

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 56th Legislature (2018)

4 HOUSE BILL 2629

By: Babinec of the House

5 and

6 Dugger of the Senate

7
8
9 AS INTRODUCED

10 An Act relating to counties and county officers;
11 amending 19 O.S. 2011, Section 1505, as last amended
12 by Section 1, Chapter 146, O.S.L. 2017 (19 O.S. Supp.
13 2017, Section 1505), which relates to county
 purchasing procedure; modifying procedure for filing
 and retaining purchase orders; and providing an
 effective date.

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

17 SECTION 1. AMENDATORY 19 O.S. 2011, Section 1505, as
18 last amended by Section 1, Chapter 146, O.S.L. 2017 (19 O.S. Supp.
19 2017, Section 1505), is amended to read as follows:

20 Section 1505. The following procedures shall be used by
21 counties for the requisition, purchase, lease-purchase, rental, and
22 receipt of supplies, materials, equipment and information technology
23 and telecommunication goods and services 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, equipment and
20 information technology and telecommunication goods and services used
21 by a county shall be as follows:

22 1. The county purchasing agent shall request written
23 recommendations from all county officers pertaining to needed or
24 commonly used supplies, materials, equipment and information

1 technology and telecommunication goods and services. From such
2 recommendations and available requisition, purchase, or inventory
3 records, the county purchasing agent shall prepare a list of items
4 needed or commonly used by county officers. The county purchasing
5 agent shall request from the Purchasing Division or from the
6 Information Services Division in the case of information technology
7 and telecommunication goods and services of the Office of Management
8 and Enterprise Services all contracts quoting the price the state is
9 paying for the items. The county purchasing agent shall either
10 request the Purchasing Division or the Information Services Division
11 of the Office of Management and Enterprise Services, as applicable,
12 to make the purchase for the county or the county purchasing agent
13 shall solicit bids for unit prices on the items for periods of not
14 to exceed twelve (12) months in the manner described in paragraph 2
15 of this subsection. If the county purchasing agent receives a
16 requisition for an item for which the county purchasing agent does
17 not have a current bid, the county purchasing agent shall request
18 from the Purchasing Division or the Information Services Division of
19 the Office of Management and Enterprise Services, as applicable, all
20 contracts quoting the price the state is paying for the item. The
21 county purchasing agent shall either request the Purchasing Division
22 or the Information Services Division of the Office of Management and
23 Enterprise Services, as applicable, to make the purchase for the
24 county or the county purchasing agent shall solicit bids in the

1 manner described in paragraph 2 of this subsection. Nothing in this
2 paragraph shall prohibit bids from being taken on an item currently
3 on a twelve-month bid list, at any time deemed necessary by the
4 county purchasing agent. Whenever the county purchasing agent deems
5 it necessary to take a bid on an item currently on a twelve-month
6 bid list, the reason for the bid shall be entered into the minutes
7 of the board of county commissioners;

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

1 3. The sealed bids received from vendors and the state contract
2 price received from the applicable Division of the Office of
3 Management and Enterprise Services shall be given to the county
4 clerk by the county purchasing agent. The county clerk shall
5 forward the sealed bids and state contract price, if any, to the
6 board of county commissioners;

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

23 5. The county purchasing agent shall notify the successful
24 bidders and shall maintain a copy of the notification. The county

1 purchasing agent shall prepare and maintain a vendors list
2 specifying the successful bidders and shall notify each county
3 officer of the list. The county purchasing agent may remove any
4 vendor from such list who refuses to provide goods or services as
5 provided by contract if the removal is authorized by the board of
6 county commissioners. The county purchasing agent may make
7 purchases from the successful bidders for a price at or below the
8 bid price. If a vendor who is the low bidder cannot or will not
9 sell goods or services as required by a county bid contract, the
10 county purchasing agent may purchase from the next low bidder or
11 take quotations as provided in paragraph 6 of this subsection,
12 provided, however, such purchase does not exceed Ten Thousand
13 Dollars (\$10,000.00); and

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

- 16 a. the county purchasing agent shall determine if
17 potential vendors are willing to commit to a firm
18 price for a reduced period of time, and, if such is
19 the case, the bid procedure described in this
20 subsection shall be followed,
- 21 b. if vendors are not willing to commit to a firm price
22 for a reduced period, the purchasing agent shall
23 solicit and record at least three quotes of current
24 prices available to the county and authorize the

1 purchase of goods or services based on the lowest and
2 best quote as it becomes necessary to acquire such
3 goods or services. The quotes shall be recorded on a
4 form prescribed by the State Auditor and Inspector and
5 shall be attached to the purchase order and filed with
6 the county clerk's copy of the purchase order. Any
7 time the lowest quote was not considered to be the
8 lowest and best quote, the reason for this conclusion
9 shall be recorded by the county purchasing agent and
10 transmitted to the county clerk, or

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

20 C. After selection of a vendor, the procedure for the purchase,
21 lease-purchase, or rental of supplies, materials, equipment and
22 information technology and telecommunication goods and services used
23 by a county shall be as follows:
24

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

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

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

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

14 Dated this _____ day of _____, 20__.

15 _____
16 County Clerk/Deputy

17 of _____ County."

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

23 4. The county clerk shall file ~~a copy of the~~ original purchase
24 order and return ~~the original purchase order and two~~ three copies to

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

7 D. 1. The procedure for the purchase of supplies, materials,
8 equipment and information technology and telecommunication goods and
9 services at public auction or by sealed bid to be used by a county
10 shall be as follows:

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

14 b. the county clerk shall then encumber the amount stated
15 on the purchase order and assign a sequential number
16 to the purchase order,

17 c. if there is an unencumbered balance in the
18 appropriation made for that purpose by the county
19 excise board, the county clerk shall so certify in the
20 following form:

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

1 Dated this _____ day of _____, 20__.

2 _____
3 County Clerk/Deputy

4 of _____ County."

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

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

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

- 1 a. the purchasing agent shall cause such items being sold
2 to be appraised in the manner determined in Section
3 421.1 of this title,
- 4 b. 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 c. the county clerk shall then encumber the amount of the
8 appraised value and any additional funds obligated by
9 the county on the purchase order and assign a
10 sequential number to the purchase order,
- 11 d. the county clerk shall certify that the amount of the
12 encumbrance is equal to the appraised value of the
13 item being sold plus any additional funds obligated by
14 the county. In effect the recording of the
15 encumbrance is an estimate that is authorized by law.
16 No purchase order shall be valid unless signed by the
17 county purchasing agent and certified by the county
18 clerk,
- 19 e. the county clerk shall file ~~a copy of~~ the original
20 purchase order and return ~~the original purchase order~~
21 ~~and two~~ three copies to the county purchasing agent
22 who shall file a copy, retain a copy for the county
23 road and bridge inventory officer if the purchase
24 order is for the purchase of equipment, supplies or

1 materials for the construction or maintenance of roads
2 and bridges, and submit the ~~original purchase order~~
3 other copy to the receiving officer of the requesting
4 department, and

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

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

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

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

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

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

23 5. The receiving officer shall complete a receiving report in
24 quadruplicate which shall state the quantity and quality of goods

1 delivered. The receiving report form shall be prescribed by the
2 State Auditor and Inspector. The person delivering the goods shall
3 acknowledge the delivery by signature, noting the date and time;

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

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

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

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

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

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

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

23 a. requisition,
24 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. The purchasing agent shall be allowed up to three (3) days to process purchase orders to be presented to the board of county commissioners for consideration and payment. Nothing herein shall prevent the purchasing agent from processing or the board of county commissioners from consideration and payment of utilities, travel claims and payroll claims;

2. The board of county commissioners shall consider the purchase orders so presented and act upon 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

1 information shall be acted upon by allowing or disallowing same at
2 any future meeting of the board held within seventy-five (75) days
3 from the date of filing of the purchase order. Any purchase order
4 not acted upon within the seventy-five (75) days from the date of
5 filing shall be deemed to have been disallowed, but such
6 disallowance shall not prevent the refiling of the purchase order at
7 the proper time; and

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

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

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

1 2. For disposal of all equipment and information technology and
2 telecommunication goods which originally cost more than Five Hundred
3 Dollars (\$500.00), resolution of disposal shall be submitted by the
4 officer on a form prescribed by the State Auditor and Inspector's
5 Office to the board of county commissioners. The approval of the
6 resolution of disposal shall be entered into the minutes of the
7 board.

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

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

1 J. The county purchasing agent may authorize county purchasing
2 officers to make acquisitions through the state purchase card
3 program as authorized by the State Purchasing Director in accordance
4 with Section 85.5 of Title 74 of the Oklahoma Statutes and defined
5 in Section 85.2 of Title 74 of the Oklahoma Statutes. Purchase
6 cardholders shall sign a purchase card agreement prior to becoming a
7 cardholder and attend purchase card procedure training as required
8 by the State Purchasing Director. Complete descriptions of
9 purchases made by county government entities shall be published
10 through the state transparency portal pursuant to Section 85.33B of
11 Title 74 of the Oklahoma Statutes, and as warrants required to be
12 published pursuant to Sections 444 and 445 of this title.

13 SECTION 2. This act shall become effective November 1, 2018.
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15 COMMITTEE REPORT BY: COMMITTEE ON COUNTY AND MUNICIPAL GOVERNMENT,
16 dated 03/01/2018 - DO PASS, As Coauthored.
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