

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 HOUSE BILL 1347

By: Cooksey

4
5 AS INTRODUCED

6
7 An Act relating to counties and county officers;
8 amending 19 O.S. 2001, Section 1505, as last amended
9 by Section 5, Chapter 132, O.S.L. 2007 (19 O.S. Supp.
10 2008, Section 1505), which relates to procedures to
11 purchase equipment for county government; increasing
12 value amount for equipment required to be disposed of
13 pursuant to disposal procedure; amending 19 O.S.
14 2001, Section 421, which relates to entry on minutes
15 when equipment is disposed; increasing value amount
16 for equipment required for entry on minutes; amending
17 19 O.S. 2001, Section 421.1, as last amended by
18 Section 1, Chapter 294, O.S.L. 2008 (19 O.S. Supp.
19 2008, Section 421.1), which relates to the ability of
20 county to trade in equipment and establishes the
21 procedure for the sale of equipment; increasing value
22 amount for equipment available for trade-in and
23 increasing value amount of equipment subject to
24 procedure for sale; and providing an effective date.

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

19 SECTION 1. AMENDATORY 19 O.S. 2001, Section 1505, as
20 last amended by Section 5, Chapter 132, O.S.L. 2007 (19 O.S. Supp.
21 2008, Section 1505), is amended to read as follows:

22 Section 1505. The following procedures shall be used by
23 counties for the requisition, purchase, lease-purchase, rental, and
24 receipt of supplies, materials, and equipment for the maintenance,

1 operation, and capital expenditures of county government unless
2 otherwise provided for by law.

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

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

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

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

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

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

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

24

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

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

23 4. The board of county commissioners, in an open meeting, shall
24 open the sealed bids and compare them to the state contract price.

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

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

1 sell goods or services as required by a county bid contract, the
2 county purchasing agent may purchase from the next low bidder or
3 take quotations as provided in paragraph 6 of this subsection,
4 provided, however, such purchase does not exceed Five Thousand
5 Dollars (\$5,000.00); and

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

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

13 b. if vendors are not willing to commit to a firm price
14 for a reduced period, the purchasing agent shall
15 solicit and record at least three quotes of current
16 prices available to the county and authorize the
17 purchase of goods based on the lowest and best quote
18 as it becomes necessary to acquire such goods. The
19 quotes shall be recorded on a form prescribed by the
20 State Auditor and Inspector and shall be attached to
21 the purchase order and filed with the county clerk's
22 copy of the purchase order. Any time the lowest quote
23 was not considered to be the lowest and best quote,
24 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.

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

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

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

15 Dated this _____ day of _____, 20__.

16 _____
17 County Clerk/Deputy

18 of _____ County.

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

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

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

14 a. the purchasing agent shall cause such items being sold
15 to be appraised in the manner determined in Section
16 421.1 of this title,

17 b. the county purchasing agent shall prepare a purchase
18 order in quadruplicate and submit it with a copy of
19 the requisition to the county clerk,

20 c. the county clerk shall then encumber the amount of the
21 appraised value and any additional funds obligated by
22 the county on the purchase order and assign a
23 sequential number to the purchase order,
24

1 d. the county clerk shall certify that the amount of the
2 encumbrance is equal to the appraised value of the
3 item being sold plus any additional funds obligated by
4 the county. In effect the recording of the
5 encumbrance is an estimate that is authorized by law.
6 No purchase order shall be valid unless signed by the
7 county purchasing agent and certified by the county
8 clerk,

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

18 f. a purchase shall not be bid until such time that the
19 appraised item or items are sold. Any item or items
20 purchased shall not exceed the appraised value plus
21 any additional funds obligated by the county or the
22 actual selling price of the item or items, whichever
23 is the lesser amount.

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

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

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

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

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

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

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

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

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

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

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

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

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

- 11 a. requisition,
- 12 b. purchase order,
- 13 c. invoice with noncollusion affidavit as required by
14 law,
- 15 d. receiving report, and
- 16 e. delivery document.

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

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

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

24

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

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

21 3. Whenever any allowance, either in whole or in part, is made
22 upon any purchase order presented to the board of county
23 commissioners and is accepted by the person making the claim, such
24 allowance shall be a full settlement of the entire purchase order

1 and provided that the cashing of warrant shall be considered as
2 acceptance by the claimant.

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

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

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

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

23 I. The procedures provided for in this section shall not apply
24 when a county officer certifies that an emergency exists requiring

1 an immediate expenditure of funds. Such an expenditure of funds
2 shall not exceed Five Thousand Dollars (\$5,000.00). The county
3 officer shall give the county purchasing agent a written explanation
4 of the emergency. The county purchasing agent shall attach the
5 written explanation to the purchase order. The purchases shall be
6 paid by attaching a properly itemized invoice, as described in this
7 section, to a purchase order which has been prepared by the county
8 purchasing agent and submitting them to the county clerk for filing,
9 encumbering, and consideration for payment by the board of county
10 commissioners.

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

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

1 cost price at time of acquisition or contract price if acquired
2 under lease-rental agreement, the date of disposition, the name and
3 address of the person or firm to whom property transferred, the
4 price received therefor and the reason for disposition.

5 SECTION 3. AMENDATORY 19 O.S. 2001, Section 421.1, as
6 last amended by Section 1, Chapter 294, O.S.L. 2008 (19 O.S. Supp.
7 2008, Section 421.1), is amended to read as follows:

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

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

20 C. Except when such items are disposed of pursuant to
21 subsection F of this section, the following procedures shall be used
22 for the sale, by the board of county commissioners, of any tools,
23 apparatus, machinery or equipment, the original cost of which
24

1 exceeded ~~Two Hundred Fifty Dollars (\$250.00)~~ Five Hundred Dollars
2 (\$500.00), belonging to the county:

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

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

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

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

18 D. A board of county commissioners may sell any materials,
19 tools, apparatus, machinery or equipment to a state agency, if the
20 agency is subject to The Oklahoma Central Purchasing Act, or to a
21 political subdivision of the state if the political subdivision is
22 subject to such act or a similar competitive bidding procedure. The
23 board of county commissioners may purchase materials, tools,
24 apparatus, machinery or equipment from a state agency, if the agency

1 is subject to The Oklahoma Central Purchasing Act, or from a
2 political subdivision of the state if the political subdivision is
3 subject to such act or a similar competitive bidding procedure.

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

8 F. Advertisement of surplus property consigned to sell at a
9 Circuit Engineering District auction shall be provided by the
10 auction company under contract to conduct the sale. Advertising
11 shall be provided to attract the most potential buyers. Advertising
12 media may include, but not be limited to, sale flyers, newspapers,
13 radio, television, and Internet postings.

14 G. Pursuant to the authority of Section 1 of this title, boards
15 of county commissioners shall have authority, under such statute and
16 in consideration of the procedures in this section to sell real
17 property belonging to the county without declaring such property
18 surplus under the following conditions:

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

22 2. After acceptance of the certified appraisal, the board of
23 county commissioners shall, pursuant to the requirements of this
24 section, give notice of such sale by publication in a newspaper of

1 general paid circulation in the county for two successive weekly
2 issues;

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

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

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

13 6. If more than one bid is above the market value of the real
14 property, the board of county commissioners shall have the right to
15 compel the potential buyers of the real property who have bid above
16 the market amount to enter into public auction conducted by the
17 chairman of the board of county commissioners after the opening of
18 such bids, to establish the highest bid for the property in order to
19 assure that the county is receiving adequate consideration for the
20 property;

21 7. A majority vote of the board of county commissioners shall
22 be required to determine the successful bidder of the real property.
23 Upon awarding the bid, either through sealed bid or by conducting a
24 public auction of those bidders who bid more than the market value

1 of the real property, the board of county commissioners shall have
2 the right to pledge the occupied property, using an irrevocable bond
3 or letter of credit, as provided for in paragraph 10 of this
4 subsection, as collateral in order to finance bonds to purchase
5 other real property or build a replacement building, or both;

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

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

19 10. The successful bidder shall execute an irrevocable bond or
20 letter of credit with a surety company or bank licensed to do
21 business in the State of Oklahoma and organized under the corporate
22 laws of the State of Oklahoma and registered with the Secretary of
23 State of Oklahoma equal to the amount of the purchase price of the
24 real property within fifteen (15) days of awarding of the bid.

1 Failure to provide either an irrevocable bond or letter of credit in
2 favor of the board of county commissioners within said time
3 limitation shall act as a rejection and cancellation by the board of
4 the award of bid and said board may, at that point, enter into a
5 contract with any secondary or subsequent bidder that meets the
6 aforementioned qualifications without further notice.

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

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9 52-1-6497 AM 01/10/09

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