



STATEWIDE PROCUREMENT AUDIT
\$10,000.01 TO \$25,000 THRESHOLD
FOR THE PERIOD MAY 1, 2007 TO APRIL 30, 2008

State of Oklahoma
Department of Central Services
Audit Unit
Report Released - October 15, 2009

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[AUDIT PERFORMED BY](#)

[JoRay McCoy, Chief Auditor](#)
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AUDIT CONCLUSION

Based on our audit, we have determined state agencies for the State of Oklahoma have significantly complied with the audit objective. The objective of our audit:

To assess the extent of statewide compliance with provisions associated to the competitive bidding requirements of the Oklahoma Central Purchasing Act and Central Purchasing Rules, pertaining to open market acquisitions in the \$10,000.01 to \$25,000 range.

Deficiencies were noted during the audit. Some of these deficiencies include inadequate purchase file documentation and accessibility when turnover has occurred within the purchasing divisions and bid evaluation processes. The Agencies have provided corrective action plans, which we believe will ensure the Agencies compliance, in all material respects, with the aforementioned requirements.

AUDIT OVERVIEW

Scope

The scope of the project is purchase orders initiated by State of Oklahoma Agencies for the audit period May 1, 2007 thru April 30, 2008 in the \$10,000.01 to \$25,000.00 range.

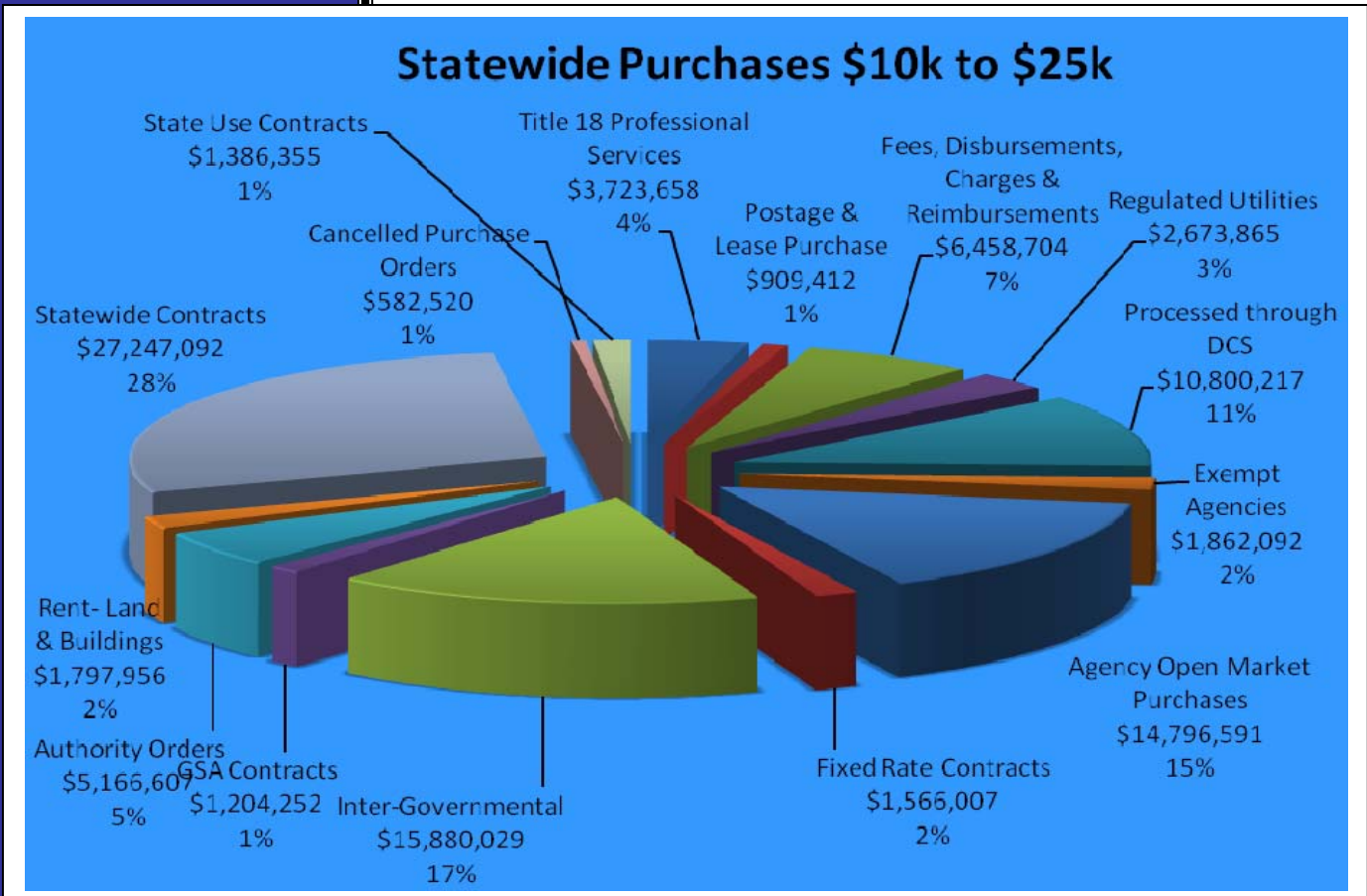
NOTE: The following items were excluded from the scope of the statewide project:

- *State agencies that do not process their acquisitions through the PeopleSoft system and agencies not subject to the Central Purchasing Act or Purchasing Rules were not included in the purchase order population.*
- *State agencies 580- Dept of Central Services and 105- Oklahoma Capital Improvement Authority*
- *Purchase orders for Title 18 professional services*



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This audit was performed pursuant to 74 O.S. § 85.5.E. in accordance with generally accepted Government Auditing Standards.



The state procured \$96 million dollars for acquisitions between \$10k and \$25k during the year reviewed. The breakdown of the purchases is represented in the chart above. Open market purchases performed by state agencies totaled \$14,796,591 for the year reviewed. These purchases were the primary focus of our audit which included 69 agencies. All purchases were between \$10k and \$25k.

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The chart below list the categories of products and services purchased during the audit period for open market purchases reviewed totaling \$14,796,591.



DETAILED FINDINGS

REFERENCE NO: 09-265-01

AGENCY: Oklahoma State Department of Education

CATEGORY: File Maintenance

Criteria: Oklahoma Central Purchasing Rules (effective June 25, 2007) 580:15-6-4 **State agency acquisition records retention** states:

- (a) **Retention time period.** A state agency shall retain all records relative to acquisitions and contracts for the duration of the contract term and for a period of three (3) years following completion and/or termination of the acquisition. If an audit, litigation, or other action involving such records is started before the end of the three (3) year period, the records shall be maintained for two (2) years from the date all issues arising from the action are resolved or until the end of the three (3) year retention period, whichever is later.
- (b) **Records retention location.** A state agency shall retain records and documents in a central location unless a written waiver is provided by the State Purchasing Director.
- (c) **Records availability.** A state agency shall make acquisition records available to the State Purchasing Director for review and the Department of Central Services Audit staff for audit purposes.
- (d) **Records to be retained.** A state agency shall retain acquisition records to include but not limited to justification for the acquisition, supporting documents, related information, acquisition contract, evaluations, other evidence of contractor performance and written reports.



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Condition: One of the four purchasing files requested for review was not provided. Purchase order 2659008672 dated June 1, 2007, in the amount of \$16,500.00 to vendor, NCS Pearson, Inc., for educational consulting could not be provided by the Agency.

Another file for the purchase of aprons was provided; however, the file was incomplete, only containing the purchase order and some print screens from PeopleSoft. The expenditures were paid from purchase order 2659006870 dated May 21, 2007, in the amount of \$12,352.50 to vendor Promocorp.

We noted total purchases without appropriate documentation in the amount of \$28,852.50. The population for the Department of Education consisted of 44 acquisitions totaling \$714,082.45 for the audit period

Cause: The purchasing program was under new management at the time of our audit. The new Primary Certified Procurement Officer advised us that the files were stored in a warehouse and the Agency was unable to locate the files as they did not have the time or resources to dedicate to the search. The cause for the incomplete file is unknown, as it was completed under previous management.

Effect: By not providing documents requested for audit purposes, the Agency is not complying with rules regarding Records Availability. Also, it cannot be determined whether or not the Agency is complying with records retention requirements, competitive open market bidding requirements, or internal purchasing procedures.

Recommendation: We recommend the Agency ensure procurement documents are retained per requirements and made available. We also recommend the agency create a written plan that defines responsibilities and assigns resources to adequately maintain and extract procurement records during the time of restructuring, procurement management turnover, budget restraints or lack of resources.

Management's Response:

Date: October 5, 2009

Respondent: CPO, Purchasing Coordinator

Response: Concur - Due to the change in personnel in the purchasing section in October 2007, files were unable to be located. It was unsure where items were filed. It is believed that they may have been filed incorrectly; therefore we were unable to locate the requested documents.

Corrective Action Plan

Contact Person: CPO, Purchasing Coordinator

Anticipated Completion Date: 10/1/09

Corrective Action Planned: Dept. of Education, Purchasing Section, will ensure that a procedure is put in place for filing and storing. We will ensure that files are retained and restored in a proper manner for the purposes of maintaining a much more efficient record keeping system.

REFERENCE NO: 09-566-01

AGENCY: Department of Tourism and Recreation

CATEGORY: File Maintenance

Criteria: Oklahoma Central Purchasing Rules (effective June 25, 2007) 580:15-6-4 **State agency acquisition records retention** states:



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- (a) **Retention time period.** A state agency shall retain all records relative to acquisitions and contracts for the duration of the contract term and for a period of three (3) years following completion and/or termination of the acquisition. If an audit, litigation, or other action involving such records is started before the end of the three (3) year period, the records shall be maintained for two (2) years from the date all issues arising from the action are resolved or until the end of the three (3) year retention period, whichever is later.
- (b) **Records retention location.** A state agency shall retain records and documents in a central location unless a written waiver is provided by the State Purchasing Director.
- (c) **Records availability.** A state agency shall make acquisition records available to the State Purchasing Director for review and the Department of Central Services Audit staff for audit purposes.
- (d) **Records to be retained.** A state agency shall retain acquisition records to include but not limited to justification for the acquisition, supporting documents, related information, acquisition contract, evaluations, other evidence of contractor performance and written reports.

Condition: One of the three purchasing files that were requested from the Agency, purchase order 5669008049 dated August 8, 2007, in the amount of \$21,155.90 to vendor, A-1 Textiles and Hospitality, could not be located by the Agency. The total purchases without appropriate documentation is \$21,155.90. The population for the Oklahoma Department of Tourism and Recreation consisted of 21 acquisitions totaling \$325,287.47 during the audit period.

Cause: The current program management looked extensively for the file; however, it could not be located. The file was completed by an employee who is no longer with the Agency, and under previous program management.

Effect:

By not providing documents requested for audit purposes, the Agency is not complying with rules regarding records availability. Also, it cannot be determined whether or not the Agency is complying with records retention requirements, competitive open market bidding requirements, or internal purchasing procedures.

Recommendation: We recommend the Agency ensure documents are retained per requirements and that they implement a procedure for ensuring documents are stored and maintained in such a way that employment variances do not effect the ability to locate files.

Management's Response

Date: September 28, 2009

Respondent: Purchasing Manager

Response: Concur - OTRD management has read and fully understands the rules concerning State Agency acquisition records retention, time period, location, availability as well as what documents and supporting information needs to be retained. See below Corrective Action Plan.

Corrective Action Plan

Contact Person: Purchasing Manager

Anticipated Completion Date: Immediately

Corrective Action Planned: OTRD management has already implemented a method of records retention that will avoid similar file maintenance issues in the future. Any employment variances should have no effect on the ability to locate files.

Beginning with FY09, all acquisition documents, requisitions, justifications, bid documents, notes to file, bid evaluations, award documents and other supporting information is filed by agency requisition number and maintained in the administrative offices of the OTRD.



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Files will be maintained by OTRD Purchasing Unit staff in the central location for three years or until such time as they qualify to be moved to the OTRD warehouse.

REFERENCE NO: 09-025-01
AGENCY: Military Department
CATEGORY: Acquisition Documentation

Criteria: Oklahoma Central Purchasing Rules (effective June 25, 2007) 580:15-6-4 **State agency acquisition records retention** states:

- (a) **Retention time period.** A state agency shall retain all records relative to acquisitions and contracts for the duration of the contract term and for a period of three (3) years following completion and/or termination of the acquisition. If an audit, litigation, or other action involving such records is started before the end of the three (3) year period, the records shall be maintained for two (2) years from the date all issues arising from the action are resolved or until the end of the three (3) year retention period, whichever is later.
- (b) **Records retention location.** A state agency shall retain records and documents in a central location unless a written waiver is provided by the State Purchasing Director.
- (c) **Records availability.** A state agency shall make acquisition records available to the State Purchasing Director for review and the Department of Central Services Audit staff for audit purposes.
- (d) **Records to be retained.** A state agency shall retain acquisition records to include but not limited to justification for the acquisition, supporting documents, related information, acquisition contract, evaluations, other evidence of contractor performance and written reports.

Condition: We reviewed purchase order 0259001994 dated June 26, 2007, in the amount of \$14,469.00 to vendor, Cook Cycles, Inc. DBA Tulsa Power Sports. We were unable to determine if the acquisition was competitively solicited to open market vendors. The documentation provided did not include written specifications, solicitations, or the bid evaluation. The total purchases without appropriate documentation is \$14,469.00. The population for the Military Department consisted of 5 acquisitions totaling \$102,196.36 during the audit period.

Cause: As we did not receive any correspondence from the Agency upon our follow-up requests, we are unclear as to the cause for the documents not being provided.

Effect: By not providing documents requested for audit purposes, the Agency is not complying with rules regarding records availability. Also, it cannot be determined whether or not the Agency is complying with records retention requirements, competitive open market bidding requirements, or internal purchasing procedures.

Recommendation: We recommend the Agency ensure procurement documents are retained per requirements and made available.

Management's Response

Date: October 5, 2009

Respondent: Comptroller

Response: Concur. Agency sent all documentation we had on file. The CPO who processed the PO in question is no longer employed at the Military Department. We have no explanation for the incorrect processing of this PO.



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Corrective Action Plan

Contact Person: Agency Primary CPO

Anticipated Completion Date: 1 Jan 2009

Corrective Action Planned: The current CPO has developed a check list which we feel will ensure all purchasing procedures are met by the agency. All documents are retained for seven (7) years.

REFERENCE NO: 09-040-01

AGENCY: Oklahoma Department of Agriculture

CATEGORY: File Maintenance

Criteria:

1. Oklahoma Central Purchasing Rules (effective June 25, 2007) 580:15-6-6 **State agency acquisitions (d) Acquisitions over \$10,000.00 and under \$25,000.00 (2) Supplier selection** states in part, "The state agency shall solicit a minimum of ten (10) suppliers in the appropriate commodity classification from the registered suppliers list compiled by the Purchasing Division and available to state agencies along with any other suppliers identified by the state agency..."
2. Oklahoma Central Purchasing Rules (effective June 25, 2007) 580:15-6-6 (d) states in part:
 - (4) **Non-Collusion Affidavit.** The state agency shall provide suppliers a non-collusion affidavit form pursuant to 74 O.S., Section 85.22 (DCS/Purchasing Form 004) with any solicitation that is competitively bid. A supplier shall submit the non-collusion affidavit with their response to the solicitation....
 - (6) **Contracts.** If the state agency and the supplier execute a contract for the acquisition, the supplier shall provide an affidavit pursuant to 74 O.S., Section 85.23....
3. Oklahoma Central Purchasing Rules (effective June 25, 2007) 580:15-6-6 **State agency acquisitions** states:
 - (4) **Evaluation.** The state agency shall make a written evaluation of criteria considered in selection of the supplier for the acquisition. The written evaluation shall be placed in the acquisition file.

The Oklahoma Central Purchasing Act Title 74 § 85.39.C **Agency Internal Purchasing Procedures** states:

Each state agency shall maintain a document file for each acquisition the state agency makes which shall include, at a minimum, justification for the acquisition, supporting documentation, copies of all contracts, if any, pertaining to the acquisition, evaluations, written reports if required by contract, and any other information the State Purchasing Director requires be kept.

Condition:

1. When reviewing documents for purchase order 0409010209 in the amount of \$17,294.00 to vendor, Irrigation Mart, Inc., for irrigation systems, supplies, parts and accessories, we could only verify fax correspondence regarding corrections to invitations to bid. We could not locate original bid solicitations in the procurement file provided. The total purchases without appropriate documentation is \$17,294.00.
2. Purchase order 0409010209 referenced above did not include either of the required non-collusion affidavits.
3. Purchase order 0409010209 referenced above did not include the required written bid evaluation.



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Cause: The Certified Procurement Officer (CPO) who handled the acquisition no longer works for the Agency. The new CPO could not locate documentation in question.

Effect:

1. By not making open market acquisitions in accordance with purchasing rules, controls and measures in place to ensure acquisitions are fair and reasonable, lowest and best, or best value are circumvented.
2. By not including a notarized sworn affidavit with an executed contract, there is no written documentation attesting to the full knowledge and acceptance of the provisions of non-collusion affidavit by the supplier of the good or services contracted for.
3. By not including a written bid evaluation there is no evidence to indicate that bids were evaluated to ensure specifications and evaluation criteria were met.

Recommendation:

We recommend the Agency:

1. Create a process (i.e. checklist) to ensure all supporting documentation is obtained prior to completion of an acquisition.
2. Create a process to periodically audit purchase order files to ensure that all supporting documentation has been obtained for each acquisition.

Management's Response

Date: September 30, 2009

Respondent: Agency Primary CPO

Response: Concur - We agree that the original bid solicitation, non-collision affidavit and the written bid evaluation should have been present in the purchase order (0409010209) file. This oversight occurred at the division CPO level; the CPO which conducted the transaction is no longer employed by the agency.

Corrective Action Plan

Contact Person: Agency Primary CPO

Anticipated Completion Date: 11-01-2009

Corrective Action Planned:

1. We will adopt into our agency purchasing processes, a sealed-bid check-list for use by agency CPO's, this check-list will be required to accompany the file when sent to administration for filing. This step will assure that all required supporting documents are obtained and present in the agency file.
 2. The Agency's Primary CPO, by use of the agency check-list, will verify that all incoming purchase orders have the required supporting documentation, before transitioning the file into the centralized filing system.
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REFERENCE NO: 09-131/580-01

AFFECTED AGENCIES: Department of Central Services / Department of Corrections

CATEGORY: Central Purchasing Act Exclusions / Waivers / Mandatory Statewide Contracts

Criteria: Oklahoma Administrative Rules 580:15-2-9, **Exceptions**, states:

The Oklahoma Central Purchasing Act grants some state agencies, departments and acquisitions exceptions from some or all provisions of the Oklahoma Central Purchasing Act. The Purchasing Director shall adhere to provisions for exceptions for each state agency, department or acquisition pursuant to the Oklahoma Central Purchasing Act. State agencies and departments shall contact the Purchasing Director if the state agency or department requires information regarding exceptions.

Oklahoma Administrative Rules 580:15-2-11(a), **Waivers**, states:

Waiver request. A state agency may request a waiver from competitive bidding requirements or rules of this chapter from the Director of the Department of Central Services, if:

- (1) the state agency reasonably believes that the state agency would be unable to perform a necessary function due to the inability to make an acquisition pursuant to rules of this Chapter; or,
 - (2) a court order directs the state agency to make an acquisition from a specified vendor or provider.
- (b) **Approval of waiver request.** After the request is reviewed, the Director shall notify the agency of the approval, conditional approval or denial of the waiver request.

Oklahoma Administrative Rules 580:15-6-5(A), **Mandatory Statewide Contract**, states:

The State Purchasing Director may designate a statewide contract for mandatory use. State agencies shall make acquisitions from mandatory statewide contracts regardless of the acquisition purchase price. A state agency may submit a written request to the State Purchasing Director to waive requirements for a state agency's use of a mandatory statewide contract for acquisitions. The State Purchasing Director shall grant exceptions prior to a state agency making the acquisition from another supplier.

Oklahoma Central Purchasing Act 74 § 85.12, **Act Not to Affect Nonconflicting Procedures-Acquisitions Excluded**, states in part:

B. Except as otherwise provided by this section, the acquisitions specified in this subsection shall be made in compliance with Section 85.39 of this title but are not subject to other provisions of The Oklahoma Central Purchasing Act:

...

32. Acquisitions by the Oklahoma Correctional Industries and the Agri-Services programs of the Department of Corrections of raw materials, component parts and other products, any equipment excluding vehicles, and any services excluding computer consultant services used to produce goods or services for resale and for the production of agricultural products; and ...



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Condition / Cause: We judgmentally selected eight additional acquisitions performed by the Department of Corrections to review for the statewide procurement audit. Seven of the eight purchases were for canned food to be consumed by inmates. The seven acquisitions totaled \$89,804.86. No expenditures occurred on two of the seven purchase orders created. Although no expenditures had occurred, both purchase orders 1319029109 and 1319031181 procured in 2007 totaling \$25,418.40 are currently in active status and holding encumbered funds.

The seven purchases were made through an Agri-Service's facility and then sold to other facilities just as furniture and the other items that are produced by Oklahoma Correctional Industries and Agri-Services. These seven purchases for commodities were used for inmate consumption and were not covered under the excluded acquisitions for the Agri-Services program stated in 74 § 85.12(B)32. Also, these purchases were not made from the mandatory statewide contract (SW156) and a written request was not made to the State Purchasing Director to waive requirements for a state agency's use of a mandatory statewide contract.

On May 10, 2005 a purchasing officer from the Department of Corrections asked in an email, "Is the Prime Vendor Contract mandatory for Agri-Services.". A contracting officer from Central Purchasing responded in part by stating, "Agri-Services is exempt from Central Purchasing , therefore, I presume they are exempt from our Contracts.". After receiving this correspondence the Department of Corrections used the spot buy method to make canned food purchases at the Agri-Services facility.

Effect or Potential Effect: There could be some confusion if the purchases are required to be purchased under the statewide mandatory contract or if the purchases are excluded from the Central Purchasing Act.

Canned food commodity purchases are not being made from the mandatory statewide contract. Also, states spend for the commodity is not properly tracked and the state may not be optimizing their purchase prices through purchasing commodities in larger volume.

Recommendation: We recommend the State Purchasing Director to review this acquisition process and provide the Agency with clear directions for the requirements of future purchases. We recommend the Department of Corrections to purchase the non-excluded commodities from the statewide contract and close out purchase order 1319029109 and 1319031181. If the Department of Corrections reasonably believes they would be unable to perform the necessary functions due to the inability to make the acquisitions due to the rules, then the Agency should request a waiver from the Director of the Department of Central Services in accordance with the waiver procedures.

Oklahoma Department of Central Services

Management's Response

Date: September 8, 2009

Respondent: Central Purchasing

Response: Concur - It is important that agencies use the contract that has been negotiated for statewide benefit. The new contract that will start October 1, 2009 is mandatory and will contain a 9.5% savings over the previous year. This savings is predicated on leveraging all statewide spend for food items for agencies that are subject to the central purchasing act. To allow one agency exceptions would circumvent the rationale behind leveraging statewide spend. Also, if a different grade of product is permissible by the agency, that particular agency can work with the statewide supplier to find value rather than dealing with food brokers where food quality may be questionable. Agencies will need to proceed with caution when pursuing #2 product even with the statewide contract holder.



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*Oklahoma Department of Corrections
Management's Response*

Date: September 17, 2009

Respondent: Administrator, Contracts and Acquisitions

Response: The audit finding indicates that the purchases in question were not covered under the excluded acquisitions for the Agri-Services program stated in 74 § 85.12 (B) 32. The James Crabtree Agri-Services unit employs 45 offenders whose job, among other things, is to receive truck load shipments of canned and frozen food items purchased through opportunity buys. The food is then re-palleted to fill orders received from all institutions and loaded on Agri-Services transport vehicles for delivery. This Agri-Services unit has a dry storage warehouse and a 23,000 cu. ft. freezer that is used to store opportunity buys as well as vegetables that are produced and processed on the unit. The customer base for this program is all of DOC, veteran hospitals, and county jails. The language in 74 § 85.12 (B) 32 exempting certain OCI and Agri-Services purchases from the Central Purchasing Act was enacted with the passage and implementation of HB1280 in November of 2003. Since that time, DOC has operated under the interpretation that the products purchased by Agri-Services for resale through this program at James Crabtree Agri-Services are covered by the Central Purchasing Act exemption in 74 § 85.12 (B)32 (see attached copy of DOC internal memo dated November 19, 2004). Agri-Services only makes these types of purchases when: 1) they have been presented with an opportunity for an economy or spot buy; 2) the product is something that can be provided for resale; and, 3) there is a documented cost savings over market value. These opportunities are presented in situations where a manufacturer or broker needs to get rid of product immediately (i.e. an overrun of product, damaged cans, or short dated stock) and as a result are offering the items at a substantial savings below market value. Most of these offers are only good for a day or two before they are gone or expire. In 2005, clarification was sought by DOC regarding whether or not Agri-Services was required to use the mandatory SYSCO contract (see attached email dated May 10, 2005). At that time DCS agreed that items exempted pursuant to 74 § 85.12 (B) 32 were not bound by the requirement to utilize a mandatory statewide contract. The process that had been utilized by DOC up to that point continued as a result of the interaction with DCS, with only one change being made: DOC would solicit a quote from the prime food vendor on each purchase. The process utilized has been consistent, open, and fully documented. The process, is generally consistent with other OCI & Agri-Services exempt acquisitions, and allows Agri-Services to take advantage of one time opportunities while also soliciting other vendors to compete for the opportunity to provide the product.

Upon examination of the seven purchases that were included in the DCS Audit review, DOC found that each of them were processed following the process that had been defined for these exempted items based upon the interpretation of DOC and the clarification/assistance provided by DCS. In each instance, the appropriate documentation to support the process was in the file. Fax confirmation sheets to all vendors solicited, including SYSCO, were in each of the files. DOC agrees that there was no consideration given to the mandatory statewide contract or the need to obtain a waiver from DCS for any of these purchases. However, this was based upon the interpretation that these items were exempt, as described above. The process followed by DOC was for exempt purchases which does not include either of these requirements.

Outside of this program all other agency purchases of food are made utilizing the SYSCO statewide contract. Approximately \$8.21 M per year of canned food commodities are purchased directly by DOC facilities through the mandatory SYSCO contract.



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Corrective Action Plan

Contact Person: Administrator, Contracts and Acquisitions

Anticipated Completion Date: November 1, 2009

Corrective Action Planned:

1. A legal review of the language in 74 § 85.12 (B) 32 will be completed to re-examine whether these type of acquisitions fall under the statutory exemption.
2. Clear directions will be sought from DCS on the requirements for processing future purchases of this type depending based on the determination of whether these purchases are exempt or not.
3. Purchase orders #1319029109 and 1319031181 will be canceled.

REFERENCE NO: 09-450-01

AGENCY: Oklahoma State Board of Medical Licensure and Supervision

CATEGORY: Acquisition Documentation

Criteria: Oklahoma Central Purchasing Rules (effective June 25, 2007) 580:15-6-4 **State agency acquisition records retention** states:

(a) **Retention time period.** A state agency shall retain all records relative to acquisitions and contracts for the duration of the contract term and for a period of three (3) years following completion and/or termination of the acquisition. If an audit, litigation, or other action involving such records is started before the end of the three (3) year period, the records shall be maintained for two (2) years from the date all issues arising from the action are resolved or until the end of the three (3) year retention period, whichever is later.

(b) **Records retention location.** A state agency shall retain records and documents in a central location unless a written waiver is provided by the State Purchasing Director.

(c) **Records availability.** A state agency shall make acquisition records available to the State Purchasing Director for review and the Department of Central Services Audit staff for audit purposes.

(d) **Records to be retained.** A state agency shall retain acquisition records to include but not limited to justification for the acquisition, supporting documents, related information, acquisition contract, evaluations, other evidence of contractor performance and written reports.

Condition: One procurement file was requested from the Agency. Based on our review of the file, the acquisition was not solicited to open market vendors. The documentation provided did not include the required written specifications, bid solicitations and bid evaluation. The contract was awarded and completed with purchase order 4509000394, dated July 25, 2007, in the amount of \$24,000.00 to vendor, Sherrie L. Todd. The total purchases without appropriate documentation is \$24,000.00. The population for the Oklahoma State Board of Medical Licensure and Supervision consisted of acquisitions totaling \$112,416.86 during the audit period.

Cause: As we did not receive any correspondence from the Agency upon our follow-up requests, we are unclear as to the cause for the documents not being provided.

Effect: By not providing documents requested for audit purposes, the Agency is not complying with rules regarding records availability. Also, it cannot be determined whether or not the Agency is complying with records retention requirements, competitive open market bidding requirements, or internal purchasing procedures.



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Recommendation: We recommend the Agency ensure procurement documents are retained per requirements and made available.

Management's Response

Date: 10/15/09

Respondent: Deputy Director

Response: To meet the requirements of the Law, Board required services of a subject matter expert. The consultant contracted, Ms. Sherrie Todd, is an expert in this field. Her years of experience in women's health, familiarity with the new Law, mental and intellectual knowledge uniquely qualified her to be the only one Board approached. Based on these unique criteria for the consultant, we defined this as a "Professional Service" as defined in Title 74 SS 85.2.28. Failure to consider section 803 of Title 18 of the Oklahoma Statutes that defines types of professions as professional service and provides exemption from competitive bidding was an honest mistake on our part. We should have executed a sole source affidavit in procuring this service from Ms. Todd. We have taken corrective measures to avoid such slips in the future. During the first year the Law was challenged by lawsuits. There are still pending appeals to be settled and additional revisions to the Law required many changes to the publications and websites during the first three years. Board chose to re-new the contract subsequent years to update and maintain the requirements as set forth in this Law.

Corrective Action Plan

Contact Person: Deputy Director

Anticipated Completion Date: Immediate

Corrective Action Planned: Review all professional service acquisitions and ensure they comply with Title 74 and 18.

REFERENCE NO: 09-342-01

AGENCY: Oklahoma Board of Medicolegal Investigations

CATEGORY: Written Bid Evaluation

Criteria: Oklahoma Central Purchasing Rules (effective June 25, 2007) 580:15-6-6 **State agency acquisitions** states:

(4) **Evaluation.** The state agency shall make a written evaluation of criteria considered in selection of the supplier for the acquisition. The written evaluation shall be placed in the acquisition file.

The Oklahoma Central Purchasing Act Title 74 § 85.39.C **Agency Internal Purchasing Procedures** states:

Each state agency shall maintain a document file for each acquisition the state agency makes which shall include, at a minimum, justification for the acquisition, supporting documentation, copies of all contracts, if any, pertaining to the acquisition, evaluations, written reports if required by contract, and any other information the State Purchasing Director requires be kept.

Condition: Purchase order 3209000242 dated February 5, 2008 in the amount of \$24,483 to vendor, Merry X-Ray Corporation, for x-ray machines did not include a written bid evaluation.



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Cause: Completion of a bid evaluation was overlooked in the Agency's haste to procure a replacement for failing equipment.

Effect: By not including a written bid evaluation there is no evidence to indicate that bids were evaluated to ensure specifications and evaluation criteria were met.

Recommendation: We recommend the agency:

1. Develop and implement a process (i.e. checklist) to ensure that all tabulations, affidavits, and evaluations are completed prior to acquisition.
2. Develop a post-audit process for purchase order files to ensure that all supporting documentation specifically pertaining to the acquisition is included in the purchase order file.

Management's Response

Date: 7 Oct 2009

Respondent: Director of Budget and Finance

Response: There is not a written bid evaluation in the contract documents. In early April 2009, our Agency Director of Administration and Personnel requested I respond to the auditor reviewing this contract and purchase. The essence of my response was that we overlooked a written bid evaluation due to the haste we were in to make the purchase because our x-ray equipment was on the brink of failing. Our CPO at that time did send to the auditor some 45 pages of documentation concerning this purchase, in Oct 2008. We did contact multiple vendors requesting bids, and that is documented. Based on that, an evaluation of bids was performed by the CPO, but it was not documented.

Corrective Action Plan

Contact Person: Director of Budget and Finance

Anticipated Completion Date: December 31, 2009

Corrective Action Planned: Agency will develop and implement a process to ensure that all tabulations, affidavits, and evaluations are completed prior to acquisition. Agency will also develop a post-audit process for purchase order files to ensure that all supporting documentation specifically pertaining to the acquisition is included in the purchase order file.

REFERENCE NO: 09-320-01

AGENCY: Oklahoma Department of Wildlife

CATEGORY: Written Bid Evaluation

Criteria: Oklahoma Central Purchasing Rules (effective June 25, 2007) 580:15-6-6 **State agency acquisitions** states:

- 4) **Evaluation.** The state agency shall make a written evaluation of criteria considered in selection of the supplier for the acquisition. The written evaluation shall be placed in the acquisition file.

The Oklahoma Central Purchasing Act Title 74 § 85.39.C **Agency Internal Purchasing Procedures** states:

Each state agency shall maintain a document file for each acquisition the state agency makes which shall include, at a minimum, justification for the acquisition, supporting documentation, copies of all contracts,



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if any, pertaining to the acquisition, evaluations, written reports if required by contract, and any other information the State Purchasing Director requires be kept.

Condition: Purchase order 3209002403 dated September 14, 2007 in the amount of \$12,799 to vendor, Plasticbags-on-sale.com, Inc., for disposable plastic bags did not include a written bid evaluation.

Cause: The Certified Procurement Officer (CPO) who handled the acquisition no longer works for the Agency. The new CPO could not locate the documentation in question.

Effect: By not including a written bid evaluation there is no evidence to indicate that bids were evaluated to ensure specifications and evaluation criteria were met.

Recommendation: We recommend the Agency:

1. Create a process (i.e. checklist) to ensure all supporting documentation is obtained prior to completion of an acquisition.
2. Create a process to periodically audit purchase order files to ensure that all supporting documentation has been obtained for each acquisition.

Management's Response

Date: October 5, 2009

Respondent: Accounting Supervisor

Response: Concur - I concur that the proper documentation was not included with the Purchase Order.

Corrective Action Plan

Contact Person: Accounting Supervisor

Anticipated Completion Date: It will be an ongoing process.

Corrective Action Planned: ODWC will include as part of the supporting documentation on purchase orders, an evaluation sheet that will show the process that was used to award the bid and also the vendors bid information. Also, the Accounting Supervisor will begin to perform periodic audits on the purchase orders to ensure that ODWC is in compliance with all policies and rules.

REFERENCE NO: 09-090-01

AGENCY: Office of State Finance

CATEGORY: Competitive Bidding

Criteria: Oklahoma Central Purchasing Rules (effective June 25, 2007) 580:15-6-6 **State agency acquisitions (d) Acquisitions over \$10,000.00 and under \$25,000.00 (2) Supplier selection** states in part, "The state agency shall solicit a minimum of ten (10) suppliers in the appropriate commodity classification from the registered suppliers list compiled by the Purchasing Division and available to state agencies along with any other suppliers identified by the state agency..."

Condition: Purchase orders 0909002252 dated September 14, 2007 in the amount of \$24,625, and 0909002625 dated February 21, 2008 in the amount of \$24,000 to vendor, Terry O'Connor, for consulting services were not competitive-



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ly solicited. As part of the supporting documentation reviewed for these purchase orders, a vendor list of individuals who provide strategic planning services was included, indicating open market vendors were available. The total purchases without appropriate documentation is \$44,625.00.

Cause: The Agency Procurement Specialist informed us that in 1999, Legislature passed the "Oklahoma Program Performance Budgeting and Accountability Act", which required all agencies (& Higher Education) to file Strategic Plans with budgets for every even numbered fiscal year. The Office of Personnel Management (OPM) was working with the Office of State Finance and charged with training agencies to do these plans. They did/don't have enough specially trained Facilitators to perform this function for the State. Therefore, to enable the agencies to remain in compliance with the statutes, they developed a list of Strategic Planning Facilitators with whom agencies can contract for these services. The Facilitators were pre-approved by OPM for both cost and expertise.

Effect: By not making open market acquisitions in accordance with purchasing rules, controls and measures in place to ensure acquisitions are fair and reasonable, lowest and best, or best value are circumvented.

Recommendation: We recommend the Agency:

1. Follow the method of acquisition as outlined in Oklahoma Administrative Code (OAC) 580:15-6-5 Methods State Agencies Use to Make Acquisitions and OAC 580:15-6-6 State agency acquisitions.
2. Develop and modify, if necessary, processes/procedures that ensure open market acquisitions adhere to Central Purchasing Act and Central Purchasing Rules.

Management's Response

Date: September 24, 2009

Respondent: Procurement and Contracts Manager

Response: Partially Concur - OSF believes the two purchase orders to Terry O'Connor were done by the CPO at the time with the belief that they were utilizing vendors selected by OSF and OPM for strategic planning. We consider this an isolated incident.

Corrective Action Plan

Contact Person: Procurement and Contracts Manager

Anticipated Completion Date: N/A

Corrective Action Planned: OSF believes no additional corrective measures are needed. We recognize that an open market acquisition should have been done. We have an internal audit checklist for following statutes and rules which was developed after the time of this audit. In addition, a "Strategic Plan" group of vendors is not currently recognized as an acceptable means of procurement. We view this as a one time, special circumstance, which will not be repeated.

REFERENCE NO: 09-345-01

AGENCY: Oklahoma Department of Transportation

CATEGORY: Insufficient bid solicitations

Criteria: Oklahoma Central Purchasing Rules (effective June 25, 2007) 580:15-6-6 **State agency acquisitions (d) Acquisitions over \$10,000.00 and under \$25,000.00 (2) Supplier selection** states in part, "The state agency shall



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solicit a minimum of ten (10) suppliers in the appropriate commodity classification from the registered suppliers list compiled by the Purchasing Division and available to state agencies along with any other suppliers identified by the state agency...”

Condition: For purchase order 3459018767 in the amount of \$12,296.09 to vendor, Hoidale Co., Inc., for a tank gauging system the Agency did not solicit the required number of vendors. The notes in the Agency file indicated they solicited the required ten vendors; however, only five solicitations were present.

Cause: The buyer who processed this purchase order no longer works for the Agency and Management cannot ascertain what happened to the other solicitations.

Effect: By not making open market acquisitions in accordance with purchasing rules, controls and measures in place to ensure acquisitions are fair and reasonable, lowest and best, or best value are circumvented.

Recommendation: We recommend the Agency:

- Maintain all documentation in the support of acquisitions made including no response bids.
- Create a process (i.e. checklist) to ensure all supporting documentation is obtained prior to completion of an acquisition.
- Create a process to periodically audit purchase order files to ensure that all supporting documentation has been obtained for each acquisition.

Management's Response

Date: October 9, 2009

Respondent: Purchasing Manager

Response: Concur

Corrective Action Plan

Contact Person: Purchasing Manager

Corrective Action Planned: Procedures were in place but not followed for this bid. Notes to file show that solicitations were sent to ten (ten) vendors, however it appears that the buyer only sent them to the four listed on the requisition as suggested vendors. Purchase order files are periodically audited to ensure that all supporting documentation has been obtained.

REFERENCE NO: 09-090-02

AGENCY: Office of State Finance

CATEGORY: Competitive Bidding

Criteria:

3. Oklahoma Central Purchasing Rules (effective June 25, 2007) 580:15-6-6 (d) states in part:

(4) **Non-Collusion Affidavit.** The state agency shall provide suppliers a non-collusion affidavit form pursuant to 74 O.S., Section 85.22 (DCS/Purchasing Form 004) with any solicitation that is competitively bid. A supplier shall submit the non-collusion affidavit with their response to the solicitation....



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(6) **Contracts.** If the state agency and the supplier execute a contract for the acquisition, the supplier shall provide an affidavit pursuant to 74 O.S., Section 85.23....

4. The Oklahoma Central Purchasing Act Title 74 § 85.42.B **One Year Limitation on Entering Contracts with Certain Persons—Exceptions** states in part:

...

B. Each contract entered into by any person or firm with the State of Oklahoma shall include an affidavit certifying that no person who has been involved in any manner in the development of that contract while employed by the State of Oklahoma shall be employed to fulfill any of the services provided for under said contract. This subsection shall not preclude faculty and staff of the institutions within The State System of Higher Education from negotiating and participating in research grants and educational contracts. Nor shall this subsection apply to personnel of the Capital Resources Division of the Oklahoma Department of Commerce who contract to provide services to the Oklahoma Capital Investment Board.

...

5. Oklahoma Central Purchasing Rules (effective June 25, 2007) 580:15-6-6 **State agency acquisitions (d) Acquisitions over \$10,000.00 and under \$25,000.00** states in part:

(5) **Evaluation.** The state agency shall make a written evaluation of criteria considered in selection of the supplier for the acquisition. The written evaluation shall be placed in the acquisition file.

Condition:

1. Purchase order 0909002055 was not supported by either of the required non-collusion affidavits.
2. Purchase order 0909002055 referenced above did not include the required affidavit certifying that no person who has been involved in any manner in the development of that contract while employed by the State of Oklahoma shall be employed to fulfill any of the services provided for under said contract.
3. Purchase order 0909002055 referenced above, as well as purchase order 0909002393 in the amount of \$21,467.32 to vendor, Precision Imaging Solutions, for maintenance kits/laser printer, did not include the required written bid evaluation.

Cause:

- 1 & 2 The Agency was coordinating with the vendor during the acquisition to obtain the non-collusion affidavit. The vendor was to bring it to the Agency but the Agency personnel failed to obtain the affidavit and include it in the file.
3. The Agency indicated they did not complete a bid evaluation as lowest price was the basis for selection.

Effect: By not making open market acquisitions in accordance with purchasing rules, controls and measures in place to ensure acquisitions are fair and reasonable, lowest and best, or best value are circumvented. In addition, open market vendors did not have adequate opportunity to compete for the state contract.

Recommendation: We recommend the Agency:

- Create a process (i.e. checklist) to ensure all supporting documentation is obtained prior to completion of an



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acquisition.

- Create a process to periodically audit purchase order files to ensure that all supporting documentation has been obtained for each acquisition.

Management's Response

Date: September 24, 2009

Respondent: Procurement and Contracts Manager

Response: Partially Concur - We concur that the non-collusion forms were not in the file for purchase order 0909002055. Since the time-frame of the audit, 5/1/07-4/30/08, OSF has revised their process and now maintains an internal audit checklist. Our new procurement manager has written the need to periodically do random audits into her PMP. It should also be noted that DCS has recognized that affidavits slow down the procurement process and they have revised their own processes by no longer utilizing affidavits but rather certifications. These are much easier to obtain and compliance should improve as a result of this change.

We concur that purchase orders 0909002055 and 0909002393 did not include the written bid evaluation. The contracting officers based the award on lowest price. Since this time OSF's developed an audit checklist which includes a line item for the requirement of including the bid evaluation method (scoring tool) in the file prior to the release of the bid, even if the award is meant to be based on lowest price. Our new procurement manager has written the need to periodically do random audits into her PMP.

We marked partially concur because we agree that the forms were not in the file. However, we do not agree that the two missing forms resulted in circumventing open market procurement. We do believe we made a fair open market acquisition.

Corrective Action Plan

Contact Person: Procurement and Contracts Manager

Anticipated Completion Date: N/A

Corrective Action Planned: Audit Checklist has already been developed and was provided to the auditors, and the new manager of procurement has written the need for random audits into her PMP.





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APPENDIX

Sampling Methodology

Extract purchase orders within the \$10,000.01 to \$25,000.00 threshold statewide, determine a statistically sound sample, identify any transactions to be added to the sample judgmentally, and examine the total sample as relates to State of Oklahoma purchasing laws and rules.

For the audit period, the total population was 914 transactions for a total of \$15,140,840.89. IDEA statistical sampling software- classical random sampling was used to select a sample to be tested. Due to them making up 11.5% (105/914) of the number of transactions and 11.7% (\$1,777,299.08/\$15,140,840.89) of the total dollars in the final population, all purchases for bulk fuel made by the Oklahoma Department of Transportation (ODOT) were extracted from the final population in order to obtain a more representative sample. For this sample, confidence level was 97.9%; desired precision level was \$12,027,187.62; and expected proportion of errors was 4%.

IDEA statistical sampling software- classical random sampling was used to select a sample of ODOT fuel purchases to be tested. For this sample, confidence level was 95%; desired precision level was \$1,599,569.17; and expected proportion of errors was 4%.

The total population was reviewed to determine if there were purchases not in the samples pulled that should also be tested. Nineteen were identified for additional testing based on dollar amount, relation to other purchases in the sample or auditor's professional judgment.

Our total sample consisted of 108 transactions for a total of \$1,837,268.19.

Non-Open Market Acquisitions & Scope Exclusions:

The following scope exclusions and non-open market acquisitions were removed during the data mining process.

1. Authority Orders
2. Regulated utilities
3. Rent/Lease
4. Postage / Lease Purchase
5. Rent for Land and Buildings
6. Construction and Properties Acquisitions
7. Acquisitions performed by DCS buyers
8. Transactions not requiring an acquisitions
9. State agencies exempt from the Central Purchasing Act:
 - 610 – Regents for Higher Education – Exempt from the CPA in its entirety
 - 369 – Workers' Compensation Court - Exempt in its entirety
 - 606 – Ardmore Higher Education Center
 - 346 – Space Industry - Exempt from competitive bidding provisions of 74 s 85.7. 74 s 5205(D)
 - 359 – OERB - All acquisitions are exempt from the CPA except for Section 85.39. 74 s 85.12 (B)(24)
 - 677 – Supreme Court, Court Fund is not subject to the provisions of the CPA. Op. Atty. Gen. No. 03-34 (August 4, 2003)
 - 678 – Council on Judicial Complaints (falls under Agency 677 above)



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- 825 – University Hospitals Authority, Authorized to enter into agreements for indigent care services, which are exempt from the CPA. 63 s 3226(D) All acquisitions are exempt from or the CPA except for section 85.39.
74 s 85.12 (B)(5)
10. Cancelled POs (w/ no expenditures) & zero balance vouchers
 11. Inter-governmental Purchases
 12. Statewide Contracts
 13. State Use Contracts
 14. GSA Contracts
 15. Fixed Rate Contracts
 16. Emergency Acquisitions (CAP & CP)
 17. Title 18 Professional Services





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DIRECTOR'S TRANSMITTAL LETTER

JOHN S. RICHARD
Director



BRAD HENRY
Governor

STATE OF OKLAHOMA
DEPARTMENT OF CENTRAL SERVICES

October 15, 2009

TO THE STATE AGENCIES OF OKLAHOMA

With this letter, we transmit the report of the Statewide Procurement \$10,000.01 to \$25,000 Threshold audit for the audit period May 1, 2007 to April 30, 2008.

We performed our audit in accordance with professional auditing standards to ensure that programs and contracts administered by the Department of Central Services are conducted in accordance with laws and regulations and used in an ethical, effective and efficient manner while limiting exposure to fraud, waste, mismanagement, or abuse.

The accompanying report presents our findings and recommendations, as well as management's responses and corrective action plans. This report is available to the public on the Department of Central Services website, www.dcs.ok.gov.

Sincerely,

John S. Richard
Director of the Department of Central Services

"Committed to Quality"

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