

1 **SENATE FLOOR VERSION**

2 April 9, 2018

3 ENGROSSED HOUSE
4 BILL NO. 2629

By: Babinec of the House

5 and

6 Dugger of the Senate

7
8 An Act relating to counties and county officers;
9 amending 19 O.S. 2011, Section 1505, as last amended
10 by Section 1, Chapter 146, O.S.L. 2017 (19 O.S. Supp.
11 2017, Section 1505), which relates to county
12 purchasing procedure; modifying procedure for filing
13 and retaining purchase orders; and providing an
14 effective date.

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

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

19 Section 1505. The following procedures shall be used by
20 counties for the requisition, purchase, lease-purchase, rental, and
21 receipt of supplies, materials, equipment and information technology
22 and telecommunication goods and services for the maintenance,
23 operation, and capital expenditures of county government unless
24 otherwise provided for by law.

1 A. The procedure for requisitioning items for county offices
2 shall be as follows:

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

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

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

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

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

1 records, the county purchasing agent shall prepare a list of items
2 needed or commonly used by county officers. The county purchasing
3 agent shall request from the Purchasing Division or from the
4 Information Services Division in the case of information technology
5 and telecommunication goods and services of the Office of Management
6 and Enterprise Services all contracts quoting the price the state is
7 paying for the items. The county purchasing agent shall either
8 request the Purchasing Division or the Information Services Division
9 of the Office of Management and Enterprise Services, as applicable,
10 to make the purchase for the county or the county purchasing agent
11 shall solicit bids for unit prices on the items for periods of not
12 to exceed twelve (12) months in the manner described in paragraph 2
13 of this subsection. If the county purchasing agent receives a
14 requisition for an item for which the county purchasing agent does
15 not have a current bid, the county purchasing agent shall request
16 from the Purchasing Division or the Information Services Division of
17 the Office of Management and Enterprise Services, as applicable, all
18 contracts quoting the price the state is paying for the item. The
19 county purchasing agent shall either request the Purchasing Division
20 or the Information Services Division of the Office of Management and
21 Enterprise Services, as applicable, to make the purchase for the
22 county or the county purchasing agent shall solicit bids in the
23 manner described in paragraph 2 of this subsection. Nothing in this
24 paragraph shall prohibit bids from being taken on an item currently

1 on a twelve-month bid list, at any time deemed necessary by the
2 county purchasing agent. Whenever the county purchasing agent deems
3 it necessary to take a bid on an item currently on a twelve-month
4 bid list, the reason for the bid shall be entered into the minutes
5 of the board of county commissioners;

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

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

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

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

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

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

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

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

19 b. if vendors are not willing to commit to a firm price
20 for a reduced period, the purchasing agent shall
21 solicit and record at least three quotes of current
22 prices available to the county and authorize the
23 purchase of goods or services based on the lowest and
24 best quote as it becomes necessary to acquire such

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

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

18 C. After selection of a vendor, the procedure 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 prepare a purchase order
23 in quadruplicate and submit it with a copy of the requisition to the
24 county clerk;

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

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

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

11 Dated this _____ day of _____, 20__.

12 _____
13 County Clerk/Deputy

14 of _____ County."

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

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

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

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

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

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

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

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

22 Dated this _____ day of _____, 20__.

23 _____

24 County Clerk/Deputy

1 of _____ County."

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

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

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

22 a. the purchasing agent shall cause such items being sold
23 to be appraised in the manner determined in Section
24 421.1 of this title,

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

1 other copy to the receiving officer of the requesting
2 department, and

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

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

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

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

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

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

21 5. The receiving officer shall complete a receiving report in
22 quadruplicate which shall state the quantity and quality of goods
23 delivered. The receiving report form shall be prescribed by the
24

1 State Auditor and Inspector. The person delivering the goods shall
2 acknowledge the delivery by signature, noting the date and time;

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

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

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

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

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

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

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

22 a. requisition,
23 b. purchase order,

24

- 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.

14 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT
15 April 9, 2018 - DO PASS
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