

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

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

4 ENGROSSED SENATE
5 BILL NO. 1044

By: Fry of the Senate

and

Fetgatter of the House

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7
8
9 An Act relating to counties and county officers;
10 amending 19 O.S. 2011, Section 1505, as last amended
11 by Section 1, Chapter 146, O.S.L. 2017 (19 O.S. Supp.
12 2017, Section 1505), which relates to procedure for
13 requisition, purchase, lease-purchase, and rental-
14 supplies, material, and equipment for maintenance,
15 operation, and capital expenditures of county
16 government; establishing procedural requirements for
17 purchasing road and bridge construction services;
18 providing certain construction; requiring contracts
19 to reference certain statutory section; and providing
20 an effective date.

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

22 SECTION 1. AMENDATORY 19 O.S. 2011, Section 1505, as
23 last amended by Section 1, Chapter 146, O.S.L. 2017 (19 O.S. Supp.
24 2017, Section 1505), is amended to read as follows:

25 Section 1505. The following procedures shall be used by
26 counties for the requisition, purchase, lease-purchase, rental, and
27 receipt of supplies, materials, road and bridge construction
28 services, equipment and information technology and telecommunication

1 goods and services for the maintenance, operation, and capital
2 expenditures of county government unless otherwise provided for by
3 law.

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

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

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

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

19 B. The bid procedure for selecting a vendor for the purchase,
20 lease-purchase, or rental of supplies, materials, equipment and
21 information technology and telecommunication goods and services used
22 by a county shall be as follows:

23 1. The county purchasing agent shall request written
24 recommendations from all county officers pertaining to needed or

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

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

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

1 be dropped from the mailing lists of the board of county
2 commissioners;

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

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

1 5. The county purchasing agent shall notify the successful
2 bidders and shall maintain a copy of the notification. The county
3 purchasing agent shall prepare and maintain a vendors list
4 specifying the successful bidders and shall notify each county
5 officer of the list. The county purchasing agent may remove any
6 vendor from such list who refuses to provide goods or services as
7 provided by contract if the removal is authorized by the board of
8 county commissioners. The county purchasing agent may make
9 purchases from the successful bidders for a price at or below the
10 bid price. If a vendor who is the low bidder cannot or will not
11 sell goods or services as required by a county bid contract, the
12 county purchasing agent may purchase from the next low bidder or
13 take quotations as provided in paragraph 6 of this subsection,
14 provided, however, such purchase does not exceed ~~Ten Thousand~~
15 ~~Dollars (\$10,000.00)~~ the amount specified in subparagraph a of
16 paragraph 3 of subsection A of Section 1501 of this title; and

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

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

- b. if vendors are not willing to commit to a firm price for a reduced period, the purchasing agent shall solicit and record at least three quotes of current prices available to the county and authorize the purchase of goods or services based on the lowest and best quote as it becomes necessary to acquire such goods or services. The quotes shall be recorded on a form prescribed by the State Auditor and Inspector and shall be attached to the purchase order and filed with the county clerk's copy of the purchase order. Any time the lowest quote was not considered to be the lowest and best quote, the reason for this conclusion shall be recorded by the county purchasing agent and transmitted to the county clerk, or
- c. if three quotes are not available, a memorandum to the county clerk from the county purchasing agent shall describe the basis upon which a purchase is authorized. The memorandum shall state the reasons why the price for such a purchase is the lowest and best under the circumstances. The county clerk shall then attach the memorandum to the county clerk's copy of the purchase order and file both in the office of the county clerk.

1 C. After selection of a vendor, the procedure for the purchase,
2 lease-purchase, or rental of supplies, materials, road and bridge
3 construction services, equipment and information technology and
4 telecommunication goods and services used by a county shall be as
5 follows:

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

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

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

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

19 Dated this _____ day of _____, 20__.

20 _____

21 County Clerk/Deputy

22 of _____ County."

23 In instances where it is impossible to ascertain the exact amount of
24 the indebtedness sought to be incurred at the time of recording the

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

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

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

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

19 b. the county clerk shall then encumber the amount stated
20 on the purchase order and assign a sequential number
21 to the purchase order,

22 c. if there is an unencumbered balance in the
23 appropriation made for that purpose by the county
24

1 excise board, the county clerk shall so certify in the
2 following form:

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

7 Dated this _____ day of _____, 20__.

8 _____
9 County Clerk/Deputy

10 of _____ County."

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

- 17 d. the county clerk shall file a copy of the purchase
18 order and return the original purchase order and two
19 copies to the county purchasing agent who shall file a
20 copy, retain the other copy for the county road and
21 bridge inventory officer if the purchase order is for
22 the purchase of equipment, supplies, or materials for
23 the construction or maintenance of roads and bridges,

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

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

7 a. the purchasing agent shall cause such items being sold
8 to be appraised in the manner determined in Section
9 421.1 of this title,

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

13 c. the county clerk shall then encumber the amount of the
14 appraised value and any additional funds obligated by
15 the county on the purchase order and assign a
16 sequential number to the purchase order,

17 d. the county clerk shall certify that the amount of the
18 encumbrance is equal to the appraised value of the
19 item being sold plus any additional funds obligated by
20 the county. In effect the recording of the
21 encumbrance is an estimate that is authorized by law.
22 No purchase order shall be valid unless signed by the
23 county purchasing agent and certified by the county
24 clerk,

- 1 e. 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 a copy for the county road and bridge
5 inventory officer if the purchase order is for the
6 purchase of equipment, supplies or materials for the
7 construction or maintenance of roads and bridges, and
8 submit the original purchase order to the receiving
9 officer of the requesting department, and
10 f. a purchase shall not be bid until such time that the
11 appraised item or items are sold. Any item or items
12 purchased shall not exceed the appraised value plus
13 any additional funds obligated by the county or the
14 actual selling price of the item or items, whichever
15 is the lesser amount.

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

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

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

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

23 4. If a purchase order is on file, the receiving officer shall
24 obtain a delivery ticket, bill of lading, or other delivery document

1 and compare it with the purchase order. If any item is back
2 ordered, the back order and estimated date of delivery shall be
3 noted in the receiving report;

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

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

- 11 a. the original purchase order and a copy of the
- 12 receiving report to the county purchasing agent, and
- 13 b. a copy of the receiving report with the delivery
- 14 documentation to the county clerk;

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

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

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

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

- 3 a. requisition,
- 4 b. purchase order,
- 5 c. invoice with noncollusion affidavit as required by
6 law,
- 7 d. receiving report, and
- 8 e. delivery document.

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

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

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

16 1. The purchasing agent shall be allowed up to three (3) days
17 to process purchase orders to be presented to the board of county
18 commissioners for consideration and payment. Nothing herein shall
19 prevent the purchasing agent from processing or the board of county
20 commissioners from consideration and payment of utilities, travel
21 claims and payroll claims;

22 2. The board of county commissioners shall consider the
23 purchase orders so presented and act upon the purchase orders, by
24 allowing in full or in part or by holding for further information or

1 disallowing the same. The disposition of purchase orders shall be
2 indicated by the board of county commissioners, showing the amounts
3 allowed or disallowed and shall be signed by at least two members of
4 the board of county commissioners. Any claim held over for further
5 information shall be acted upon by allowing or disallowing same at
6 any future meeting of the board held within seventy-five (75) days
7 from the date of filing of the purchase order. Any purchase order
8 not acted upon within the seventy-five (75) days from the date of
9 filing shall be deemed to have been disallowed, but such
10 disallowance shall not prevent the refiling of the purchase order at
11 the proper time; and

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

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

20 1. For consumable road or bridge items or materials, a
21 quarterly report of the road and bridge projects completed during
22 such period shall be prepared and kept on file by the consuming
23 department. The quarterly report may be prepared and kept
24 electronically by the consuming department. The report shall

1 contain a record of the date, the place, and the purpose for the use
2 of the road or bridge items or materials. For purposes of
3 identifying county bridges, the board of county commissioners shall
4 number each bridge subject to its jurisdiction; and

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

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

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

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

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

16 K. Nothing shall prohibit counties from providing material
17 and/or services bid on their twelve-month bid list to all road and
18 bridge projects and contracts. All non-road and bridge related
19 construction contracts shall refer to subsection A of Section 103 of
20 Title 61 of the Oklahoma Statutes.

21 SECTION 2. This act shall become effective November 1, 2018.

22
23 COMMITTEE REPORT BY: COMMITTEE ON COUNTY AND MUNICIPAL GOVERNMENT,
24 dated 04/11/2018 - DO PASS.