SENATE FLOOR VERSION

April 3, 2017

ENGROSSED HOUSE
BILL NO. 2251

By: Brumbaugh and Ritze of the House

and

Quinn of the Senate

An Act relating to counties and county officers; amending 19 O.S. 2011, Section 1505, as last amended by Section 5, Chapter 358, O.S.L. 2013 (19 O.S. Supp. 2016, Section 1505), which relates to county purchasing; authorizing county purchasing agents to solicit bid proposals by email; and providing an effective date.

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

SECTION 1. AMENDATORY 19 O.S. 2011, Section 1505, as last amended by Section 5, Chapter 358, O.S.L. 2013 (19 O.S. Supp. 2016, 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, equipment and information technology and telecommunication goods and services 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. The requesting department shall prepare a requisition form in triplicate. The requisition shall contain any specifications for an item as deemed necessary by the requesting department. The form shall be prescribed by the State Auditor and Inspector;

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

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

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

1. The county purchasing agent shall request written recommendations from all county officers pertaining to needed or commonly used supplies, materials, equipment and information technology and telecommunication goods and services. From such recommendations and available requisition, purchase, or inventory

records, the county purchasing agent shall prepare a list of items needed or commonly used by county officers. The county purchasing agent shall request from the Purchasing Division or from the Information Services Division in the case of information technology and telecommunication goods and services of the Office of Management and Enterprise Services all contracts quoting the price the state is paying for the items. The county purchasing agent shall either request the Purchasing Division or the Information Services Division of the Office of Management and Enterprise Services, as applicable, to make the purchase for the county or the county purchasing agent shall solicit bids for unit prices on the items for periods of not to exceed twelve (12) months in the manner described in paragraph 2 of this subsection. If the county purchasing agent receives a requisition for an item for which the county purchasing agent does not have a current bid, the county purchasing agent shall request from the Purchasing Division or the Information Services Division of the Office of Management and Enterprise Services, as applicable, all contracts quoting the price the state is paying for the item. The county purchasing agent shall either request the Purchasing Division or the Information Services Division of the Office of Management and Enterprise Services, as applicable, to make the purchase for the county or the county purchasing agent shall solicit bids in the manner described in paragraph 2 of this subsection. Nothing in this paragraph shall prohibit bids from being taken on an item currently on a twelve-month bid list, at any time deemed necessary by the county purchasing agent. Whenever the county purchasing agent deems it necessary to take a bid on an item currently on a twelve-month bid list, the reason for the bid shall be entered into the minutes of the board of county commissioners;

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

3. The sealed bids received from vendors and the state contract price received from the applicable Division of the Office of

Management and Enterprise Services shall be given to the county clerk by the county purchasing agent. The county clerk shall forward the sealed bids and state contract price, if any, to the board of county commissioners;

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

5. The county purchasing agent shall notify the successful bidders and shall maintain a copy of the notification. The county purchasing agent shall prepare and maintain a vendors list specifying the successful bidders and shall notify each county

officer of the list. The county purchasing agent may remove any vendor from such list who refuses to provide goods or services as provided by contract if the removal is authorized by the board of county commissioners. The county purchasing agent may make purchases from the successful bidders for a price at or below the bid price. If a vendor who is the low bidder cannot or will not sell goods or services as required by a county bid contract, the county purchasing agent may purchase from the next low bidder or take quotations as provided in paragraph 6 of this subsection, provided, however, such purchase does not exceed Ten Thousand Dollars ($10,000.00); and

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

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

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.

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

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

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

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

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

Dated this ________ day of ________, 20__.

____

County Clerk/Deputy

of _____________________ County."

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

4. The county clerk shall file a copy of the purchase order and return the original purchase order and two copies to the county purchasing agent who shall file a copy, retain the other copy for the county road and bridge inventory officer if the purchase order is for the purchase of equipment, supplies, or materials for the

construction or maintenance of roads and bridges, and submit the original purchase order to the receiving officer of the requesting department.

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

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

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

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

"I hereby certify that the amount of this encumbrance has been entered against the designated appropriation accounts and that this encumbrance is within the authorized available balance of said appropriation. Dated this ________ day of ________, 20__.

____

County Clerk/Deputy

of ____________________ County."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

a. requisition,

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 information shall be acted upon by allowing or disallowing same at any future meeting of the board held within seventy-five (75) days from the date of filing of the purchase order. Any purchase order not acted upon within the seventy-five (75) days from the date of

filing shall be deemed to have been disallowed, but such disallowance shall not prevent the refiling of the purchase order at the proper time; and

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

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

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

2. For disposal of all equipment and information technology and telecommunication goods which originally cost more than Five Hundred Dollars ($500.00), resolution of disposal shall be submitted by the officer on a form prescribed by the State Auditor and Inspector's

Office to the board of county commissioners. The approval of the resolution of disposal shall be entered into the minutes of the board.

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

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

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

SECTION 2. This act shall become effective November 1, 2017.

COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT
April 3, 2017 - DO PASS