendation to the board before final approval. The board of
5 county commissioners shall keep a written record of the meeting as
6 required by law, and any time the lowest bid was not considered to
7 be the lowest and best bid, the reason for such conclusion shall be
8 recorded. Whenever the board of county commissioners rejects the
9 written recommendation of the requisitioning official pertaining to
10 a special item, the reasons for the rejection shall be entered in
11 their minutes and stated in a letter to the requisitioning official
12 and county purchasing agent;

13 5. The county purchasing agent shall notify the successful
14 bidders and shall maintain a copy of the notification. The county
15 purchasing agent shall prepare and maintain a vendors list
16 specifying the successful bidders and shall notify each county
17 officer of the list. The county purchasing agent may remove any
18 vendor from such list who refuses to provide goods or services as
19 provided by contract if the removal is authorized by the board of
20 county commissioners. The county purchasing agent may make
21 purchases from the successful bidders for a price at or below the
22 bid price. If a vendor who is the low bidder cannot or will not
23 sell goods or services as required by a county bid contract, the

1 county purchasing agent may purchase from the next low bidder or
2 take quotations as provided in paragraph 6 of this subsection,
3 provided, however, such purchase does not exceed Ten Thousand
4 Dollars (\$10,000.00); and

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

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

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

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

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

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

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

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

5 Dated this _____ day of _____, 20__.

6 _____

7 County Clerk/Deputy

8 of _____ County.

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

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

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

- 4 a. the county purchasing agent shall prepare a purchase
5 order in quadruplicate and submit it with a copy of
6 the requisition to the county clerk,
- 7 b. the county clerk shall then encumber the amount stated
8 on the purchase order and assign a sequential number
9 to the purchase order,
- 10 c. if there is an unencumbered balance in the
11 appropriation made for that purpose by the county
12 excise board, the county clerk shall so certify in the
13 following form:

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

18 Dated this _____ day of _____, 20__.

19 _____
20 County Clerk/Deputy

21 of _____ County.

22 In instances where it is impossible to ascertain the
23 exact amount of the indebtedness sought to be incurred

1 at the time of recording the encumbrance, an estimated
2 amount may be used. No purchase order shall be valid
3 unless signed by the county purchasing agent and
4 certified by the county clerk, and

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

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

18 a. the purchasing agent shall cause such items being sold
19 to be appraised in the manner determined in Section
20 421.1 of this title,

21 b. the county purchasing agent shall prepare a purchase
22 order in quadruplicate and submit it with a copy of
23 the requisition to the county clerk,

- 1 c. the county clerk shall then encumber the amount of the
2 appraised value and any additional funds obligated by
3 the county on the purchase order and assign a
4 sequential number to the purchase order,
- 5 d. the county clerk shall certify that the amount of the
6 encumbrance is equal to the appraised value of the
7 item being sold plus any additional funds obligated by
8 the county. In effect the recording of the
9 encumbrance is an estimate that is authorized by law.
10 No purchase order shall be valid unless signed by the
11 county purchasing agent and certified by the county
12 clerk,
- 13 e. the county clerk shall file a copy of the purchase
14 order and return the original purchase order and two
15 copies to the county purchasing agent who shall file a
16 copy, retain a copy for the county road and bridge
17 inventory officer if the purchase order is for the
18 purchase of equipment, supplies or materials for the
19 construction or maintenance of roads and bridges, and
20 submit the original purchase order to the receiving
21 officer of the requesting department, and
- 22 f. a purchase shall not be bid until such time that the
23 appraised item or items are sold. Any item or items

1 purchased shall not exceed the appraised value plus
2 any additional funds obligated by the county or the
3 actual selling price of the item or items, whichever
4 is the lesser amount.

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

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

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

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

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

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

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

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

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

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

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

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

14 2. The board of county commissioners shall consider the
15 purchase orders so presented and act upon the purchase orders, by
16 allowing in full or in part or by holding for further information or
17 disallowing the same. The disposition of purchase orders shall be
18 indicated by the board of county commissioners, showing the amounts
19 allowed or disallowed and shall be signed by at least two members of
20 the board of county commissioners. Any claim held over for further
21 information shall be acted upon by allowing or disallowing same at
22 any future meeting of the board held within seventy-five (75) days
23 from the date of filing of the purchase order. Any purchase order

1 not acted upon within the seventy-five (75) days from the date of
2 filing shall be deemed to have been disallowed, but such
3 disallowance shall not prevent the refileing of the purchase order at
4 the proper time; and

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

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

13 1. For consumable road or bridge items or materials, a monthly
14 report of the road and bridge projects completed during such period
15 shall be prepared and kept on file by the consuming department. The
16 report shall contain a record of the date, the place, and the
17 purpose for the use of the road or bridge items or materials. For
18 purposes of identifying county bridges, the board of county
19 commissioners shall number each bridge subject to its jurisdiction;
20 and

21 2. For disposal of all equipment which originally cost more
22 than Five Hundred Dollars (\$500.00), resolution of disposal shall be
23 submitted by the officer on a form prescribed by the State Auditor

1 and Inspector's Office to the board of county commissioners. The
2 approval of the resolution of disposal shall be entered into the
3 minutes of the board.

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

8 I. The procedures provided for in this section shall not apply
9 when a county officer certifies that an emergency exists requiring
10 an immediate expenditure of funds. Such an expenditure of funds
11 shall not exceed Five Thousand Dollars (\$5,000.00). The county
12 officer shall give the county purchasing agent a written explanation
13 of the emergency. The county purchasing agent shall attach the
14 written explanation to the purchase order. The purchases shall be
15 paid by attaching a properly itemized invoice, as described in this
16 section, to a purchase order which has been prepared by the county
17 purchasing agent and submitting them to the county clerk for filing,
18 encumbering, and consideration for payment by the board of county
19 commissioners.

20 SECTION 2. AMENDATORY 19 O.S. 2001, Section 177.2, is
21 amended to read as follows:

22 Section 177.2 The net proceeds of the one-tenth mill annual ad
23 valorem levy upon the net total assessed valuation in any county for

1 any year authorized and mandatorily required to be appropriated and
2 dedicated to county audit by Section or paragraph 331 of Title 62,
3 Oklahoma Statutes 1951 (H.B. 367, page 282, S.L. 1941), shall
4 henceforth be restricted to and used only for audit survey and
5 reporting receipt, disbursement and management of county affairs
6 financed by county ad valorem levy and miscellaneous revenues other
7 than ad valorem taxation accruing to the general fund of such
8 county, whether such audit be in the performance of duties charged
9 to the State Auditor and Inspector and instigated at his own
10 initiative and directive, or on request of the board of county
11 commissioners of such county or order of the Governor as provided by
12 Section or paragraph 212 of Title 74, Oklahoma Statutes 1951. If,
13 after completion of audit of all county accounts so financed, and
14 report thereof, including report of audit of cash funds where
15 possible, as by this act provided, unless there be directive from
16 the Governor for other and/or further inquiry, the board of county
17 commissioners may, upon certificate of completion by the State
18 Auditor and Inspector, request that any unexpended and unencumbered
19 balance of appropriation therein be, by the county excise board,
20 lapsed and cancelled and the county revenues restricted thereby
21 revert to surplus, available for appropriation to any lawful county
22 purpose. Upon request by the board of county commissioners, the
23 State Auditor and Inspector shall, after making a determination that

1 sufficient funds are encumbered to cover the cost of the audit of
2 all county accounts so financed, issue a certification of release of
3 the unencumbered balance of these funds prior to completion of the
4 audit.

5 SECTION 3. This act shall become effective July 1, 2010.

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

10 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT, dated 3-15-10
11 - DO PASS.