

Doing Business with

THE STATE OF
OKLAHOMA

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WHO ARE THE PROCUREMENT AUTHORITIES WITHIN THE STATE OF OKLAHOMA?

The three primary procurement authorities for the State of Oklahoma are all divisions of the Office of Management and Enterprise Services (OMES). The three divisions responsible for the bulk of Oklahoma purchasing activities are:

DIVISION OF CAPITAL ASSETS MANAGEMENT (DCAM)

INFORMATION SERVICES DIVISION (ISD)

CENTRAL PURCHASING DIVISION (CPD)*

**The bulk of this document addresses CPD's processes. Other state procurement entities are reviewed in the next section to inform vendors of each organization's function; however, further information should be sought from the specific entity.*

DIVISION OF CAPITAL ASSETS MANAGEMENT

The primary statutory powers and duties of DCAM are set forth in Section 61.2 of Title 74 of Oklahoma statutes. It is the successor to the Office of Public Affairs, the State Board of Public Affairs and the Department of Central Services.

DCAM assists customers in accomplishing their missions by providing essential services and quality solutions through procurement, facilities management, real estate administration, property construction, fleet services, risk management, property re-utilization, and printing and mailing solutions.

INFORMATION SERVICES DIVISION

ISD is governed by Title 62 Chapter 1, O.S. §34.11.4 et seq. Also, see section 41.50 et seq., (destruction of electronic media). ISD is responsible for all acquisitions of information technology (IT) services and equipment as well as all telecom (wireless, cable and land-lines) for the entire state. HB 1304, also known as the *Information Technology Consolidation and Coordination Act*, transferred responsibility for IT and telecom purchases to ISD in May 2011.

THE LANGUAGE OF THE ACT IS SUMMARIZED BELOW:

- No state agency shall expend or encumber any funds for the purchase, lease, lease-purchase, lease with option to purchase, rental or other procurement of any information technology assets without the prior written approval of the chief information officer.
- No state agency shall initiate or implement an information technology planned project without the prior written approval of the chief information officer.

CENTRAL PURCHASING DIVISION

CPD is governed by the Oklahoma Central Purchasing Act, Title 74 O.S. §85.1 et seq. The rules for CPD can be found in Title 580 Chapter 16. With the exception of the Department of Transportation (roads and bridges), CPD is responsible for the balance of state acquisitions.

The division has two primary acquisition responsibilities. The first responsibility is to assist state agencies with acquisitions outside their purchase authority. Agencies are typically limited to a \$50,000 threshold for individual acquisitions. Agency needs beyond the \$50,000 threshold are sent to CPD for processing.

The second acquisition responsibility is the solicitation and award of indefinite delivery/indefinite quantity (IDIQ) statewide contracts. CPD solicits competitive bids for items purchased by a multitude of state agencies and provides opportunities for vendors to sell unlimited quantities of products or services. For more information, please visit http://www.ok.gov/DCS/Central_Purchasing/CP_Processes,_Rules_&_Statutes.

OTHER OMES PROCUREMENT ENTITIES:

AGENCY BUSINESS SERVICES (ABS)

ABS was created to support agencies that do not have full-time purchasing support on staff. ABS operates in a similar fashion as CPD; however, their primary focus is to make acquisitions on behalf of state agencies. Acquisitions made by ABS typically fall inside the \$50,000 threshold unless the acquisition is a release of a pre-existing statewide contract or, for some other reason, is exempt from competitive bid.

THE OFFICE OF STATE USE

The Oklahoma Legislature created the State Use Committee to administer a procurement program that promoted meaningful and gainful employment opportunities for persons with severe disabilities (74 O.S. § 3001 et seq.). Statutes require employment of a CPD contracting officer, appointed by the state purchasing director with the advice of the State Use Committee, to solicit, develop and negotiate purchasing contracts with qualified entities.

The committee certifies disabled individuals and qualified sheltered workshops for the program. It also designates a procurement schedule of suitable products directly manufactured, produced, processed or assembled and services directly performed, offered, or provided by a qualified entity. Funding for the program is directly related to vendor sales. One percent (1%) of all sales are deposited into the State Use Revolving Fund for the specific purpose of promoting the program.

WHERE CAN I LEARN ABOUT STATE AGENCY MISSIONS?

It is important to review the mission statements of the various state agencies in order to fully understand how your products or services could be of value. To review agency missions, visit OK.gov and click the *State Agency* link at the top of the page. The page populates with links to all state agencies. Click on the specific agency of interest to access its website.

WHERE DO I FIND BUSINESS OPPORTUNITIES?

Opportunities for products or services valued at more than \$50,000 annually are located on the CPD website located at: <https://www.ok.gov/dcs/solicit/app/index.php>. On the left side of the solicitation search page is a link to current statewide contracts. Award documents indicate the vendor, the amount of the award, the term of the award and the contracting officer responsible for the contract.

Opportunities for acquisitions valued at less than \$50,000 annually can be solicited by individual state agencies through their websites; however, all agencies are also encouraged to use the CPD site listed above. Vendors can monitor the CPD website for opportunities or register for automatic notifications of specific commodity solicitations. See the following section for more information on vendor registration.

ONCE I FIND AN OPPORTUNITY, WHAT ARE THE NEXT STEPS?

All the information you need to respond to a published opportunity is included in the posted solicitation. All solicitations contain the contact information of the contracting officer responsible for the solicitation. Also included is a brief description of the products or services being solicited and a timeline of critical dates related to the products or services.

RESPONDING TO A SOLICITATION OPPORTUNITY:

READ THE TERMS AND CONDITIONS

The state has made considerable progress in implementing a standard solicitation package for non-IT/telecom acquisitions. General terms and conditions are listed within Section A of the solicitation package and should be fairly consistent from one solicitation to the next.

Section B contains special provisions and is unique to each solicitation. If the terms stated within Section B are in conflict with terms in Section A, Section B provisions prevail.

BEING RESPONSIVE

Being responsive to a bid submission means the vendor has complied with all the requirements listed within the solicitation. The primary components of responsiveness include the submission of a bid prior to the deadline for submission, a complete cost proposal, as well as a Workers' Compensation Insurance certificate or explanation of exempt status. Some minor deviations, e.g., missing signatures or amendment acknowledgments, can be remedied at the discretion of the state purchasing director after submission. Acceptable deviations do not enhance a vendor's competitiveness.

The intent of the state is to promote a broad base of competition by being as inclusive as possible while maintaining a level playing field for all bidders. Responsiveness requires strict adherence to all requirements preceded by *will* or *shall*. Adherence to requirements preceded by *may* or *should* are desired, but if not met, do not affect a vendor's responsiveness.

BONDING

CPD may require a performance bond or irrevocable letter of credit equal to the amount of the award to ensure contract performance. Bond requirements within a solicitation cannot be waived.

VENDOR RESPONSIBILITIES

All solicitations have a question and answer period designed to address any ambiguities within the solicitation. Great care is given to the construction of the specifications for each solicitation to ensure they are not overly restrictive and do not limit competition. Any vendor who believes specifications are overly restrictive or too specific to a particular product or service can bring this to the attention of the contracting officer during the question and answer period. Specifications that are deemed to restrictive can be modified by amendment prior to the closing of the solicitation.

All questions regarding a solicitation must be submitted in writing to the contracting officer listed in the solicitation. All questions, along with the state's response, are posted in the form of amendments or incorporated into the solicitation which is then reposted to the website. Questions must be received by the noted deadline. Questions received after the deadline are not considered.

INSURANCE

As outlined in the specific solicitation, contractors may be required to obtain and retain:

- **Workers' Compensation Insurance**
- **Automobile Liability Insurance**
- **Medical Malpractice Insurance**
- **General Liability Insurance**

If required, the State of Oklahoma must be named as a certificate holder. Special acquisitions may require additional insurance or special limits. All insurance shall be in accordance with Oklahoma statutes.

AWARD TYPES — AGENCY AND STATEWIDE:

CPD is responsible for processing two types of acquisition awards:

- Acquisition awards processed on behalf of other state agencies
- Statewide acquisition awards

CPD assists state agencies in processing their awards when solicitation amounts are in excess of designated procurement thresholds. CPD also assists when an agency lacks the appropriate staff or expertise to make a particular acquisition. Acquisitions made on behalf of a state agency are managed by the individual agency and not by CPD. CPD becomes involved only when there are issues between the vendor and the agency that cannot be resolved.

CPD is also responsible for the solicitation and award of indefinite delivery/indefinite quantity (IDIQ) statewide contracts. CPD solicits competitive bids for items purchased by a multitude of state agencies and provides opportunities for vendors to sell unlimited quantities of products or services. Within each solicitation, historical sales data is provided that typically represents what vendors can expect for future sales. Since forward sales cannot be guaranteed, these contracts are designated IDIQ; however, once these statewide contracts are in place, state agencies can make acquisitions with no restrictions regarding volume or dollars. CPD is responsible for the administration of these statewide contracts and typically assesses a one half of 1 percent fee for contract administration.

WHAT IS THE DIFFERENCE BETWEEN A SOLE SOURCE AND A SOLE BRAND ACQUISITION?

Sole source acquisitions refer to certain products or services that are available from only one source. An example might include follow up services from an incumbent provider when negotiating a new contract would result in considerable delays or additional costs. Sole source contracts by their very nature are not competitively bid and must be approved by the chief administrative officer prior to acquisition. Additionally, these types of acquisitions must meet one of eight sole source exceptions to qualify the acquisition as in the best interest of the state.

On the other hand, sole brand acquisitions typically involve products that may be offered by several manufacturers or distributors; however, they must be a specific brand. Generally, sole brand acquisitions are competitively bid.

WHAT IS THE DIFFERENCE BETWEEN AN ITB, RFP, AND RFI?

ITB is an invitation to bid. ITBs are typically used when price is the primary consideration. ITBs are for sole brand acquisitions or when no consideration (evaluation) of other factors beyond price is required.

RFP is a request for proposal, and it is used when factors such as quality, functionality, stability, technical competence, etc., are a part of the evaluation process. Each solicitation lists important evaluation criteria in the evaluation section of the RFP. Typically, evaluation factors are listed in the order of their importance; however, the weight attached to each individual factor is not disclosed in the solicitation.

RFI is simply a request for information. An RFI is issued when additional information is required before a solicitation package can be constructed. RFIs represent a non-binding process that explores the acquisition solutions available and solicits information from the vendor community.

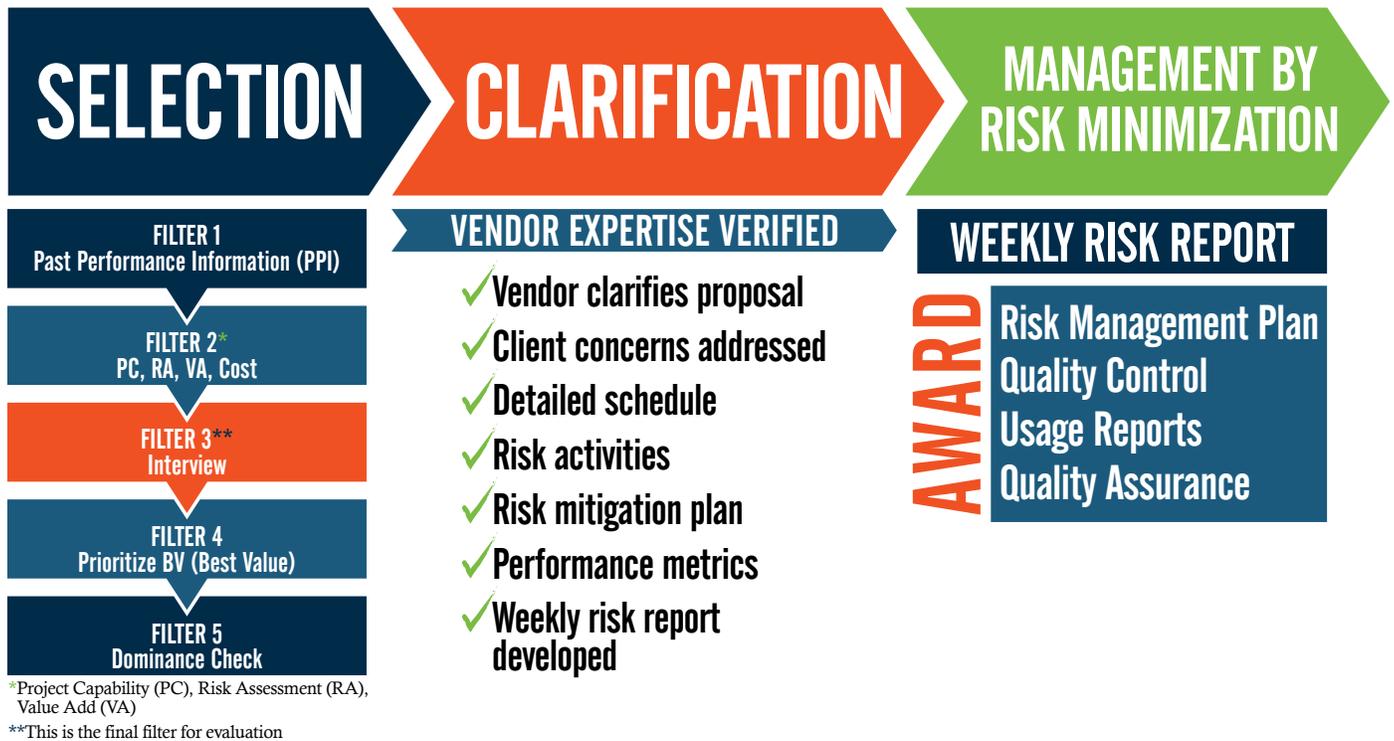
BEST VALUE — PIPS

Another tool CPD uses to tap the expertise of the vendor community is the Best Value – PIPS process. Since 2009, the State of Oklahoma has partnered with Arizona State University’s affiliate, Performance Based Studies Research Group, to utilize the Performance Information Procurement System (PIPS). The state uses this procurement process when there is a lack of expertise to develop the extensive specifications of the desired products or services. The PIPS process helps find the expertise required to address these types of issues when they arise.

The PIPS specification becomes a statement of objective. The initial submission is comprised of a six page project capability submittal, certain past performance information, cost, and a milestone schedule. PIPS ultimately requires vendors to write a detailed delivery plan, but does not require that plan with the initial submission.

All projects processed utilizing the PIPS process begin with vendor education to provide additional detail on submission requirements.

PERFORMANCE INFORMATION PROCUREMENT SYSTEM (PIPS)



EVALUATION OF SUBMISSIONS

During the creation of a solicitation, bidding entities are required to create an evaluation scoring tool that is consistent with the requirements of the proposal. The scoring tool must document the points associated with each component, the weights associated with each component, or a combination of both points and weights. Components of the scoring tool are conveyed to vendors in the evaluation section of the solicitation package and are customarily listed in order of importance. Scoring of proposals is usually done by a committee of agency personnel which includes agency end users.

NEGOTIATIONS

Most solicitations note the potential for additional negotiations. Whether stated or not, Oklahoma statutes allow for the negotiation of both ITB and RFP solicitations. Vendors are encouraged to offer aggressive pricing since the potential to negotiate is not assured. Solicitation responses are evaluated based on originally submitted prices. Aggressive price submissions give vendors the best opportunity to win an award. Vendors are not required to provide additional discounts even when a best and final offer is requested. Pricing is not the only component that may need to be negotiated. The terms and conditions of the solicitation can also be negotiated.

Any vendor who takes exception to a specific term or condition within the solicitation should make their exception clearly known by placing their objection in their executive summary, cover letter or any place readily apparent to the state when the response is opened. Exceptions buried within the terms and conditions are not considered. Also, keep in mind, some terms are required by state statute and refusal to accept these terms may render a vendor's submission non-responsive.

ALTERNATE BIDS

State agencies generally have a good understanding of how their mission is to be accomplished and may craft specifications that wholly satisfy their objectives. Vendors may, in turn, have some knowledge of an alternate method or product that accomplishes the objective but materially differs from the original request. In the event a vendor has a second option that meets an agency's objective, an alternative bid can be submitted; however, each bid must include all requirements. Referencing a primary bid to complete an alternative bid is prohibited.

REGISTRATION WITH THE STATE OF OKLAHOMA

All vendors who are interested in pursuing a state contract must review the requirements for registration with the Oklahoma Secretary of State (SOS) and the Oklahoma Tax Commission (OTC). Some vendors may be exempt from SOS and/or OTC registration. It is the responsibility of each vendor to make the determination of an exempt status. Vendors are encouraged to contact their financial advisor for advice regarding their eligibility for exempt status. For more information regarding registration with the SOS or OTC, please contact each agency respectively.

Although it is not required in order to submit a bid, all vendors must register for bid notification and provide their payment information prior to any award. Vendors who have not registered are given time to register once they have been selected for an award. Registration can be completed online through the CPD's website at http://www.ok.gov/DCS/Central_Purchasing/Vendor_Registration/index.html.

WHAT IS REQUIRED FOR BID NOTIFICATION REGISTRATION?

Vendors can register for bid notifications online at the link listed above. The multi-step registration process is broken into various modules, including a bank account module, that can be saved and returned to if a vendor is unable to complete the registration process during their initial attempt. To register for the bid notification registration, please have the following information available:

- **A current email address; it is best to have a generic email address that is accessible by multiple individuals within your organization**
- **Secretary of State Registration Number or explanation of your exempt status**
- **Oklahoma Sales Tax Permit Number or explanation of your exempt status**
- **Workers' Compensation Insurance Certificate (PDF) or explanation of exempt status**

There is currently a \$25 fee for each family code vendors register. Each registration is valid for one year, and the system notifies vendors when their registration is nearing expiration. Allow a few days for registrations to appear within the state financial system.

Within the registration system, solicitation opportunities are driven by the United Nations Standard Products and Services Codes (UNSPSC). The UNSPSC international coding system for products and services is used to notify vendors of opportunities. While registration is accomplished at the family code level, family codes are broken down into class codes which are then broken into commodity codes.

For example, the family code *live animals* is broken into the class code *livestock* which is further defined at the commodity code level as *cows, horses, cats, dogs, etc.* Commodity codes are also used to quantify the purchases the state makes for each specific commodity. This coding system allows the state to better quantify opportunities for vendors. For more information, visit <http://www.unspsc.org/default.aspx>.

Also, once registered, vendors can set up access to the state's PeopleSoft application. Through the application, vendors can track information about bid notices and payments in process, as well as other information specific to their organization. Currently, the PeopleSoft application allows the state to provide vendors with automatic, electronic notices of opportunities and will eventually allow vendors to submit electronic bid responses. It is the vendor's responsibility to keep contact information within the system updated so they receive timely bid notifications.

PURCHASE THRESHOLDS

Oklahoma uses a center-led, decentralized purchasing model. Agencies with a certified procurement officer (CPO) on staff and internal purchasing procedures in place have the authority to purchase up to a \$50,000 threshold with no assistance from CPD. There is also an exception process whereby the state purchasing director can authorize an agency to make acquisitions in excess of \$50,000. There are specific requirements for agencies in regard to acquisition dollar thresholds, and they are as follows:

- **<\$5,000 is a fair and reasonable acquisition and requires no formal bid. CPOs are required to document any efforts to ensure the purchase was fair and reasonable.**
- **>\$5,000 up to \$10,000 requires notification to at least three registered vendors.**
- **>\$10,000 up to \$25,000 requires a formal solicitation and notification to at least ten registered vendors.**
- **>\$25,000 up to \$50,000 requires a formal bid and notification to all registered vendors.**

Regardless of the dollar projection, all vendors receive notification of all solicitations issued by CPD.

HOW LONG DOES IT TAKE FROM BID CLOSING TO AWARD?

ITBs that are primarily price-based selections can be awarded fairly quickly after bid closing. RFPs typically take longer because of the length of the submissions and the complexity of the evaluations. Once bids are evaluated and scored, the state can choose to negotiate with the top respondents which can also delay the award. In typical solicitations, the state asks vendors to hold pricing for 90 days. While it is rare that awards are not made within the 90-day time frame, should a delay occur, vendors may be asked if pricing can be extended beyond the 90 days.

CPD has the ability to notify responsive, non-awarded vendors when an award has been made. To sign up for notifications, visit the CPD website at <https://www.ok.gov/dcs/solicit/app/index.php> and click the *Notify Me* button in the solicitation detail of the opportunity you are tracking. After clicking *Notify Me*, you are required to supply an email address. Once you input your email address, you are sent email notifications when amendments are posted and an award for that solicitation is made.

DEBRIEFING

All awards made through CPD solicitations are posted on CPD's website. Vendors can search award pages for useful information including the following:

- Contracting officer responsible for the award and their contact information
- Description of the award
- Pricing information
- Term of the contract

The contracting officer listed on the solicitation provides a debriefing of your unsuccessful bid should you wish to better prepare for the next opportunity.

OPEN RECORDS ACT REQUESTS

Be aware that most solicitation documentation within CPD is available through Open Records Act Requests. Records that contain confidential information should be marked as such by the vendor if they wish to keep information confidential. Personal information and proprietary formulas or processes are typically deemed confidential. The state purchasing director makes the final determination as to whether information is indeed confidential. Marking entire bid submissions confidential is counter productive and does not exempt bids from Open Records Act Requests.

Vendors who request solicitation records through an Open Records Act Request are charged \$0.25 per page for the documents. The more specific a request is, the quicker it can be processed. Please note that the state is not required to *create* documentation and must be given a *reasonable* amount of time to process these requests. When documents are requested for the specific intent of protesting an award, CPD makes a good faith effort to provide documents in a timely manner.

PROTESTING AN AWARD

CPD takes the solicitation process very seriously and does everything possible to maintain a fair and open process. Although CPD employs very strict guidelines and processes to establish and maintain level playing fields, occasionally mistakes are made. While a very small percentage of award protests result in the need for action, if there is an error in the evaluation or tabulation process, it is corrected as soon as it is brought to light.

Any vendor who submits a solicitation bid, but does not receive the award, has the right to submit a protest to the state purchasing director. Protests must be submitted within ten days following the official award date. The purchasing director has ten days to respond. If a protest is denied, the vendor has the right to appeal to the director of OMES. The director may request a review by an administrative law judge who provides recommendations for a resolution. Taking the judge's recommendations into consideration, the director makes the final decision regarding the protest.

STATE PURCHASE CARD (P-CARD)

A state purchase card (P-Card) is a form of credit card used by authorized state personnel to purchase most types of goods and services. The state has authorized the card to be used for *fair and reasonable* acquisitions, with no dollar limit on payments for purchases of products or services under statewide contract. Additionally, it can be used for payments to regulated utilities. P-Cards are exempt from state tax, and purchases can be made in person or over the Internet or telephone.

Generally, solicitations ask if payments made with a P-Card are accepted. Acceptance of a P-Card does not provide any advantage in the scoring of your response and likewise, does not hurt your chances of winning an award. Oklahoma's FEI number is #736017987.

WHEN DO I GET PAID?

The state is required to pay vendors within 45 days of the date of an approved invoice. As required by state law, all vendor payments must be transmitted electronically.

Any vendor who receives payment outside the 45-day time frame is eligible to receive interest. Claims for interest payment must be submitted within 90 days.