



**OKLAHOMA
DEPARTMENT
OF
CENTRAL SERVICES
CENTRAL PURCHASING
ADMINISTRATIVE RULES
OAC 580:15**

**Emergency Rules – Revised Sections Only
Effective October 1, 2009**

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**TITLE 580. DEPARTMENT OF CENTRAL SERVICES
CHAPTER 15. CENTRAL PURCHASING**

SUBCHAPTER 2. GENERAL PROVISIONS

580:15-2-7. State Purchasing Director authority

- (a) **General.** The State Purchasing Director is an employee of the Department of Central Services. The Director and the Oklahoma Central Purchasing Act prescribe the duties, responsibilities and authority of the State Purchasing Director.
- (b) **New Contracting Procedures.** Whenever the State Purchasing Director develops and tests new contracting procedures and said procedures are used for acquisitions, the State Purchasing Director shall promptly notify state agencies.
- (c) **Limited contact.** The State Purchasing Director may limit contact regarding a solicitation between suppliers and agency personnel during the solicitation process. The limitation of contact may be described in the solicitation. All communication between suppliers and agency personnel regarding a solicitation shall be documented and submitted to DCS for inclusion in the bid file.
- (d) **Limited disclosure.** Agency staff shall not announce or reveal their decision regarding supplier evaluation or recommendation for award to Central Purchasing in any public manner or forum, including board meetings, until Central Purchasing has issued the award of contract.
- (e) **Negotiation.** The State Purchasing Director or designee may negotiate contracts ~~by noting in the solicitation that negotiations may be conducted and~~ by following these rules for negotiation. Negotiations may be conducted with one or more suppliers. A state agency may conduct negotiations for acquisitions exceeding \$10,000.00 only with the prior written approval of the State Purchasing Director.
- (1) **Negotiation team.** The State Purchasing Director shall designate a negotiator or negotiation team. The State Purchasing Director or designee shall serve as the lead negotiator for a team.
- (2) **Negotiation process.**
- (A) The lead negotiator shall notify vendors of the date and time for negotiations.
- (B) The lead negotiator shall request the supplier provide a list of the individuals who will attend the negotiation and who have full authority to bind the supplier in the negotiation process.
- (C) The lead negotiator shall determine the location and manner of negotiation.
- ~~(D) Negotiations shall be recorded.~~
- ~~(E)~~(D) The negotiation team shall develop an agenda with the lead negotiator and submit the agenda to all participants of the negotiation process. The agenda shall set forth the key areas in the solicitation, which require negotiation.
- ~~(F)~~(E) The lead negotiator may require suppliers to submit a best and final offer.
- ~~(G)~~(F) The lead negotiator shall prepare a summary that shall document the following:
- (i) an overview setting forth the solicitation number, names and titles of participants, description of the contract, date and location of the negotiation, and purpose of the negotiation; and
- (ii) a summary of the results of the negotiation, specifically stating what is the basis of the final agreement.
- ~~(H)~~(G) A summary created under these rules shall become a part of the contract file ~~retained in Central Purchasing.~~

(f) **Contract management fee, levy or rebate.** Pursuant to 74 O.S., Section 85.33(B), the State Purchasing Director may enter into or award contracts that provide a contract management fee, levy or rebate to the Department. The State Purchasing Director may negotiate a contract management fee whenever it is in the best interest of the state and the Department. All monies received from fees, levies or rebates shall be deposited in the Contract Management Revolving Fund established by 74 O.S., Section 85.33(A).

SUBCHAPTER 4. SUPPLIER PROVISIONS

580:15-4-13. Supplier's ~~protests~~ protest

A supplier may protest a contract award by a state agency or the Purchasing Division to the State Purchasing Director. All remedies available to suppliers through the sealed bid process pursuant to the Oklahoma Central Purchasing Act ~~or the Public Building Construction and Planning Act~~ are also available to online bidders in an online bidding process.

(1) **Supplier notification.** A supplier shall submit written notice to the State Purchasing Director of a protest of an award of contract by a state agency or the Central Purchasing Division within ten (10) business days of contract award. The protest notice shall state supplier facts and reasons for protest.

(2) **State Purchasing Director review and determination.** The State Purchasing Director shall review the supplier's protest and contract award documents.

(A) The State Purchasing Director may determine to respond to the protest or delegate the responsibility by written notice to the state agency that awarded the contract.

(B) Written notice of the decision by the State Purchasing Director or the agency, if applicable, to sustain or deny the protest will be sent to the supplier within ten (10) business days of receipt of the protest.

(C) An agency making an acquisition pursuant to 74 O.S. Section 85.5(T) shall conduct all actions and bear all costs associated with the protest or appeal of a contract award.

(3) **Supplier appeal of State Purchasing Director denial.** The supplier may appeal a denial of protest by the State Purchasing Director or a state agency to the Director of Central Services. The supplier shall file a written appeal within ten (10) business days of the date of the State Purchasing Director's or state agency's notice of denial pursuant to 75 O.S., Section 309 et seq.

(4) **Director actions and determination.** The Director may hear the ~~protest~~ appeal or assign the supplier's appeal to an administrative law judge the Department retains.

(A) If the ~~protest~~ appeal is assigned to an administrative law judge, the administrative law judge shall review the ~~protest~~ appeal for legal authority and jurisdiction. If legal authority and jurisdictional requirements are met, the administrative law judge shall conduct an administrative hearing and provide proposed findings of fact and conclusions of law to the Director.

(B) If the ~~protest~~ appeal is heard by the Director, the Director shall have all powers granted by law including all powers delegated to the administrative law judge by this section.

(C) The Director shall send written notice of the final order sustaining or denying the supplier's appeal to the parties.

(D) The cost of actions required by the provisions of this section, together with other necessary expenses incurred pursuant to this section, shall be paid by the state agency responsible for the initial solicitation.

(5) **Conduct of administrative hearing.** Administrative hearings shall be conducted in accordance with the Administrative Procedures Act [75 O.S. §250 et seq.] and the following procedures:

(A) **Prehearing conference.** A prehearing conference shall be scheduled to determine the legal or factual issues which shall be limited to those brought by the supplier in its initial protest to the State Purchasing Director.

(B) **Burden of proof.** The burden of proof shall be upon the supplier, which must prove its case by a preponderance of the evidence. A preponderance of the evidence is that evidence which, in light of the record as a whole, leads the Administrative Law Judge to believe a fact is more probably true than not true.

(C) **Representation.** Corporations must be represented by legal counsel in accordance with Oklahoma law. Legal counsel must be licensed or registered pursuant to the Rules Creating and Controlling the Oklahoma Bar Association.

(D) **Proper parties.** In addition to the supplier protesting the contract award and the Department of Central Services, the supplier awarded the contract and the state agency for which the bid was let may participate in the bid protest proceedings as a proper party.

(E) **Discovery.** The conduct of discovery is governed by the Administrative Procedures Act, 75 O.S., Section 309 et seq. and other applicable law.

(F) **Authority of the Administrative Law Judge.** The Administrative Law Judge may:

- (i) Establish a scheduling order;
- (ii) Establish reasonable procedures such as authorizing pleadings to be filed by facsimile or electronic mail;
- (iii) Rule on all interlocutory motions, including requests for a temporary stay of the contract award pending a final order from the Director;
- (iv) Require briefing of any or all issues;
- (v) Conduct hearings;
- (vi) Rule on the admissibility of all evidence;
- (vii) Question witnesses; and
- (viii) Make proposed findings of facts and conclusions of law to the Director.

(G) **Remedies.** The Administrative Law Judge may recommend that the Director deny the supplier's appeal or that the contract award be cancelled and rebid.

(6) **Supplier appeal of Director denial.** If the Director denies a supplier's appeal, the supplier may appeal pursuant to provisions of 75 O.S., Section 309 et seq.

SUBCHAPTER 6. STATE AGENCY PROVISIONS

580:15-6-5. Methods State Agencies Use to Make Acquisitions

State agencies shall make acquisitions using a method of acquisition in this section.

(1) **Statewide Contracts.** The State Purchasing Director shall designate statewide contracts as mandatory or nonmandatory.

(A) **Mandatory statewide contract.** 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.

(B) **Nonmandatory statewide contracts.** State agencies may use nonmandatory statewide contracts when an agency determines it is in the best interest of the state.

(2) **State Use Committee.** State agencies shall make acquisitions from suppliers on the State Use Committee procurement schedule regardless of the acquisition purchase price if the supplier's delivery date meets state agency requirements. State Use Committee contracts are mandatory contracts. State agencies shall utilize the State Use Committee procurement schedule to ensure all acquisitions are made pursuant to 74 O.S., Section 3001, et seq. If an acquisition is available from both the State Use Committee procurement schedule and the Oklahoma Correctional Industries, the state agency shall make the acquisition from the State Use Committee procurement schedule.

(3) **Oklahoma Correctional Industries.** If an acquisition is not available from the State Use Committee within the time period required by the purchasing state agency, state agencies shall make acquisitions from the Oklahoma Correctional Industries pursuant to 57 O.S., Section 549.1.

(A) An agency, using its procurement authority may place a direct order with OCI without competitive bidding, or issue a solicitation, which shall include OCI as a vendor. If a solicitation is issued, the award shall be made to OCI if such product or service is the lowest and best bid.

(B) For an acquisition exceeding an agency's procurement authority, the agency may place a direct order with OCI or submit a requisition to the Purchasing Division for issuance of a solicitation to include OCI as a vendor. The award shall be made to OCI if such product or service is the lowest and best bid.

(C) If Oklahoma Correctional Industries is unable to meet state agency requirements for an acquisition, Oklahoma Correctional Industries shall certify to the State Purchasing Director that it is not able to provide products.

(D) If the State Purchasing Director determines that a product or service the Oklahoma Correctional Industries produces does not meet the reasonable state agency requirements, the State Purchasing Director shall notify Oklahoma Correctional Industries.

(E) If Oklahoma Correctional Industries disagrees with the State Purchasing Director, the Director of the Central Services shall resolve the issue.

(4) **Standard contracts.**

(A) **Contract for definite quantity.** If a state agency is able to establish a definite quantity of items or services for an acquisition, the State Purchasing Director or the state agency may establish a contract for acquisition by the state agency.

(B) **Contract for indefinite quantities.** If an agency is unable to establish a definite quantity of items or services for an acquisition, the State Purchasing Director or the state agency may establish a contract for an indefinite quantity of items or services.

(C) **Contract for scheduled acquisitions.** When a state agency's needs for certain items are compiled (aggregated) and purchased in bulk at predetermined intervals, the State Purchasing Director or the state agency may establish a contract for scheduled acquisitions. The intervals shall be established in accordance with market characteristics or using agency consumption patterns, with consideration of seasonal factors and warehousing facilities. A schedule shall be developed for particular commodities monthly, quarterly, or annually. If a contract for scheduled acquisitions is established for a state agency, the state agency shall not make open market purchases for the same commodity or group of commodities.

(D) **Open market contracts.** State agencies may make open market acquisitions within their approved purchasing authority limit, pursuant to provisions of the Oklahoma Central Purchasing Act, rules of the Purchasing Division and the agency's approved internal purchasing procedures.

(5) **Sole source and sole brand contracts.**

(A) State agencies with a CPO and approved internal purchasing procedures meeting the requirements of 580:15-6-2 and 580:15-6-3, may requisition a sole source or sole brand acquisition within the agency's purchasing authority limit pursuant to the provisions of the Oklahoma Central Purchasing Act.

(B) The chief administrative officer of each state agency shall submit to the State Purchasing Director a monthly listing of all sole source and sole brand acquisitions exceeding ~~Two Five Thousand Five Hundred Dollars (\$2,500.00)~~ (\$5,000.00) executed by the state agency in the preceding month pursuant to the Oklahoma Central Purchasing Act. The monthly list shall be submitted on a form prescribed and approved by the State Purchasing Director.

(C) If the sole source or sole brand acquisition amount exceeds the agency's purchasing authority, the agency shall submit the requisition to the State Purchasing Director.

580:15-6-6. State agency acquisitions

(a) **Acquisition authority.** All acquisitions made by state agencies shall be in accordance with the Oklahoma Central Purchasing Act, 74 O.S., §85.1 et. seq., other applicable statutory provisions, this Chapter and the agency's approved internal purchasing procedures.

(b) **Acquisitions under not exceeding ~~\$2,500.00~~ \$5,000.00.** State agencies shall make open market acquisitions not exceeding ~~Two Five Thousand Five Hundred Dollars (\$2500.00)~~ (\$5,000.00) that are fair and reasonable.

(c) **Acquisitions over ~~\$2,500.00~~ \$5,000.00 and under not exceeding \$10,000.00.** State agencies that have an internal CPO or a designated CPO through an interagency agreement and approved internal purchasing procedures pursuant to the requirements of 580:15-6-2 and 580:15-6-3 shall make acquisitions over \$5,000.00 and not exceeding Ten Thousand Dollars (\$10,000.00) pursuant to this subsection. All awards shall be based on lowest and best or best value criteria.

(1) **Solicitations.** The state agency shall prepare and document the state agency's specifications for an acquisition.

(A) The state agency shall provide ~~a complete set of the~~ the specifications, terms and conditions for the acquisition to each supplier selected for notification.

(B) Any competitive bid for goods or services shall contain a non-collusion certification.

(2) **Supplier selection.** The state agency shall solicit a price quote from a minimum of three suppliers, which may be from the registered supplier list in the appropriate commodity classification compiled by the Purchasing Division and made available to state agencies. Selection of suppliers shall be rotated. Suppliers that have been suspended or debarred by the State Purchasing Director, the Oklahoma Tax Commission or the Federal government shall not be solicited.

(3) **Pricing.** State agencies shall solicit prices and delivery dates by mail, telephone, facsimile or by means of electronic commerce. The state agency shall ~~secure the suppliers'~~ obtain documentation of the pricing and delivery dates ~~in writing or document price quotation and delivery dates~~ from the suppliers.

(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.

(5) **~~Contracts~~ Verification and documentation.** If the state agency and the supplier execute a contract for the acquisition, the supplier shall provide a non-collusion certification pursuant to 74 O.S., Section 85.22. The certification shall have an authorized signature certifying the non-collusion statement with full knowledge and acceptance of all its provisions.

(A) **Sales Tax Permit Verification.** Prior to the award of a contract, the state agency must verify that the supplier has obtained a current sales tax permit in accordance with the laws of Oklahoma. Documentation of verification of a current sales tax permit, which must be a copy of the sales tax permit, the vendor's explanation of exemption, or confirmation of the permit's status obtained from the Oklahoma Tax Commission, must be filed in the acquisition file.

(B) **~~Verification and documentation.~~** ~~Sales tax verification may be confirmed through the link provided on the Department of Central Services' website or by calling the Oklahoma Tax Commission for assistance. Verification of the sales tax permit must be documented in the acquisition file.~~

(C) **Services contracts.** Additional documents required to be included in contracts for professional or nonprofessional services include:

(i) If the final product of a professional services contract is a written proposal, report or study, the supplier shall ~~provide~~ include a ~~sworn~~ statement certifying that the supplier has not previously provided a substantial duplication of the final product to the state agency or another state agency. [Reference 74 O.S. Section 85.41]

(ii) An acquisition for professional or nonprofessional services must include statutory language required by the Oklahoma Central Purchasing Act as a term of the requisition or contract and must be signed by the chief administrative officer of the agency or the chief administrative officer of the requisitioning unit certifying compliance with the Act. [Reference 74 O.S. Section 85.4]

(iii) Each contract for services shall include ~~an affidavit~~ a statement 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. [Reference 74 O.S. Section 85.42]

(6) **Delivery documentation.** The state agency shall receive a delivery document from the supplier stating, at a minimum, the date of the delivery, the name and address of the supplier, and a description of the acquisition. The state agency shall note the delivery date and person receiving the acquisition on the delivery document.

(7) **Supplier payment.** The state agency shall pay the supplier following receipt, inspection, and acceptance of the acquisition by the state agency and upon receipt of a proper invoice from the supplier.

(d) **Acquisitions over \$10,000.00 and under not exceeding \$25,000.00.** State agencies that have an internal CPO or a designated CPO through an interagency agreement and approved internal purchasing procedures pursuant to the requirements of 580:15-6-2 and 580:15-6-3 shall make acquisitions exceeding \$10,000.00 but not exceeding \$25,000.00 in accordance with this subsection. All awards shall be based on lowest and best or best value criteria.

(1) **Solicitations.** The state agency shall prepare and document the state agency's specifications for an acquisition. The state agency shall provide ~~a complete set of the~~ specifications, terms and conditions for the acquisition to each supplier selected for notification. Whenever the state agency issues a solicitation for acquisition by invitation to bid or request for proposal, the solicitation shall also include:

(A) evaluation criteria for the acquisition; and,

(B) a non-collusion certification pursuant to 74 O.S., Section 85.22 and the provisions of 580:15-4-7(c).

(2) **Supplier selection.** 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. Selection of suppliers shall be rotated. Suppliers that have been suspended or debarred by the State Purchasing Director, the Oklahoma Tax Commission or the Federal government shall not be ~~solicited~~ awarded a contract.

(3) **Pricing.** State agencies shall solicit prices and delivery dates by mail, ~~telephone~~, facsimile or by means of electronic commerce. The suppliers shall provide pricing and delivery dates in ~~writing~~ accordance with the requirements of the solicitation.

(4) **Non-Collusion certification.** Any state agency solicitation that is competitively bid shall contain a non-collusion certification statement pursuant to 74 O.S., Section 85.22. A supplier shall complete and submit the non-collusion certification with their response to the solicitation. The certification shall have an authorized signature certifying the non-collusion statement with full knowledge and acceptance of all its provisions.

(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. When a selection has been made, the state agency shall notify the supplier of the award.

(6) **Contracts Verification and documentation.** If the state agency and the supplier execute a contract for the acquisition, the contract must include the non-collusion certification, signed and submitted with the solicitation pursuant to 580:15-4-7(c) and 74 O.S., Section 85.22.

(A) **Sales Tax Permit Verification.** Prior to the award of a contract, the state agency must verify that the supplier has obtained a current sales tax permit in accordance with the laws of Oklahoma. Documentation of verification of a current sales tax permit, which must be a copy of the sales tax permit, the vendor's explanation of exemption, or confirmation of the permit's status obtained from the Oklahoma Tax Commission, must be filed in the acquisition file.

~~(B) **Verification and documentation.** Sales tax verification may be confirmed through the link provided on the Department of Central Services' website or by calling the Oklahoma Tax Commission for assistance. Verification of the sales tax permit must be documented in the acquisition file.~~

~~(C) **Services contracts.** Additional documents required to be included in contracts for professional or nonprofessional services include:~~

~~(i) If the final product of a professional services contract is a written proposal, report or study, the supplier shall ~~provide~~ include a ~~sworn~~ statement certifying that the supplier has not previously provided a substantial duplication of the final product to the state agency or another state agency. [Reference 74 O.S. Section 85.41]~~

(ii) An acquisition for professional or nonprofessional services must include statutory language required by the Oklahoma Central Purchasing Act as a term of the requisition or contract and must be signed by the chief administrative officer of the agency or the chief administrative officer of the requisitioning unit certifying compliance with the Act. [Reference 74 O.S. Section 85.4]

(iii) Each contract for services shall include ~~an affidavit~~ a statement 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. [Reference 74 O.S. Section 85.42]

(7) **Delivery documentation.** The state agency shall receive a delivery document from the supplier stating, at a minimum, the date of the delivery, the name and address of the supplier, and a description of the acquisition. The state agency shall note the delivery date and person receiving the acquisition on the delivery document.

(8) **Supplier payment.** The state agency shall pay the supplier following receipt, inspection, and acceptance of the acquisition by the state agency and upon receipt of a proper invoice from the supplier.

(e) **Additional information:**

~~(1) **Split purchases.** State agencies shall not make split purchases for the purpose of evading their approved dollar threshold for competitive bids. Conviction for making an acquisition by split purchase is a felony pursuant to the Oklahoma Central Purchasing Act.~~

~~(2) **Change orders.** Contracts including component or phased deliveries may be increased by an amount that does not exceed ten percent (10%) of the total acquisition purchase price. In determining the ten percent (10%) dollar amount, the cumulative value of all change orders shall be compared to the original total acquisition price. All other contracts may be increased only if the change order does not exceed the scope of the original solicitation.~~

~~(A) **Acquisitions by a state agency.** If a change order would increase the total contract dollar amount above the dollar amount requiring the state agency to submit a requisition to the State Purchasing Director, the state agency shall seek approval of the State Purchasing Director prior to issuing the change order.~~

~~(B) **Acquisitions by the Purchasing Division.** If a requested change order exceeds ten percent (10%) in a contract that includes component or phased deliveries or exceeds the scope of the original solicitation, the State Purchasing Director may deny the requested change order and notify the state agency. The State Purchasing Director may deny a requested change order which exceeds the scope of the original solicitation.~~

~~(3) **Fixed rates.** The Department may approve service acquisitions as qualifying for a fixed rate pursuant to the provisions of Oklahoma Central Purchasing Act.~~

~~(4) **Acquisitions from another governmental agency.** A state agency may contract with a political division or subdivision, agency of the United States or another state agency pursuant to 74 O.S., Section 581 or Sections 1001 through 1008. Acquisitions shall not be made for the purpose of evading competitive bidding requirements, provisions of the Oklahoma Central Purchasing Act, rules of the Purchasing Division or provisions related to the State Use Committee.~~

~~(5) **Recycled materials.** State agencies shall procure products or materials with recycled content as stated in the Oklahoma State Recycling and Recycled Material Procurement Act, when such products or materials are available and practical. Upon request, the State~~

~~Purchasing Director shall supply information regarding acquisitions that contain recycled materials to a state agency.~~

~~(6) **Trade-ins.** State agencies may trade in items when they make an acquisition of a like item with prior written approval of the State Purchasing Director. The state agency shall determine fair market value for the trade-in item and receive that amount or more as credit on the purchase price of the acquisition. The state agency may seek advice from the State Purchasing Director to determine fair market value of the trade-in.~~

~~(7) **OneNet acquisitions.** State agencies may make acquisitions through OneNet pursuant to provisions of the Oklahoma Central Purchasing Act.~~

~~(8) **Authorized signature.** State agencies shall provide the State Purchasing Director with a current original Authorized Signature Form, (DCS/Purchasing Form 001). The form shall be dated and identify the name, title, and signature of those individuals designated by the appointing authority to sign and approve requisitions, purchase orders, sole source affidavits, change order requests, and surplus property transactions. The State Agency shall submit an updated form to the State Purchasing Director within 30 days of any change in the authorized signatures.~~

Acquisitions over \$25,000.00 and not exceeding \$50,000.00. State agencies that have an internal CPO or a designated CPO through an interagency agreement and approved internal purchasing procedures pursuant to the requirements of 580:15-6-2 and 580:15-6-3 shall make acquisitions exceeding \$25,000.00 but not exceeding \$50,000.00 in accordance with this subsection. All awards shall be based on lowest and best or best value criteria.

(1) **Solicitations.** The state agency shall prepare and document the state agency's specifications for an acquisition. The state agency shall provide the specifications, terms and conditions for the acquisition to each supplier selected for notification. Whenever the state agency issues a solicitation for acquisition by invitation to bid or request for proposal, the solicitation shall also include:

(A) evaluation criteria for the acquisition; and,

(B) a non-collusion certification pursuant to 74 O.S. Section 85.22 and the provisions of 580:15-4-7(c).

(2) **Supplier selection.** The state agency shall solicit all 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. Suppliers that have been suspended or debarred by the State Purchasing Director, the Oklahoma Tax Commission or the Federal government shall not be awarded a contract.

(3) **Pricing.** State agencies shall solicit prices and delivery dates by mail, facsimile or by means of electronic commerce. The suppliers shall provide pricing and delivery dates in accordance with the requirements of the solicitation.

(4) **Non-Collusion certification.** Any state agency solicitation that is competitively bid shall contain a non-collusion certification statement pursuant to 74 O.S. Section 85.22. A supplier shall complete and submit the non-collusion certification with their response to the solicitation. The certification shall have an authorized signature certifying the non-collusion statement with full knowledge and acceptance of all its provisions.

(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. When a selection has been made, the state agency shall notify the supplier of the award.

(6) Verification and documentation. If the state agency and the supplier execute a contract for the acquisition, the contract must include the non-collusion certification, signed and submitted with the solicitation pursuant to 580:15-4-7(c) and 74 O.S., Section 85.22.

(A) Sales Tax Permit Verification. Prior to the award of a contract, the state agency must verify that the supplier has obtained a sales tax permit in accordance with the laws of Oklahoma. Documentation of verification of a current sales tax permit, which must be a copy of the sales tax permit, the vendor's explanation of exemption, or confirmation of the permit's status obtained from the Oklahoma Tax Commission, must be filed in the acquisition file.

(B) Services contracts. Additional documents required to be included in contracts for professional or nonprofessional services include:

(i) If the final product of a professional services contract is a written proposal, report or study, the supplier shall provide a sworn statement certifying the supplier has not previously provided a substantial duplication of the final product to the state agency or another state agency.

(ii) An acquisition for professional or nonprofessional services must include statutory language required by the Oklahoma Central Purchasing Act as a term of the requisition or contract and must be signed by the chief administrative officer of the agency or the chief administrative officer of the requisitioning unit certifying compliance with the Act. [Reference: 74 O.S., Section 85.41.]

(iii) Each contract for services shall include a statement 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.

(7) Delivery documentation. The state agency shall receive a delivery document from the supplier stating, at a minimum, the date of the delivery, the name and address of the supplier, and a description of the acquisition. The state agency shall note the delivery date and person receiving the acquisition on the delivery document.

(8) Supplier payment. The state agency shall pay the supplier following receipt, inspection, and acceptance of the acquisition by the state agency and upon receipt of a proper invoice from the supplier.

(f) Acquisitions over \$50,000.00 and not exceeding \$100,000.00. State agencies that have an internal CPO or a designated CPO through an interagency agreement and approved internal purchasing procedures pursuant to the requirements of 580:15-6-2 and 580:15-6-3 shall send a written request to the State Purchasing Director to request acquisition authority exceeding \$50,000.00 but not exceeding \$100,000.00. The State Purchasing Director shall consider the agency's internal purchasing procedures, procurement training and certifications of the agency's procurement staff, and any other information deemed necessary by the State Purchasing Director to make the determination to approve or disapprove the request. If approved, the agency shall make acquisitions at this level in accordance with 74 O.S. Section 85.7, any other applicable state laws, and subsection (g) of this Section. All awards shall be based on lowest and best or best value criteria.

580:15-6-6.1. Acquisition limitation exception

(a) A state agency making an acquisition pursuant to 74 O.S. Section 85.5(T) must have an internal CPO and approved internal purchasing procedures pursuant to the requirements of 580:15-6-2 and 580:15-6-3, in addition to the subject matter experts, legal and procurement staff required by law.

(b) Prior to making an acquisition pursuant to this subsection, a state agency shall submit in writing to the Director of the Department of Central Services, a statement of their intent to make an acquisition pursuant to 74 O.S. Section 85.5(T). The agency may only proceed with the acquisition upon receipt of certification by the Director that the proposed purchase does not conflict with consolidated statewide spend initiatives.

(c) Agencies making a purchase pursuant to this section shall comply with procurement rules and policies of the Department of Central Services.

(d) An agency shall submit a report in electronic format to the State Purchasing Director on a quarterly basis, which lists all contracts issued pursuant to this section. The report shall be submitted by the 5th business day of each new quarter.

580:15-6-6.2 Additional information

(a) **Split purchases.** State agencies shall not make split purchases for the purpose of evading their approved dollar threshold for competitive bids. Split purchasing for the purpose of evading competitive bidding requirements is a felony [74 O.S. §85.7(A)(2)(a)].

(b) **Change orders.** Contracts including component or phased deliveries may be increased by an amount that does not exceed ten percent (10%) of the total acquisition purchase price. In determining the ten percent (10%) dollar amount, the cumulative value of all change orders shall be compared to the original total acquisition price. All other contracts may be increased only if the change order does not exceed the scope of the original solicitation.

(1) **Acquisitions by a state agency.** If a change order would increase the total contract dollar amount above the dollar amount requiring the state agency to submit a requisition to the State Purchasing Director, the state agency shall seek approval of the State Purchasing Director prior to issuing the change order.

(2) **Acquisitions by the Purchasing Division.** If a requested change order exceeds ten percent (10%) in a contract that includes component or phased deliveries or exceeds the scope of the original solicitation, the State Purchasing Director may deny the requested change order and notify the state agency. The State Purchasing Director may deny a requested change order which exceeds the scope of the original solicitation.

(c) **Fixed rates.** The Department may approve service acquisitions as qualifying for a fixed rate pursuant to the provisions of Oklahoma Central Purchasing Act.

(d) **Acquisitions from another governmental agency.** A state agency may contract with a political division or subdivision, agency of the United States or another state agency pursuant to 74 O.S., Section 581 or Sections 1001 through 1008. Acquisitions shall not be made for the purpose of evading competitive bidding requirements, provisions of the Oklahoma Central Purchasing Act, rules of the Purchasing Division or provisions related to the State Use Committee.

(e) **Recycled materials.** State agencies shall procure products or materials with recycled content as stated in the Oklahoma State Recycling and Recycled Material Procurement Act, when such products or materials are available and practical. Upon request, the State Purchasing Director shall supply information regarding acquisitions that contain recycled materials to a state agency.

(f) **Trade-ins.** State agencies may trade in items when they make an acquisition of a like item with prior written approval of the State Purchasing Director. The state agency shall determine fair market value for the trade-in item and receive that amount or more as credit on the purchase price of the acquisition. The state agency may seek advice from the State Purchasing Director to determine fair market value of the trade-in.

(g) **OneNet acquisitions.** State agencies may make acquisitions through OneNet pursuant to provisions of the Oklahoma Central Purchasing Act.

(h) **Authorized signature.** State agencies shall provide the State Purchasing Director with a current original Authorized Signature Form, (DCS/Purchasing Form 001). The form shall be dated and identify the name, title, and signature of those individuals designated by the appointing authority to sign and approve requisitions, purchase orders, sole source affidavits, change order requests, and surplus property transactions. The State Agency shall submit an updated form to the State Purchasing Director within 30 days of any change in the authorized signatures.

(i) **Agency savings reporting.** On October 1, 2010 and October 1 of each year thereafter, the chief administrative officer of each state agency shall submit an electronic report to the State Purchasing Director listing savings realized by the agency in the previous fiscal year through the application of best spend practices. The State Purchasing Director will define the report content required to collect savings data from state agencies, which will include but may not be limited to:

- (1) total spend by commodity; and,
- (2) participation in mandatory statewide contracts.

580:15-6-10. State agency acquisitions processed by the Central Purchasing Division processes

(a) State agencies that do not have a CPO and/or approved internal purchasing procedures pursuant to the requirements of 580:15-6-2 and 580:15-6-3 shall submit requisitions for acquisitions exceeding ~~Two Five Thousand Five Hundred Dollars (\$2,500.00)~~ (\$5,000.00) to the State Purchasing Director. State agencies whose acquisition authority has been reduced by the Director shall submit all acquisitions exceeding the established authority dollar amount to the State Purchasing Director. All acquisitions exceeding ~~twenty-five thousand dollars (\$25,000.00)~~ the state agency's authorized spending limit shall be submitted to the State Purchasing Director.

(1) **Forms.** State agencies shall use forms for requisitions provided or approved by the State Purchasing Director.

(2) **Services requisition requirements.** If the state agency requisitions professional or nonprofessional services, the state agency shall submit a requisition or contract signed by the state agency's chief administrative officer or the chief administrative officer of the requisitioning unit certifying to each requirement of the Central Purchasing Act.

(3) **Additional requisition information.** The State Purchasing Director may require a state agency to submit additional information with a requisition.

(4) **Requisition acceptance or rejection.** The State Purchasing Director shall accept or reject a state agency's requisition. The State Purchasing Director shall notify the state agency if the State Purchasing Director rejects a requisition.

(5) **Competitive bid evaluation.** The State Purchasing Director shall evaluate bids and may request assistance of the state agency.

(6) **Competitive bid award.** The State Purchasing Director shall award a contract, as the solicitation specifies, to the responsible bidder that provides the lowest and best, or best value bid.

(7) **State agency notification.** The State Purchasing Director shall notify the state agency of the successful bidder by purchase order following the award of contract.

(b) The Department may contract with a state agency for the services of qualified personnel to assist or conduct purchasing activities for the agency upon request by the agency or in the event the State Purchasing Director determines the needs of the agency are such to require qualified procurement personnel. [74 O.S. §85.3] The state agency shall reimburse administrative costs to the Department for the services of employees necessary to provide procurement services pursuant to this subsection.

580:15-6-14. State travel

The State Travel Office is within the Purchasing Division. The Travel Office awards contracts to for travel and travel services. State agencies shall make travel arrangements through contract travel agencies for commercial air travel for state employees in the course of official duties or for persons traveling at state expense.

(1) **State agency travel coordinator.** The State Purchasing Director encourages state agencies to appoint one or more travel coordinators. The coordinators shall book air travel for the state agency except in case of an emergency. If the state agency appoints a travel coordinator, the state agency shall notify the Travel Office and provide the coordinator's name, mailing address, telephone number, and facsimile number.

(2) **State travel zones.** The Travel Office shall divide the state into geographic zones. The zone served by the travel agency shall be indicated in the statewide contract.

(3) **Airline ticket purchases.** State agencies shall purchase airline tickets from contract travel agencies within the zone of the state agency location.

(4) **Airline ticket purchases exceptions.** The state agency shall determine when an exception to airline ticket purchase shall apply. The state agency shall retain documents the state agency uses in exception determination pursuant to 580:15-6-4.

(A) If the state agency can acquire air travel at less cost than the contract travel agency, the state agency may use this exception.

(B) If air travel originates outside the state and it is impractical for the state agency, the state agency may use this exception.

(C) If air travel is due to an emergency and time does not permit use of the contract travel agency, the state agency may use this exception.

(D) If air travel is part of a package arrangement by an organization that schedules a meeting or conference, the state agency may use this exception.

~~(5) **State agency credit card for airline travel.** The State Purchasing Director encourages state agencies to acquire from the Travel Office and use a state travel credit card issued in the name of the state agency to book and pay for airline travel. The Travel Office shall provide a state agency that acquires a state travel credit card provisions for credit card use.~~ A state agency that acquires a state travel credit card to book and pay for official airline travel shall complete mandatory training as required by the Department of Central Services and comply with all State Purchase Card procedures issued by the Department.

580:15-6-21. Information Technology (IT)

(a) Procurement.

(1) To ensure accessibility of information technology for individuals with disabilities and compliance with Title 62, Section 41.5t, procurement of information technology shall be subject to the Oklahoma Information Technology Accessibility Standards prescribed by the

Office of State Finance and maintained by the OSF Information Services Division. These standards apply to all information technology purchased after the effective date of these rules and standards, providing the solicitation process was not initiated prior to the effective date.

(2) When developing and procuring information technology products (either directly or through administration of contracts or grants) a product, each state agency, as defined in Title 62, Section 41.5t.1., shall ensure that the products comply with all applicable standards, unless an undue burden would be imposed on the agency.

(3) When procuring a product, the accessibility determination will be conducted as part of the evaluation. Accessibility will be considered among the general, technical and functional requirements of the procurement specifications. At a minimum, it will be done through review of vendor provided information submitted in the form of a Voluntary Product Accessibility Template (VPAT) or comparable document with judgments made regarding degree of conformance to the access standards. The relative accessibility weighing may be adjusted for due cause based on the specific procurement. Agencies cannot claim a product, as a whole, is not commercially available because no product in the marketplace meets all the standards.

(b) Contract clauses.

(1) All solicitations and contracts for information technology shall include a clause, prescribed by the Director pursuant to Title 74, Section 85.7d, ensuring compliance with applicable IT Accessibility Standards, which are in effect on the date of issuance of said solicitation or contract.

(2) The information technology clause(s) and IT Accessibility Standards shall be made available at the principle office of the DCS Central Purchasing Division and published on the DCS website.

(3) A supplier shall provide a written certification, signed by an authorized officer of the supplier, that the product or service complies with applicable IT standards required by such contracts or solicitations prior to the expenditure of state funds. An agency may also utilize a VPAT published on a supplier's primary website. A VPAT obtained from a supplier website shall be good for a one-year period.

(c) Exceptions.

(1) If a state agency determines that compliance with any provisions of the IT Accessibility Standards imposes an undue burden or qualifies as an exception pursuant to this section, the agency shall submit a written explanation of why, and to what extent, such undue burden or exception exists, with its requisition.

(A) The explanation shall be submitted on a form prescribed by the Director and signed by the chief administrative officer of the agency or an employee of the agency to which responsibility for Section 508 compliance has been delegated..

(B) The explanation shall be retained with the requisition file.

(2) Unless an exception applies, acquisitions of IT supplies and services must meet the applicable accessibility standards. Exceptions to the Standards include:

(A) IT operated by state departments or agencies, the function, operation or use of which involves intelligence activities, crypto logic activities related to public safety, command and control of law enforcement, equipment that is an integral part of a weapon or weapons system or systems which are critical to the direct fulfillment of public safety or intelligence missions. Systems which are critical to the direct fulfillment of public safety or intelligence missions do not include a system that is to be used for routine

administrative and business applications (including payroll, finance, logistics and personnel management applications);

(B) IT acquired by a contractor or grantee incidental to a contract or grant, provided the technology does not become State property upon the completion of the contract;

(C) IT located in spaces frequented only by service personnel for maintenance, repair or occasional monitoring of equipment;

(D) IT requiring a fundamental alteration in the nature of a product or its components;

(E) Except as required to comply with the Standards, state departments and agencies are not required to install specific accessibility-related software or attach an assistive technology device to information technology products unless required by other applicable State or Federal laws;

(F) When state agencies provide public access to information or data through information technology, agencies are not required to make products owned by the agency available for access and use by individuals with disabilities at a location other than where the information technology is provided to the public, or to purchase products for access and use by individuals with disabilities at a location other than where the information technology is provided to the public;

(G) IT that would impose an undue burden on the agency.

(d) **Documentation of exceptions.** If an agency determines that compliance with any provision of the IT Accessibility Standards meets the criteria of a general exception, the agency shall maintain documentation in the agency acquisition file to support the procurement, which explains why, and to what extent, compliance with each such provision meets an exception or creates an undue burden on the agency. Agencies are encouraged but not required to maintain documentation for commercial off the shelf acquisitions of ~~\$2,500.00~~ \$5,000.00 or less unless the purchase is part of an existing contract or affects a larger EIT system where accessibility is critical.

(e) **Alternative means of access.** When compliance with these standards imposes an undue burden, agencies shall provide individuals with disabilities the information and data involved by an alternative means of access that allows an individual to use the information and data in accordance with other applicable State and Federal laws such as Title I and Title II of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act.