

**OKLAHOMA**  
**DEPARTMENT**  
**OF**  
**CENTRAL SERVICES**  
**CENTRAL PURCHASING**  
**EMERGENCY RULES**

**Approved by the Governor and Effective:  
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**UNOFFICIAL**

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

**SUBCHAPTER 2. GENERAL PROVISIONS**

**580:15-2-2. Definitions**

The following words or terms, when used in this Chapter shall have the following meaning, unless the context clearly indicates otherwise:

**"Acceptable Electronic Signature Technology"** means technology that is capable of creating a signature that is unique to the person using it; is capable of verification, is under the sole control of the person using it, and is linked to the data in such a manner that if the data is changed, the electronic signature is invalidated.

**"Acquisition authority"** means the dollar amount within which a state agency is approved to make acquisitions without submitting a requisition to the State Purchasing Director.

**"Affiliates"** means associated business entities or individuals that directly or indirectly control or can control other business entities, or individuals that associate with a business entity but derive financial benefit from another business entity.

**"Aircraft"** means any device now known, or hereafter invented, used, or designed for navigation of or flight in the air or airspace.

**"All or none bid"** means a bid in which the bidder states only an award for all items or services included in the solicitation will be accepted.

**"All or none solicitation"** means a solicitation in which the state indicates it will award a contract to a single supplier for all items or service included in the solicitation.

**"Alternate bid"** means that with the submission of a bid that meets the requirements of the solicitation, a bidder, at the same time, includes another bid, which contains an intentional substantive variation to a basic provision, specification, term or condition of the solicitation.

**"Authorized signature"** means a manual, electronic or digital identifier uniquely linked to a person the supplier authorizes to sign documents the supplier submits to the State Purchasing Director.

**"Bid bond", "performance bond" or "surety bond"** means a form of surety or guaranty that the State Purchasing Director may require bidders to submit with a bid.

**"Business days"** means Monday through Friday and is exclusive of weekends and state holidays.

**"Certified procurement officer or CPO"** means a state agency procurement official certified by the State Purchasing Director under the provisions of the Oklahoma Central Purchasing Act.

**"Clarification"** means a bidder's explanation of all or part of a bid that does not change, alter or supplement the bid.

**"Closing date"** means the date and time a solicitation specifies after which a bid is considered late and the Purchasing Division or state agency will not accept a bid.

**"Commodity classification"** means numeric designations the State Purchasing Director assigns to classify goods and services into similar categories.

**"Commodity list"** means a list of all items and services in a commodity classification.

**"Competitive bidding"** means a process of acquisition wherein bidders submit bids to the Purchasing Division or a state agency pursuant to terms, conditions and other requirements of a solicitation. The competitive bidding process may be electronic when the terms of the solicitation expressly permit electronic submission and the requirement of the statutes and/or rules are met.

**"Days"** means calendar days unless otherwise specified.

**"Debar"** or **"debarment"** means action taken by the State Purchasing Director to exclude any business entity from inclusion on the suppliers list, bidding, offering to bid, or receiving an award of contract with the State of Oklahoma for acquisitions by state agencies or a contract the Department of Central Services awards or administers.

**"Department"** means the Department of Central Services.

**"Director"** means the Director of the Department of Central Services.

**"Electronic Record"** means a record created, generated, sent, communicated, received, or stored by electronic means.

**"Electronic Signature"** means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record. Unless otherwise provided by this Chapter or law, an electronic signature may be used to sign a document and shall have the same force and effect as a written signature.

**"Emergency acquisition"** means an acquisition made by the State Purchasing Director or a state agency without seeking competitive bids to relieve an unforeseen condition believed to endanger human life, safety poses imminent danger to significant property or is condition certified by the Governor as a serious environmental situation.

**"Firm bid"** means an offer by a bidder which contains no conditions which may prevent acceptance and which, by its terms, remains open and binding until the State Purchasing Director accepts or rejects the bid.

**"Fiscal year"** means the period of time from July 1 of a calendar year through June 30 of the succeeding calendar year.

**"Fixed rate"** means a rate the Department establishes for contracts for services a supplier provides to persons directly benefiting from the services.

**"Forms"** means documents the Director prescribes and requires suppliers and state agencies to use to provide information to the Department or Purchasing Division.

~~**"Information Technology"** means data processing, telecommunications, and office systems technologies and services.~~

**"Information technology" or "IT"** *means any electronic information equipment or interconnected system that is used in the acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information, including audio, graphic, and text. [62 O.S., Section 41.5t.1]*

**"Internet"** means the global information network of both federal and nonfederal systems that are linked together by a globally unique address and includes the subnetwork called the World Wide Web.

**"Invitation to bid"** means a type of solicitation a state agency or the State Purchasing Director sends to suppliers for submission of bids for acquisitions.

**"Life Cycle Costing"** means a procurement technique that takes into account demonstrable and documented operating, maintenance, the cost of money, other costs of ownership, usage, resale or residual value in addition to acquisition price in making an award on lowest and best or best value.

**"Material deficiency"** means failure to provide information necessary to evaluate a solicitation.

**"Minor deficiency" or "minor informality"** means an immaterial defect in a bid or variation in a bid from the exact requirements of a solicitation that may be corrected or waived without prejudice to other bidders. A minor deficiency or informality does not affect the price, quantity, quality, delivery or conformance to specifications and is negligible in comparison to the total cost or scope of the acquisition.

**"Noncollusion affidavit"** means a document a supplier submits pursuant to the Oklahoma Central Purchasing Act with bids or for acquisitions by contract.

**"Nonbinding contract"** means a contract that the State Purchasing Director or a state agency establishes based on historical usage of a service or product rather than a specified quantity of said service or product and which does not obligate the State to purchase any certain amount. (Example: A contract to treat special head injuries based on the number of cases for the special treatment provided by the State for previous years.)

**"Nonencumbered contract"** means a contract that the State Purchasing Director or a state agency establishes that provides for an unspecified quantity of items or services, or an unspecified delivery date for goods and services, when a state agency encumbers funds for each order pursuant to the contract.

**"Nonresponsive"** means a bid that does not conform to essential requirements in a solicitation.

**"Office of State Finance" or "OSF"** means the Oklahoma Office of State Finance.

**"Oklahoma Central Purchasing Act"** means 74 O.S., Sections 85.1 et seq.

**"Oklahoma Correctional Industries"** means a program of the State Department of Corrections for utilization of inmate labor for the manufacture or production of items or products for use by state agencies.

**"Oklahoma Information Technology Accessibility Standards" or "IT Accessibility Standards" or "Standards"** means the accessibility standards adopted by the Office of State Finance together with the Department of Central Services, to address all technical standard categories of Section 508 of the Rehabilitation Act (29 U.S.C. 794d), as amended by the Workforce Investment Act of 1998 (P.L. 105-220), August 7, 1998 to be used by each state agency in the procurement of information technology, and in the development and implementation of custom-designed information technology systems, web sites, and other emerging information technology systems.

**"Online Bidding"** means an electronic procurement process in which state agencies receive bids from vendors for goods, services, construction, or information services over the Internet or other electronic medium in a real-time, competitive bidding event.

**"Procurement"** means buying, purchasing, renting, leasing, or otherwise acquiring any goods, services, construction, or information services. The term also means all functions that pertain to the obtaining of any goods, services, construction, or information services, including, but not limited to, the description of requirements, selection, and solicitation of sources, preparation and award of contracts, and all phases of contract administration.

**"Purchasing Division" or "Division"** means the Purchasing Division of the Department of Central Services.

**"Ratification"** means the act of approving an unauthorized commitment made by a state agency.

**"Reciprocity"** means a preference, which the State Purchasing Director shall apply against the price an out of state bidder submits for an acquisition whose home state applies a similar preference against Oklahoma bidders.

**"Registered supplier"** means a supplier that registers with the Purchasing Division pursuant to 580:15-4-2.

**"Remedy"** means to cure, alter, correct or change.

**"Request for proposal"** means a type of solicitation a state agency or the State Purchasing Director provides to suppliers requesting submission of proposals for acquisitions.

**"Request for quotation"** means a simplified written or oral solicitation a state agency or the State Purchasing Director sends to suppliers requesting submission of a quote.

**"Requisition number"** means an identifier the state agency or Purchasing Division assigns to a requisition.

**"Requisitioning unit"** means the unit in a state agency responsible for making acquisitions.

**"Responsive offer"** means an offer a supplier submits, which conforms in all material respects to requirements a solicitation states.

**"Responsible supplier"** means a supplier who demonstrates capabilities in all respects to fully perform the requirements of a contract that may include, but not be limited to, finances, credit history, experience, integrity, perseverance, reliability, capacity, facilities and equipment, which will ensure good faith performance.

**"Reverse Auctioning"** means a procurement method wherein bidders are invited to bid on specified goods or services through real-time electronic bidding, with the award being made to the lowest responsive and responsible bidder. During the bidding process, bidders' prices are revealed and bidders shall have the opportunity to modify their bid prices for the duration of the time period established for bid opening.

**"Scheduled acquisition"** means a recurring acquisition that consolidates multiple state agency requirements for a given commodity or group of commodities.

**"Services"** means the furnishing of labor, time, or effort by a contractor not required to deliver a specific end product, other than reports which are merely incidental to required performance.

**"Settlement agreement"** means a document that reflects an agreement between the state and an individual or business entity that ratifies an unauthorized commitment.

**"Solicitation"** means a request or invitation by the State Purchasing Director or state agency for a supplier to submit a priced offer to sell acquisitions to the state. A solicitation may be an invitation to bid, request for proposal or request for quotation.

**"State official"** means a person that works for a department, state agency, trusteeship, authority, school district, fair board, advisory group, task force or study group supported in whole or in part by public funds or administering or operating public property.

**"State Purchasing Director"** means the director of the Purchasing Division of the Department of Central Services appointed by the Director of the Department or the Purchasing Director's designee.

**"State Use Committee"** means a committee that certifies severely disabled individuals and sheltered workshops as qualified organizations that contract with the state to provide products and services made by severely disabled individuals, and establishes the State Use Committee procurement schedule for state agency use pursuant to 74 O.S., Sections 3001 et seq.

**"Supplier complaint"** or **"performance evaluation"** means information a state agency or the Purchasing Division provides to the State Purchasing Director, in a manner the Director prescribes, that documents supplier performance.

**"Supplier registration"** means a process a supplier uses to register with the Purchasing Division to receive solicitations for commodities on a commodity list for a specified period of time. The process for bidder registration for the receipt of online solicitations may be a separate list. Online bidders may be required to prequalify and online solicitations may be restricted to prequalified online bidders.

**"Suppliers list"** means a list of individuals or business entities that desire notification of solicitations for specified commodity lists.

**"Suspension"** means action by the State Purchasing Director to exclude an individual or business entity from the suppliers list.

**"Written, Writing, and in Writing"** shall include handwriting, printing, typewriting and all other methods and means of forming letters and characters upon paper, stone, wood, other

materials, or any electronic medium, that can be read, retrieved, and reproduced. When used in these rules, a writing may include an electronic writing.

## **SUBCHAPTER 6. STATE AGENCY PROVISIONS**

### **580:15-6-21. Procurement of information technology**

(a) 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.

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

(c) When procuring a commercial, off-the-shelf product, the accessibility determination will be conducted as part of the objective evaluation and will be subservient to 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 the 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.

### **580:15-6-22. Information technology contract clauses**

(a) 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 IT Accessibility Standards, which are in effect on the date of issuance of said solicitation or contract.

(b) 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.

(c) A supplier shall provide a written certification, signed by an authorized officer of the supplier, that the product or service complies with applicable procurement clauses contained in such contracts or solicitations prior to the expenditure of state funds.

### **580:15-6-23. Exception to compliance with IT Accessibility Standards**

(a) If a state agency determines that compliance with any provisions of the IT Accessibility Standards imposes an undue burden or is an exception pursuant to OAC 580:15-6-24, the agency shall submit a written explanation of why, and to what extent, such undue burden or exception exists, with its requisition.

(1) The explanation shall be submitted on a form prescribed by the Director and signed by the chief administrative officer of the agency.

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

(b) The Appointing Authority shall maintain summary and statistical information of procurement exceptions and undue burden. A report of such information shall be submitted on October 1st each year to DCS and to the OSF Information Services Division with the annual State Agency Long-Range Electronic Data Processing Plan.

**580:15-6-24. General exceptions**

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

(1) 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);

(2) 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;

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

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

(5) 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;

(6) 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 that where the information technology is provided to the public;

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

(b) 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.

(c) 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 the 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.