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April 9, 2018

ENGROSSED HOUSE
BILL NO. 3129

By: Roberts (Dustin) of the
House

and

Murdock of the Senate

An Act relating to counties and county officers; amending 19 O.S. 2011, Section 1505, as last amended by Section 1, Chapter 146, O.S.L. 2017 (19 O.S. Supp. 2017, Section 1505), which relates to procedures for the operation of county government; expanding certain county operation procedure requirements to road and bridge construction services; increasing purchase amount subject to certain purchase procedures; specifying counties ability to provide certain bids to road and bridge projects and contracts; 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 1, Chapter 146, O.S.L. 2017 (19 O.S. Supp. 2017, 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, road and bridge construction 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)~~ Fifteen Thousand Dollars (\$15,000.00); and

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

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

23 b. if vendors are not willing to commit to a firm price
24 for a reduced period, the purchasing agent shall

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

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

22 C. After selection of a vendor, the procedure for the purchase,
23 lease-purchase, or rental of supplies, materials, road and bridge
24 construction services, equipment and information technology and

1 telecommunication goods and services used by a county shall be as
2 follows:

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

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

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

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

16 Dated this _____ day of _____, 20__.

17 _____

18 County Clerk/Deputy

19 of _____ County."

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

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

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

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

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

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

23 "I hereby certify that the amount of this encumbrance
24 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

1 the proceeds from the sale of county property at the same public
2 auction are as follows:

3 a. the purchasing agent shall cause such items being sold
4 to be appraised in the manner determined in Section
5 421.1 of this title,

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

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

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

21 e. the county clerk shall file a copy of the purchase
22 order and return the original purchase order and two
23 copies to the county purchasing agent who shall file a
24 copy, retain a copy for the county road and bridge

1 inventory officer if the purchase order is for the
2 purchase of equipment, supplies or materials for the
3 construction or maintenance of roads and bridges, and
4 submit the original purchase order to the receiving
5 officer of the requesting department, and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 a. requisition,

1 b. purchase order,

2 c. invoice with noncollusion affidavit as required by
3 law,

4 d. receiving report, and

5 e. delivery document.

6 The documents shall be available for public inspection during
7 regular business hours; and

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

11 F. The following procedures are for the processing of purchase
12 orders:

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

19 2. The board of county commissioners shall consider the
20 purchase orders so presented and act upon the purchase orders, by
21 allowing in full or in part or by holding for further information or
22 disallowing the same. The disposition of purchase orders shall be
23 indicated by the board of county commissioners, showing the amounts
24 allowed or disallowed and shall be signed by at least two members of

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

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

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

17 1. For consumable road or bridge items or materials, a
18 quarterly report of the road and bridge projects completed during
19 such period shall be prepared and kept on file by the consuming
20 department. The quarterly report may be prepared and kept
21 electronically by the consuming department. The report shall
22 contain a record of the date, the place, and the purpose for the use
23 of the road or bridge items or materials. For purposes of
24

1 identifying county bridges, the board of county commissioners shall
2 number each bridge subject to its jurisdiction; and

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

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

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

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1 encumbering, and consideration for payment by the board of county
2 commissioners.

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

15 K. Nothing in this section shall prohibit counties from
16 providing material or service bids on the twelve-month bid list to
17 all road and bridge projects and contracts.

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

19 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT
20 April 9, 2018 - DO PASS
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