DEPARTMENT OF CENTRAL SERVICES

CENTRAL PURCHASING

OAC 580:15
Administrative Rules

Effective June 25, 2007

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DEPARTMENT OF CENTRAL SERVICES
CHAPTER 15. CENTRAL PURCHASING

SUBCHAPTER 2. GENERAL PROVISIONS

580:15-2-1. Purpose

This ~~Chapter~~ subchapter provides information to suppliers that desire to sell acquisitions to state agencies, and to state agencies to ensure compliance with provisions of the Oklahoma Central Purchasing Act. These rules of the Purchasing Division of the Department of Central Services conform to requirements of the Oklahoma Central Purchasing Act, 74 O.S., Sections 85.1 et seq. Promulgation of these rules is by the Director of the Department of Central Services and pursuant to 74 O.S., Section 85.5, 74 O.S., Section 85.45s and 62 O.S., Section 41.5t.

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.

"Alteration" means a written modification to a contract.

"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.

"**Amendment**" means a written change, addition, alteration, correction, or revision to a solicitation issued by the state agency responsible for making the acquisition. The terms addendum and amendment are synonymous.

"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, 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" <u>or **"DCS"**</u> 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<u>;</u> 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.

<u>**"Indefinite quantity contract"** means a contract 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.</u>

"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" or **"ITB"**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" or **"material deviation"** 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" or **"OCI"** 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.

"**Original Signature"** means a manual handwritten symbol or mark by a person that serves as an identifier of that person, or an authorized electronic signature, from which a copy may be made.

"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 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.

"Statement of Work" means a detailed description of the work which a state agency requires a contractor or supplier to perform or accomplish.

"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.

580:15-2-6. Bid submission document open for public inspection

(a) Documents a supplier submits in a bid are public records and shall be available for review, upon request, after a supplier is selected and the bid is awarded. ~~All bids submitted electronically~~ An electronic bid submitted through the online bidding process ~~are~~ is subject to the same public disclosure laws. ~~The State Purchasing Director may designate bidder's financial information or proprietary information confidential and reject all requests to disclose the information so designated. [74 O.S., Section 85.10].~~

(b) If the bidder submits information in a response to a solicitation that the bidder considers confidential or proprietary, the bidder shall:

(1) specifically identify what information is confidential or proprietary upon each page containing confidential or proprietary information;

(2) enumerate the specific grounds, based on applicable laws which support treatment of the material as exempt from disclosure, and explain why disclosure is not in the best interest to the public; and

(3) conspicuously mark on the outside of the bid packet to indicate it contains confidential information.

(c) The State Purchasing Director shall review the information and may or may not designate bidder's financial information or proprietary information confidential and may or may not reject all requests to disclose the information so designated. [74 O.S., Section 85.10].

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~~ 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 ~~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 ~~consolidation contracts, enterprise agreements, and high technology system~~ contracts ~~in lieu of or in conjunction with bidding procedures~~ by noting in the solicitation that negotiations ~~will~~ may be conducted and by following these rules for negotiation. Negotiations may be conducted with ~~a supplier or~~ one or more suppliers ~~whose technical and price proposals are acceptable~~. A state agency may conduct negotiations 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) 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) The lead negotiator may require suppliers to submit a best and final offer.

(G) 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) 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

580:15-4-2. Supplier registration

(a) **General.** The Purchasing Division shall place a registered supplier on the suppliers list for each commodity class for which a supplier registers. The Division shall provide the supplier information for each commodity class for which the supplier desires to register. Except in an emergency or pursuant to a waiver, the Division shall notify registered suppliers of invitations to bid or requests for proposal for each commodity class for which a supplier registers.

(b) **Registration**. Suppliers shall submit supplier registration forms to the Purchasing Division. The State Purchasing Director shall not place a supplier on the supplier list if the supplier provides incomplete information or if the State Purchasing Director determines the supplier is not responsible.

(c) **Registration fee**. Suppliers shall pay an annual fee as set by 74 O.S., §85.33 to the Purchasing Division for each commodity class for which the supplier registers.

~~(d) Registration expiration. Supplier registration shall expire on December 31 of each calendar year.~~

~~(e)~~ (d) **Voluntary removal from suppliers list**. Suppliers may request the Purchasing Division remove them from the suppliers list for a commodity.

~~(f)~~ (e) **Registration fee refunds.** The Purchasing Division shall not refund supplier registration fees.

580:15-4-4. Supplier provisions

(a) **Supplier relationship restrictions**. The Oklahoma Central Purchasing Act prohibits some suppliers from supplying acquisitions to a state agency pursuant to 74 O.S., Section 85.3.

(1) Supplier is an employee of the Purchasing Division. An employee of the Purchasing Division shall not sell to or otherwise provide an acquisition to a state agency ~~pursuant~~ subject to the Oklahoma Central Purchasing Act.

(2) Purchasing Division employee is an owner of the supplier. An employee of the Purchasing Division shall not be an employee, partner, associate, officer or stockholder ~~of~~ in or with a business entity that sells to or otherwise provides an acquisition to a state agency ~~pursuant~~ subject to the Oklahoma Central Purchasing Act.

(3) Purchasing Division employee's spouse or child owns stock in a supplier. The spouse or child of an employee of the Purchasing Division shall not be a stockholder of ~~a~~ any business entity ~~that~~ which sells to or otherwise provides an acquisition to a state agency ~~pursuant~~ subject to the Oklahoma Central Purchasing Act.

(4) Purchasing Division employee's relative is an employee of, or a stockholder of a supplier. A relative within the third degree, whether by consanguinity or affinity, of an employee of the Purchasing Division shall not sell to or otherwise provide an acquisition ~~or owns an interest in a business entity shall not sell acquisitions~~ to a state agency ~~pursuant~~ subject to the Oklahoma Central Purchasing Act or own an interest in any business entity which does so. This prohibition shall not apply if ~~the~~ such relative, excluding a spouse or child, owns stock ~~ownership~~ worth ~~does not exceed~~ Five Thousand Dollars ($5,000.00) or less, or One Percent (1%) or less, whichever amount is the lesser amount, of the ~~total~~ stock of ~~the~~ a corporation or any business entity which sells to or otherwise provides acquisitions to any state agency subject to the Oklahoma Purchasing Act~~, whichever is less~~.

(b) **One year limitation for contracts with state officials**. A state agency shall not enter into a sole source contract, a professional service contract or a contract for the services of a state official for one year after the termination date of the state official from the state agency. A state agency may enter into a sole source contract, contract for professional services or a contract for the services of a person at any time with a person that is a qualified interpreter for the deaf [74:85.42(D)].

(c) **Supplier gratuities**. A supplier shall not give or donate anything of value to an employee of the Department or a member of the immediate family of an employee of the Department ~~[74:85.13]~~ [74 O.S., §85.13].

(1) The Purchasing Director shall suspend or debar a supplier convicted of a violation pursuant to this provision.

(2) The Purchasing Director shall reject bids of a supplier convicted of a violation of this provision. The Purchasing Director may terminate a contract with the supplier convicted of a violation of this provision, if the termination shall be in the best interest of the state agency.

580:15-4-5. Bid solicitation

(a) **General.** The Purchasing Division shall comply with provisions of the Oklahoma Central Purchasing Act and rules the Department promulgates pursuant to the Oklahoma Central Purchasing Act to ensure fair competition for suppliers. When a state agency purchasing agent determines that electronic or online bidding is more advantageous than other procurement methods provided by the laws of this state, the purchasing agent may use online bidding to obtain bids as authorized by the Oklahoma Central Purchasing Act for the purchase of goods, services, construction, or information services.

(b) **Competitive solicitations**. The State Purchasing Director shall issue solicitations for acquisitions by invitation to bid, request for proposal or request for quotation.

(c) **Supplier notification.**

(1) **Registered suppliers**. The State Purchasing Director shall notify suppliers of solicitations for commodity classes for which the supplier registers.

(2) **Suppliers a state agency recommends**. The State Purchasing Director may notify suppliers a state agency recommends for a solicitation.

(3) **Emergency notification.** For an emergency acquisition pursuant to 74 O.S. §85.7(4), the State Purchasing Director or a state agency shall select a supplier or a group of suppliers to notify utilizing telephone, facsimile or electronic commerce.

(4) **Notification pursuant to a waiver.** When the State Purchasing Director issues a waiver pursuant to 580:15-2-11, the State Purchasing Director or a state agency may select a supplier or group of suppliers to notify using telephone, facsimile or electronic commerce.

(5) **Amendments to a solicitation.** If the State Purchasing Director amends a solicitation, the State Purchasing Director shall notify suppliers sent the original solicitation of the amendment. Suppliers submitting bids or quotations shall acknowledge receipt of an amendment in the supplier's bid or quotation. If the supplier has already submitted a bid, the supplier shall submit an acknowledgment of the amendment prior to the closing date.

(d) ~~Bid award criteria~~ **Evaluation method**. ~~The State Purchasing Director shall indicate in the solicitation whether the bid award criteria is lowest and best, or best value.~~ The State Purchasing Director shall ensure that an evaluation method is clearly identified in any solicitation. The method shall be one of the following:

(1) lowest and best; or,

(2) best value.

(e) **Specifications.** Solicitations shall include specifications or a statement of work. The State Purchasing Director may reference manufacturer names, product names, or other product references as specifications to describe the type or quality of the acquisition.

(f) **Terms and Conditions**. The State Purchasing Director shall include all the terms and conditions for the acquisition in the solicitation.

(1) **Copyrights, patents or intellectual property.** If an acquisition includes copyrights, patents or intellectual property rights pursuant to federal law, the solicitation shall request conditions of use for the acquisition.

(2) **Other terms and conditions.** The State Purchasing Director may not accept supplier terms and conditions in a supplier's bid. No alterations or variations of the terms of the contractor shall be valid or binding upon the state, unless made in writing and accepted by the State Purchasing Director.

(3) **Other rights and remedies.** Actions of the State Purchasing Director shall not limit the rights or remedies of a state agency.

(4) **Rejection of all bids.** If the State Purchasing Director finds it to be in the best interest of the State of Oklahoma, any ~~and~~ or all bids or proposals may be rejected and a solicitation may be reissued or canceled.

(g) **Affidavit.** The Purchasing Director shall include a noncollusion affidavit form in a solicitation. The noncollusion affidavit shall be submitted to the Division with any bid or proposal. The noncollusion affidavit shall have an original signature of an authorized person, signed in ink, and notarized with full knowledge and acceptance of all its provisions. A facsimile or photocopy of an original signature will not be accepted.

~~(h) High technology systems. The State Purchasing Director shall state in a solicitation if the acquisition is a high technology system.~~

~~(i)~~ (h) **Pre-bid conference.** The State Purchasing Director shall state in a solicitation if the State Purchasing Director shall hold a supplier pre-bid conference and shall state whether supplier attendance is mandatory or ~~optional~~ non-mandatory

~~(j)~~ (i) **Shipping.** Bidders shall deliver the acquisition F.O.B. destination to the receiving state agency unless otherwise specified in the solicitation.

~~(k)~~ (j) **Closing date.** The State Purchasing Director shall provide notice to suppliers in the solicitation of the closing date, time and location of a bid opening. In the event it is determined that a significant error or event occurred that affected the electronic receipt of an online bid, the Director of Central Services may authorize the Division to accept an electronic bid after the specified official closing date and time. Failure of the bidder's computer or electronic equipment or service is not an acceptable event.

~~(l)~~ (k) **Sample submission.** For acquisitions of items or products, the solicitation may specify submission of samples of the required items or products to the State Purchasing Director.

(1) **Sample receipt.** If a bidder submits a sample, the bidder shall submit the sample to the Purchasing Division prior to the closing date.

(2) **Sample identification.** The bidder shall identify the sample the bidder submits with the bidder's name, bidder's address, state bid identification number and closing date. The supplier shall place the information on the sample container and on the sample shipping container.

(3) **Sample costs.** The bidder shall pay costs for the sample and submission to the State Purchasing Director.

(4) Sample requirements. A sample a bidder submits to the Purchasing Division shall represent the quality of the whole.

(5) Sample tests. ~~The State Purchasing Director shall use standard testing procedures to determine the quality of a sample a bidder submits.~~ Whenever testing is determined necessary by the State Purchasing Director, appropriate standard testing procedures will be used.

(6) Sample tests costs. If the sample a bidder submits to the Purchasing Division fails to meet the specification or standards the solicitation requires, the bidder shall pay testing costs the Purchasing Division incurs.

(7) Unsuccessful bidder samples.

(A) Bidder requests sample return. Bidders may request that the State Purchasing Director return samples examination does not destroy.

(B) State Purchasing Director retains sample. The State Purchasing Director may retain samples that bidders submit that examination does not destroy.

(C) State Purchasing Director returns sample. The State Purchasing Director may return samples that bidders submit that examination does not destroy. Bidders shall pay costs the Division incurs for sample return.

(8) Successful bidder samples. The State Purchasing Director may retain samples the successful bidder submits to ensure that acquisitions the successful bidder delivers meet specifications in the solicitation.

(9) The State Purchasing Director, with input from the requisitioning agency, shall make the final determination whether a sample meets the solicitation specifications.

~~(m)~~ (l) Subcontractor notice. If a solicitation specifies submission of information for subcontractors a bidder intends to use for an acquisition, the supplier shall provide the information in the supplier's bid.

580:15-4-6. Bid preparation

(a) General. A bid a supplier submits to the Purchasing Director shall agree to all terms and conditions the solicitation specifies.

(b) Forms the Purchasing Director requires suppliers to submit. The Purchasing Director shall include forms in the solicitation suppliers shall submit with the supplier's bid.

(c) Additional form requirements.

(1) Data the supplier submits.

(A) The solicitation shall indicate all information the supplier shall submit with the supplier's bid.

(B) All form information entries shall be in ink.

(C) Information the supplier submits shall be legibly hand written, typewritten or printed and shall meet all terms and conditions of the solicitation.

(D) Should the supplier alter form or bid information, the supplier shall initial each alteration.

(2) Authorized signature. A form a supplier submits with the supplier's bid to the Purchasing Division shall bear an authorized signature. Any form requiring a supplier's signature submitted ~~in a bid~~ to the Purchasing Division shall have an authorized signature.

(3) Notary seal. If a form specifies notarization, the form shall bear the signature and seal of a licensed Notary Public in the manner state laws of the bidder's state specify.

(d) ~~Entire contract~~ Contract. The ~~entire~~ contract the State Purchasing Director awards pursuant to a solicitation shall consist of the following contract documents: invitation to bid, or request for proposal or request for quotation~~,~~ ; Purchasing Division attachments including, but not limited to, amendments, change orders or modifications~~,~~; the supplier's bid or quotation with attachments, reviewed and approved by the State Purchasing Director; and, the purchase order the State Purchasing Director issues. A contract the State Purchasing Director awards ~~shall~~ may incorporate by reference all provisions of the Oklahoma Central Purchasing Act and rules of the Purchasing Division.

(e) Firm bid for sixty (60) days. The Purchasing Director shall consider a supplier's bid a firm bid for sixty (60) days following the bid closing date.

(f) Bidder travel expenses. The price a bidder submits in response to a solicitation shall include travel expenses for the bidder to perform the contract. The state shall not pay travel expenses the bid price does not include.

(g) Tax exemptions. State agency acquisitions are exempt from sales taxes ~~[68:1365]~~ [68 O.S., §1365] and federal excise taxes [Chapter #.32, Internal Revenue Code #73-73-016-3K]. Bidders shall not include these taxes in price quotes. The Purchasing Director shall supply tax exemption certificates to bidders if the bidder requests.

(h) Payment terms. State agencies shall pay suppliers pursuant to 62 O.S., Section 41.4a, et seq. Suppliers shall not consider a payment late until forty-five (45) days after state agency receipt of invoice.

(i) Bonds. The solicitation may require bidders to submit a bid bond, performance bond, or other type of surety bond with the bid.

(1) Form of bond. The bid bond, performance bond or other type of surety bond shall be ~~a certified check, cashiers check, bid bond or annual performance bond~~ subject to the approval of the State Purchasing Director. For bonds requiring a cash deposit, the amount specified by the State Purchasing Director shall be paid by certified check or cashiers check.

(2) Irrevocable letter of credit. In lieu of bonds specified in this subsection, the State Purchasing Director may approve submission of an irrevocable letter of credit.

~~(2)~~ (3) Bond return. When the State Purchasing Director specifies ~~that~~ a bid contain a bid bond, performance bond, or other type of surety bond, the State Purchasing Director shall retain the bond until the successful completion of the purpose for which the bond was drawn.

(j) Used or new products. A bid shall offer new items of current design unless the solicitation specifies used, reconditioned or remanufactured products are acceptable.

(k) Price. Unless the solicitation specifies otherwise, a bidder shall submit a firm, fixed price for the term of the contract.

(l) Alternate bids. Unless the solicitation prohibits, a bidder may submit alternate bids. If a bidder submits an alternate bid, the alternate bid shall ~~not refer to information in the primary or any~~

~~other alternate bid. The alternate bid shall~~ be a complete bid. The bidder shall ~~indicate~~ clearly identify an alternate bid. If the bidder submits more than one alternate bid, the bidder shall number each alternate bid as "Alternate Bid 1", "Alternate Bid 2", etc.

(m) All or none bid.

(1) Award to more than one bidder. If the solicitation specifies that the Purchasing Director may award a contract to more than one bidder, the bidder may indicate on the bid that terms and conditions of the bid are all or none.

(2) Award by item. If the solicitation indicates that the Purchasing Director may award the bid to more than one bidder by item, the bidder may indicate that the terms and conditions of the bid are all or none.

(n) High technology systems.

(1) New high technology system. The Purchasing Director shall not evaluate a bid for a high technology system unless the bid ~~meets the requirements of this paragraph.~~ includes a statement of work and:

(A) ~~Bidder system~~ System upgrade schedule. ~~Bidders shall provide documentation~~ Documentation by the bidder of the projected schedule of recommended or required ~~system~~ upgrades or improvements to the high technology system ~~for the~~ over a projected ~~three (3) year~~ three-year period following the target purchase date~~.~~ ; or,

(B) ~~Bidder plans no~~ No system upgrades. Documentation that ~~If~~ the bidder does not plan any recommended or required ~~projected~~ system upgrades or improvements to the high technology system, ~~the bidder shall provide documentation in the bid that the bidder plans no system upgrades to the high technology system for the three (3) year~~ over a projected three-year period following the target purchase date.

(2) High technology system upgrades. The State Purchasing Director shall not evaluate a bid for an upgrade to a high technology system unless the bid ~~meets the specifications of this subparagraph.~~ includes a statement of work and:

~~(A) Bidders statement regarding state agency duties. If the intent of the high technology system upgrade is to enhance the state agency's performance, the bidder shall provide documentation that the upgrade shall enhance or is necessary for performance of the state agency's duties and responsibilities.~~

~~(B) Bidder statement regarding bidder, assistance. If the bidder does not intend to assist the state agency to maintain a high technology system, the bidder shall provide documentation that the bidder will no longer assist the state agency to maintain the high technology system.~~

~~(C) State agency statement. The state agency shall supply documentation to the Purchasing Director that the functions the high technology system performs are necessary for the performance of state agency duties and responsibilities.~~

~~(D) Additional system upgrade requirements. A supplier may agree to a provision of this subparagraph.~~

~~(i) The supplier agrees to provide the upgrade at no expense to the state.~~

~~(ii) The supplier agreed in a previous contract to provide the upgrade at no additional expense to the state.~~

(A) documentation that the vendor agrees to provide the upgrade or improvement at no charge to the state;

(B) documentation that the vendor previously agreed in a contract to provide the upgrade or improvement at no additional charge to the state;

(C) documentation the state agency obtained from the vendor that any required or recommended upgrade will enhance or is necessary for the performance of the state agency duties and responsibilities; or,

(D) documentation the vendor will no longer supply assistance to the state agency for the purpose of maintenance of the high technology system and the state agency documents that the functions performed by the high technology system are necessary for the performance of the state agency duties and responsibilities.

(o) Bidder delivery. A solicitation shall specify a delivery date or allow the bidder to specify a firm delivery date. If the solicitation does not specify a delivery date, the bidder shall specify the delivery date in the bid.

(p) Sample submission. For acquisitions of items or products, the solicitation may specify submission of samples of the required items or products to the Purchasing Director. [Reference OAC 580:15-4-5(k)]

~~(1) Sample receipt. If a bidder submits a sample, the bidder shall submit the sample to the Purchasing Division prior to the closing date.~~

~~(2) Sample identification. The bidder shall identify the sample the bidder submits with the bidder's name, bidder's address, state bid identification number and closing date. The supplier shall place the information on the sample container and on the sample shipping container.~~

~~(3) Sample costs. The bidder shall pay costs for the sample and submission to the Purchasing Director.~~

~~(4) Sample requirements. A sample a bidder submits to the Purchasing Division shall represent the quality of the whole.~~

~~(5) Sample tests. The Purchasing Director shall use standard testing procedures to determine the quality of a sample a bidder submits.~~

~~(6) Sample tests costs. If the sample a bidder submits to the Purchasing Division fails to meet the specification or standards the solicitation requires, the bidder shall pay testing costs the Purchasing Division incurs.~~

~~(7) Unsuccessful bidder samples.~~

~~(A) Bidder requests sample return. Bidders may request that the Purchasing Director return samples examination does not destroy.~~

~~(B) Purchasing Director retains sample. The Purchasing Director may retain samples that bidders submit that examination does not destroy.~~

~~(C) Purchasing Director returns sample. The Purchasing Director may return samples that bidders submit that examination does not destroy. Bidders shall pay costs the Division incurs for sample return.~~

~~(8) Successful bidder samples. The Purchasing Director may retain samples the successful bidder submits to ensure that acquisitions the successful bidder delivers meet specifications in the solicitation.~~

(q) Subcontractor notice. If a solicitation specifies submission of information for subcontractors a bidder intends to use for an acquisition, the supplier shall provide the information in the supplier's bid.

580:15-4-7. Bid submission

(a) Submission location. Bidders shall submit bids to the location the solicitation specifies.

(b) Bid submission contents. Bidders shall submit all forms, documents and contents required by a solicitation as instructed in the solicitation. The legal name and complete address of the bidder, bid number and closing date shall be prominently displayed as stated in the solicitation.
(c) Submission of noncollusion affidavit. When electronic submission of the bid is allowed, an original noncollusion affidavit must be submitted to the Central Purchasing Division as prescribed in the solicitation. An original signature shall be properly executed by an authorized person, signed in ink, and notarized with full knowledge and acceptance of all its provisions. A facsimile or photo copy of an original signature will not be accepted.
(d) Purchasing Division bid receipt. Upon receipt, the Purchasing Division shall clearly mark the outside of all envelopes or containers with the receipt date and time. Electronic submission of bids, when allowed, must be submitted in such a manner that the time and date of submission is electronically linked to the bid and cannot be changed.
(e) Signatures on solicitation documents. All signatures required on any bid document shall be original unless otherwise authorized by state law and approved by the State Purchasing Director. An original signature shall be properly executed by an authorized person, signed in ink, and notarized with full knowledge and acceptance of all its provisions. A facsimile or photocopy of an original signature will not be accepted.
(f) Late bids. The State Purchasing Director shall reject all bids or proposals received after the closing date and time. Electronic bids solicited by online bidding may be accepted after the closing date and time only if the Director of the Department of Central Services has authorized acceptance of bids due to a significant error or event that occurred which affected the electronic receipt of an online bid. Unless opened for identification, bids received late will be returned unopened in a timely manner.

580:15-4-8. Bid withdrawal
(a) Bid withdrawal before closing date. ~~A bidder who desires to withdraw a bid prior to the closing date shall submit written notice to the Division which includes personal identification, the supplier's name, bid number and closing date.~~ A bidder who desires to withdraw a bid prior to the closing date shall submit to the State Purchasing Director a written withdrawal request created on the bidder's company letterhead and signed by the bidder's authorized representative. The withdrawal request must identify the method of return, the person authorized to receive the returned bid, the bidder's name, solicitation number and closing date.

(1) If the bid is to be returned via U.S. Postal Service or other small package carrier, the bidder must provide a method for return shipping charges.
(2) If the bid will be withdrawn in person, the person must provide personal identification to validate they are the person identified in the withdrawal request. After confirmation of identity, the person accepting the withdrawn bid shall sign a receipt for the bid.

(b) Bid withdrawal after closing date. Withdrawal of a bid after the closing date shall not be authorized by the State Purchasing Director unless the bidder can prove that significant error by the bidder exists in the bid.

580:15-4-10. Public bid opening
~~(a)~~ Public bid opening. ~~Bidders may request that a bid opening be public.~~ Bidders may request a bid be opened in public. No evaluation or award shall be made at the public opening.
~~(b) Late bids. The State Purchasing Director shall reject all bids or proposals received after the closing date and time. Electronic bids solicited by online bidding may be accepted after the~~

~~closing date and time if the Director of Central Purchasing has authorized acceptance of bids due to a significant error or event that occurred which affected the electronic receipt of an online bid.~~

580:15-4-11. Bid evaluation

(a) **Evaluation document.** The State Purchasing Director shall establish an evaluation document that contains evaluation criteria the Purchasing Division shall use to evaluate bids. The evaluation document shall be open for public inspection following contract award.

(b) **Bid clarification.** The State Purchasing Director may solicit clarification from a bidder regarding the bidder's bid. The clarification shall not alter or supplement the bid.

(c) **Reasons for bid rejection.** The State Purchasing Director shall indicate in the solicitation file if a bid is nonresponsive. Unless the State Purchasing Director finds that a bid deficiency may be cured by a supplier pursuant to (j) of this Section, ~~The~~ the State Purchasing Director may reject a bid that is nonresponsive or a bid from a nonresponsible bidder for reasons that include, but are not limited to the following:

(1) **Terms and conditions.** A bid that does not meet the terms and conditions of the solicitation shall be considered nonresponsive.

(2) **Forms use.** A bid that does not contain forms or other information the solicitation specifies may be considered nonresponsive.

(3) **Incomplete forms.** If forms required by the solicitation do not contain complete information, the bid may be considered nonresponsive.

(4) **Form entries improper.** If information provided in the solicitation documents is not in ink, legible, typewritten or printed, or submitted in the electronic format specified in the solicitation, the bid may be considered nonresponsive.

(5) **Improper alterations.** If alterations do not bear the initials of the person making the alteration, the bid may be considered nonresponsive.

(6) **Use of unauthorized signature.** If a signature on a form is not an authorized signature pursuant to state laws and the rules of this chapter, the bid shall be considered nonresponsive.

(7) **Absence of notary seal.** If forms do not contain a notary seal where forms indicate or otherwise comply with the manner of notarization prescribed for the bidding suppliers' state of residence, the bid shall be considered nonresponsive.

(8) **Bid does not contain bid bond.** If a bidder fails to include a bid bond specified as a requirement by a solicitation, the bid shall be considered nonresponsive.

(9) **Bid does not contain samples.** If a solicitation specifies that the bid shall contain samples and the bid does not contain samples, the bid shall be considered nonresponsive.

(10) **Bid nonresponsive**. If a bid does not offer items suitable for the intended use of the items, the bid shall be considered nonresponsive.

(11) **Pricing.** If bid pricing does not meet requirements of a solicitation, the bid shall be considered nonresponsive.

(12) **Bid fails to acknowledge solicitation amendment.** If a bid fails to acknowledge an amendment the Purchasing Director issues to a solicitation, the bid may be considered nonresponsive.

(13) **Bidder not responsible.** If the solicitation specifies that suppliers submit information relating to responsibility and a bidder does not submit said information, or the State Purchasing Director determines the bidder is not responsible, the bid may be rejected.

(14) **One bid from multiple suppliers.** One bid from multiple suppliers that does not designate a prime contractor shall be considered nonresponsive.

(15) **Additional supplier terms and conditions.** If a supplier adds terms and conditions to an acquisition that are contrary to the laws of Oklahoma the bid shall be considered nonresponsive.

(16) **Past performance.** If the Purchasing Director has received complaints on a supplier, the supplier may be found not responsible.

(17) **Signatures on solicitation documents.** If a facsimile or photocopy signature appears in any solicitation document that requires an original signature [Reference 580:15-4-7.(e)], the bid shall be considered nonresponsive. An original signature shall be properly executed by an authorized person, signed in ink, and notarized with full knowledge and acceptance of all its provisions. A facsimile or photocopy of an original signature will not be accepted.

(18) **Proof of insurance.** Whenever applicable to a solicitation, if a supplier is unable to provide proof of workers' compensation insurance or an alternative or exemption as authorized by state law, the supplier may be found not responsible.

(e) **Samples.** When a solicitation specifies a bidder submit samples, the State Purchasing Director shall examine the sample to determine the expected performance and service capabilities. The State Purchasing Director ~~shall indicate~~ may specify the method of testing and rate the sample's performance in the evaluation document. [Reference OAC 580:15-4-5(k)]

(f) **Supplier past performance.** The State Purchasing Director shall consider bidder performance on previous contract awards and indicate past performance in the evaluation document.

(g) **Lowest and best bid.** If the State Purchasing Director specifies in the solicitation that the bid evaluation criteria is lowest and best, the State Purchasing Director shall consider criteria the Oklahoma Central Purchasing Act specifies to determine the lowest and best bid.

(h) **Best value bid.** If the State Purchasing Director specifies in the solicitation that the bid evaluation criteria is best value, the State Purchasing Director shall consider criteria specified to determine the best value bid.

(i) **Life cycle costing.** If the State Purchasing Director specifies in the solicitation the evaluation criteria is life cycle costing, the State Purchasing Director shall consider the specified criteria to determine the factors and methodology to be used in the life cycle costing adjustments.

(j) **Other factors in determination of award.**

(1) Minor deficiencies. The State Purchasing Director may waive minor deficiencies or informalities in a bid if the State Purchasing Director ~~reasonably~~ determines the deficiencies or informalities do not prejudice the rights of other bidders, or are not a cause for bid rejection.

(2) Other types of deficiencies. If the State Purchasing Director determines there is sufficient time prior to the award of a contract and it is in the best interest of the State, the State Purchasing Director may authorize a bidder to cure the following types of deficiencies prior to the award of a contract:

(A) failure to sign a bid;

(B) failure to obtain a notary signature, stamp or seal;

(C) failure to sign or initial amendments to bid.

(k) **Proof of insurance.** A vendor who contracts to do business with the state shall provide proof of workers' compensation insurance or proof of an alternative or exemption authorized by state law.

580:15-4-12. Contract award

(a) Time of award. The State Purchasing Director shall not make a contract award at a bid opening. The contract award shall be made upon completion of the following:

(1) ~~completion of~~ bid evaluation;

(2) ~~completion of the evaluation document~~ documentation of evaluation on each bid;

(3) determination of the lowest and best or best value bidder;

(4) verification of Oklahoma and Federal debarment status;

~~(4)~~ (5) verification, pursuant to applicable provisions of law, that the supplier is registered with the Secretary of State and franchise tax payment status pursuant to Title 68, Sections 1203 and 1204, whenever the contract amount is Twenty-five Thousand Dollars ($25,000.00) or greater;

~~(5)~~ (6) verification with the Oklahoma Tax Commission that the business entity to which the state contract is to be awarded, has obtained a sales tax permit pursuant to Title 68, Section 1364 if such entity is required to do so;

~~(6)~~ (7) coordination of award with the requisitioning state agency, if necessary; and

~~(7)~~ (8) completion of any administrative tasks.

(b) Award by item. If a solicitation does not specify an all or none bid, the Purchasing Director may award to more than one bidder by awarding contract by item or groups of items.

(c) No contract award. A contract may not be awarded when:

(1) The Purchasing Director determines no bid meets the requirements of the solicitation.

(2) The Purchasing Director determines that all bids exceed fair market value for the acquisition.

(3) The state agency determines that bid price exceeds available state agency funds.

(4) The state agency determines that it no longer requires the acquisition in the form or manner the solicitation specifies.

(d) Evaluation tie. Whenever it is determined that two or more bids are equal, the State Purchasing Director shall determine the successful bidder by a coin toss.

(e) Notification of successful bidder. The Purchasing Director shall notify the successful bidder within five (5) days of the contract award.

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

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

~~(3) Supplier appeal of State Purchasing Director denial. The supplier may appeal a denial of protest by the State Purchasing Director 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 notice of denial pursuant to 75 O.S., Section 309 et seq.~~

~~(4) Director actions and determination. The Director may hear the protest, assign the protest to an attorney employed by the Department, or assign the supplier's appeal to an administrative law judge the Department retains. If the protest is assigned to an attorney employed by the Department or to an administrative law judge, the delegated party shall review the protest for legal authority and jurisdiction. If legal authority and jurisdictional requirements are met, the delegated party shall conduct an administrative hearing and provide findings of fact and conclusions of law to the Director. The Director shall send written notice of the decision to sustain or deny the supplier's appeal to the supplier.~~

~~(5) 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.~~

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

(3) Supplier appeal of State Purchasing Director denial. The supplier may appeal a denial of protest by the State Purchasing Director 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 notice of denial pursuant to 75 O.S., Section 309 et seq.

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

(A) If the protest is assigned to an administrative law judge, the administrative law judge shall review the protest 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 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.

(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.

580:15-4-14. Supplier Contract performance

(a) Delivery. A supplier shall deliver acquisitions to a state agency within time periods the contract specifies.

(b) ~~Item inspection~~ Inspection. ~~The state agency shall inspect acquisitions from the supplier within a reasonable time after supplier delivery.~~ Unless otherwise provided in the contract documents, the state agency shall inspect acquisitions from the supplier within a reasonable time after supplier delivery.

(c) ~~Item rejection~~ Rejection. The state agency shall reject acquisitions from the supplier that do not meet specifications or other terms and conditions of the contract. The supplier shall pay costs to retrieve and replace acquisitions that do not meet specifications with a conforming item or service.

(d) Acquisition title. Title to acquisitions shall not pass from the supplier to the state agency until the state agency receives, inspects and accepts the items.

~~(e) Supplier nondiscrimination. The State of Oklahoma seeks equality of opportunity for all persons. If the Oklahoma Human Rights Commission certifies that a supplier engages in practices that deny or seek to deny equality of opportunity for all persons, the State Purchasing Director may terminate contracts the supplier has with state agencies and may suspend the supplier.~~

~~(f)~~ (e) Subcontractor performance. A supplier shall be responsible for the performance of subcontractors. The supplier shall provide a single point of contact for the state agency when the

supplier uses subcontractors. The supplier shall notify the state agency and the Purchasing Division if the supplier uses a subcontractor the supplier did not disclose in the supplier's bid.
~~(g)~~ (f) ~~Change orders~~ Contract changes. If a supplier determines a requested change ~~order~~ to the contract or performance exceeds the original scope of the solicitation, the supplier shall notify the State Purchasing Director or the state agency ~~before initiating changes~~. No changes shall be made prior to the approval of a change order in accordance with Section 15-6-6(e)(2).
(h) Contract assignment. A supplier shall not assign or subcontract a contract to another supplier, individual, business entity or organization without written approval of the State Purchasing Director.

580:15-4-16. State agency and supplier disputes

The Purchasing Director shall seek resolution of disputes between state agencies and suppliers.

(1) **Supplier does not retrieve and replace defective acquisition.** If a supplier fails timely to retrieve and replace an acquisition that does not meet or exceed contract specifications, the state agency shall submit a supplier complaint form to the Purchasing Director.

(2) **Supplier does not make refund for defective acquisition.** If a supplier does not refund payment for an acquisition that does not meet or exceed contract specifications, the state agency shall submit a supplier complaint form to the Purchasing Director.

(3) **Other supplier problems.** State agencies or the Purchasing Division shall submit a supplier complaint form for a problem that a supplier does not resolve in a timely manner.

(4) **Purchasing Director dispute resolution.** When a state agency notifies the Purchasing Director of a dispute with a supplier, the Purchasing Director shall seek to resolve the dispute.

(A) **Purchasing Director resolves dispute.** If the Purchasing Director resolves the dispute between the state agency and the supplier, the Purchasing Director shall notify the supplier and the state agency of resolution terms or conditions.

(i) **Supplier fails to meet terms or conditions.** If the supplier fails to meet terms or conditions of the dispute resolution, the Purchasing Director shall terminate the contract between the supplier and the state agency, and may suspend the supplier.

(ii) **State agency fails to meet conditions.** If the state agency fails to meet conditions of the dispute resolution, the Purchasing Director may order an audit of the state agency's acquisitions pursuant to ~~580:15-6-16~~ 580:15-6-15.

(B) **Purchasing Director fails to resolve the dispute.** If the Purchasing Director fails to resolve the dispute between the state agency and the supplier, the Purchasing Director shall take an action in this subparagraph.

(i) **Supplier fails to meet terms and conditions.** If the Purchasing Director determines that the supplier fails to meet terms and conditions of the contract, the Purchasing Director shall terminate the contract between the supplier and the state agency, and may suspend the supplier.

(ii) **State agency fails to meet contract terms and conditions.** If the Purchasing Director determines that actions of the state agency fail to meet terms of the contract, the Purchasing Director may order an audit of the state agency's acquisitions pursuant to ~~580:15-6-16~~ 580:15-6-15.

580:15-4-17. Contract termination

(a) The State Purchasing Director may terminate a contract in its entirety or any portion thereof, between a supplier and a state agency~~.~~ if:

(1) ~~If~~ a supplier fails to post, or allows to expire, a bid bond, performance bond, or other type of surety bond the solicitation specifies~~, the State Purchasing Director may terminate a contract.~~ ;

(2) ~~If~~ a supplier fails to deliver an acquisition pursuant to the contract~~, the State Purchasing Director may terminate a contract.~~ ;

(3) ~~If~~ a supplier fails timely to replace at the supplier's expense, acquisitions that fail to meet the requirements of the contract or have latent defects;~~, the State Purchasing Director may terminate a contract.~~

(4) ~~If~~ a supplier misrepresents the supplier's ability to provide an acquisition~~, the State Purchasing Director may terminate a contract.~~ ;

(5) ~~If~~ a supplier's financial or other condition, including but not limited to, bankruptcy or other evidence of insolvency which may affect the supplier's ability to perform~~, the State Purchasing Director may terminate a contract.~~ ;

(6) ~~If~~ a supplier commits an unlawful act or an act that impairs the supplier's ability to perform~~, the State Purchasing Director may terminate a contract~~.;

(7) ~~If~~ a supplier commits an act that could result in the supplier's suspension or debarment from the suppliers list~~, the State Purchasing Director may terminate a contract.~~ ; or,

(8) ~~If~~ the State Purchasing Director determines that an administrative error occurred prior to contract performance~~, the State Purchasing Director may terminate a contract~~.

~~(9) The State Purchasing Director may terminate the contract in its entirety or any portion thereof.~~

(b) Supplier responsible for damages. If the State Purchasing Director terminates a contract between a supplier and a state agency, the Attorney General of the State of Oklahoma, the State Purchasing Director, or the requisitioning agency, may seek damages from the supplier. Damages may include additional cost to obtain the acquisition from another supplier, the cost of re-bidding the acquisition and the cost of acquisition receipt delay.

580:15-4-18. Supplier suspension from suppliers list

(a) Cause for suspension. The State Purchasing Director may suspend a supplier from the suppliers list and from submitting bids to the Purchasing Division or any other state agency subject to the Central Purchasing Act for a period of time not to exceed one (1) year for any of the following:~~.~~

(1) ~~If~~ a supplier fails to post or allows to expire a bid bond, performance bond, or surety bond, required by a solicitation~~, the State Purchasing Director may suspend the supplier.~~ ;

(2) ~~If~~ a supplier fails to perform pursuant to the contract~~, the State Purchasing Director may suspend the supplier.~~ ;

(3) ~~If~~ a supplier provides acquisitions that fail to meet the requirements of the contract~~, the State Purchasing Director may suspend the supplier.~~ ;

(4) ~~If~~ a supplier fails to deliver an acquisition pursuant to the contract~~, the State Purchasing Director may suspend the supplier.~~ ;

(5) ~~If~~ a supplier fails timely to replace at the supplier's expense acquisitions that fail to meet the requirements of the contract or that have latent defects~~, the State Purchasing Director may suspend the supplier.~~ ;

(6) ~~If~~ a supplier provides the State Purchasing Director with false, misleading, inaccurate, materially deficient or incomplete information on a bidder registration form~~, the State Purchasing Director may suspend the supplier.~~ ;

(7) ~~If~~ a supplier fails to keep bids firm for sixty (60) days from the solicitation closing date~~, the State Purchasing Director may suspend the supplier.~~ ;

(8) ~~If~~ a supplier fails to resolve a dispute with a state agency~~, the State Purchasing Director may suspend the supplier.~~ ;

(9) ~~If the Oklahoma Human Rights Commission certifies that a supplier engaged in discriminatory practices, the State Purchasing Director may suspend the supplier.~~ upon a determination by the appropriate regulatory authority or court that a supplier engaged in discriminatory practices;

(10) ~~If~~ a supplier misrepresents, fails to provide, or allows to expire a professional certification required by the solicitation~~, the State Purchasing Director may suspend the supplier.~~ ;

(11) ~~If~~ a supplier colludes with other suppliers to restrain competitive bidding~~, the State Purchasing Director may suspend the supplier.~~ ;

(12) ~~If~~ a supplier provides a state employee with a kickback~~, the State Purchasing Director may suspend the supplier.~~ ;

(13) ~~If~~ the State Purchasing Director determines that a supplier is no longer responsible or qualified to do business with the State of Oklahoma~~, the State Purchasing Director may suspend the supplier.~~ ;

(14) ~~If~~ a supplier violates any provision of the Oklahoma Central Purchasing Act~~, the State Purchasing Director may suspend the supplier.~~;

(15) ~~The State Purchasing Director may suspend a supplier for~~ any other reason the State Purchasing Director determines appropriate.

(b) Suspension notice. The State Purchasing Director shall notify a supplier of the supplier's suspension within five (5) business days of the State Purchasing Director's determination.

(c) ~~Suspension~~ Supplier's suspension appeal. A supplier may appeal a suspension ~~of the supplier by the State Purchasing Director~~ in writing to the State Purchasing Director~~. The supplier shall appeal the supplier's suspension by the State Purchasing Director~~ within five (5) business days of receipt of the suspension notice.

(d) Supplier suspension appeal. If a supplier appeals suspension by the State Purchasing Director, the State Purchasing Director shall affirm or deny the appeal in writing to the supplier.

(1) If the State Purchasing Director affirms the supplier's appeal, the State Purchasing Director shall reinstate the supplier to the suppliers list.

(2) If the State Purchasing Director denies the supplier's appeal, the supplier may appeal the denial to the Director of Central Services pursuant to 75 O.S., Section 309 et seq. and the provisions of 580:15-4-13.

(e) Suspension. The suspension period shall begin on the date appearing on the notice of final order of suspension and shall expire no later than the end of the term specified in the order.

~~(e)~~ (f) Supplier request for reinstatement. A supplier the State Purchasing Director suspends may request the State Purchasing Director to allow the supplier to register for the suppliers list before the end of the supplier's suspension period. The State Purchasing Director ~~shall require~~ may consider reinstating the supplier ~~to submit~~ upon submission by the supplier of documents that indicate a change of conditions ~~that would alleviate the reason for the supplier's suspension~~.

~~(f)~~ (g) Supplier reinstatement. If the State Purchasing Director reasonably believes that the supplier demonstrates the ability to satisfy requirements for performance of state contracts, the State Purchasing Director shall authorize the supplier to register for the suppliers list pursuant to 580:15-4-2.

580:15-4-19. Supplier debarment.

The State Purchasing Director may debar a supplier from the suppliers list ~~or~~ and from submitting bids to the Purchasing Division or other state agencies subject to the Central Purchasing Act for a period of no more than three years.

(1) Cause for debarment.

(A) Fraud, bribery or corruption. The State Purchasing Director may debar a supplier upon conviction of an individual or business entity guilty of a felony involving fraud, bribery or corruption.

(B) Gift, donation or gratuity. The State Purchasing Director may debar a supplier upon conviction of an individual or business entity of a misdemeanor involving a gift, donation or gratuity an individual or business entity gives to an official of the Department of Central Services or an immediate family member of an official of the Department of Central Services.

(C) Anti-Kickback Act of 1974. The State Purchasing Director may debar a supplier upon conviction of an individual or business entity of a felony involving the Anti-Kickback Act of 1974.

(2) Debarment notice. If the State Purchasing Director ~~considers debarment of~~ debars an individual or business entity, the State Purchasing Director shall notify the individual or business entity in writing ~~of rights to a hearing granted pursuant to the Oklahoma Administrative Procedures Act [75 O.S., Section 309 et seq.]~~.

(3) Debarment considerations. The State Purchasing Director shall consider factors of this subsection when considering debarment of an individual or business entity.

(A) Disassociation. The State Purchasing Director may consider the efforts, if any, of the individual or business entity, to disassociate itself from individuals and business entities responsible for convictions.

(B) Imputed business entity. Conviction of an individual, affiliate or associate a business entity employs may impute the business entity.

(C) Imputed individual. Conviction of a business entity may impute an individual, affiliate or associate of the business entity.

(D) Time period. The State Purchasing Director may consider the period of time during which the acts leading to conviction of the individual or business entity occur.

(E) Failure to respond to debarment notice. The State Purchasing Director shall consider failure to respond to the debarment notice by the individual or business entity.

(F) Other factors. The State Purchasing Director may consider other factors regarding the individual or business entity.

(4) State Purchasing Director options. Upon completion of review of debarment records, the State Purchasing Director shall take an action affecting the individual or business entity.

(A) Decline to debar. The State Purchasing Director may decline to debar an individual or business entity.

(B) Suspension. The State Purchasing Director may suspend an individual or business entity for a period of time up to one year, as the State Purchasing Director determines appropriate.

(C) Debarment. The State Purchasing Director may debar an individual, a business entity, or both. The debarment period shall begin on the day the supplier receives notice of final order of debarment and shall expire no later than the end of the term specified in the order.

(5) Reinstatement after debarment. A debarred individual or business entity may submit a written request for reinstatement to the State Purchasing Director.

~~(A) State Purchasing Director consideration.~~ The State Purchasing Director shall consider information the individual or business entity provides ~~and~~ to determine if the ~~information~~ the individual or business entity ~~provides,~~ merits ~~consideration for~~ reinstatement ~~of the individual or business entity~~ to the suppliers list. The State Purchasing Director may ~~reinstate~~ approve or deny reinstatement of the individual or business entity to the supplier's list and shall provide written notice of the reinstatement approval or denial.

~~(B) Supplier appeal of State Purchasing Director actions. A supplier may appeal a denial of reinstatement by the State Purchasing Director to the Director within ten (10) business days of the date of the State Purchasing Director's letter of denial. The Director shall review the denial and all pertinent information. Following the review of the request for reinstatement of an individual or business entity, the Director shall take an action.~~

~~(i) Director reinstates individual or business entity. If the Director determines that the State Purchasing Director should reinstate the individual or business entity, the Director shall notify the State Purchasing Director and the individual or business entity of the decision. The individual or business entity may apply for inclusion on the suppliers list pursuant to 580:15-4-2.~~

~~(ii) Debarment continues. If the Director determines that the individual or business entity does not qualify for reinstatement, the Director shall notify the individual or business entity.~~

(6) Supplier appeal of State Purchasing Director actions. A supplier may appeal a debarment or a denial of reinstatement by the State Purchasing Director to the Director within ten (10) business days of the date of the State Purchasing Director's ~~letter of denial~~ notice of debarment or denial of reinstatement pursuant to 75 O.S., Section 309 et seq and the provisions of 580:15-4-13. ~~The Director shall review the denial and all pertinent information. Following the review of the request for reinstatement of an individual or business entity, the Director shall take an action.~~

~~(i) Director reinstates individual or business entity. If the Director determines that the State Purchasing Director should reinstate the individual or business entity, the Director shall notify the State Purchasing Director and the individual or business entity of the decision. The individual or business entity may apply for inclusion on the suppliers list pursuant to 580:15-4-2.~~

~~(ii) Debarment continues. If the Director determines that the individual or business entity does not qualify for reinstatement, the Director shall notify the individual or business entity.~~

580:15-4-20. Other provisions [REVOKED]

~~(a) Document reproduction. The Purchasing Division shall provide reproductions of documents to an individual or business entity.~~
~~(b) Document reproduction fees. The Purchasing Division shall collect a fee for each reproduction. The fee shall not exceed the amount per reproduction pursuant to 51 O.S., Section 24A.5.~~
~~(c) Search fees. The Purchasing Division may collect a fee for records search. The State Purchasing Director shall base the fee per hour on the hourly rate of pay of the lowest level employee capable to conduct the search.~~

SUBCHAPTER 6. STATE AGENCY PROVISIONS

580:15-6-2. Certified procurement officers (CPO)
(a) Training. The State Purchasing Director shall provide training for state agency purchasing officials and other purchasing staff pursuant to 74 O.S., Section 85.5(D).
(b) Certification. The State Purchasing Director shall certify state agency purchasing officials and other purchasing staff who demonstrate proficiency in principles of state procurement practices, basic contracting, provisions of the Oklahoma Central Purchasing Act, provisions of State Use Committee and other matters which relate to procurement practices.
(c) Authority. A CPO shall be authorized to make acquisitions for state agencies.
(d) Duties. A CPO shall provide assistance and oversight to a state agency ~~so state agency~~ to ensure acquisition processes meet the requirements of the Oklahoma Central Purchasing Act, rules of the Purchasing Division, other statutory provisions and the state agency's internal purchasing procedures.
(e) Decertification. The State Purchasing Director may revoke certification of a CPO if the State Purchasing Director reasonably believes the CPO did not make state agency acquisitions pursuant to the Oklahoma Central Purchasing Act, rules of the Purchasing Division, other statutory provisions, or the state agency's internal purchasing procedures.
(f) Continuing education. To maintain certification, ~~A~~ a CPO shall attend eighteen (18) hours of ~~qualifying~~ continuing education ~~per~~ for each calendar year following the year of certification. Continuing education courses must be related to procurement practices and approved in advance for CPO education credit by the State Purchasing Director. The State Purchasing Director shall determine how often courses may be repeated to qualify for continuing education credit. ~~Prior to December 31 of each calendar year, a CPO shall submit to the State Purchasing Director documentation verifying course attendance. Failure to obtain the required continuing education hours shall result in suspension of certification by the State Purchasing Director.~~

~~(1) Burden of proof. The burden of proof rests solely upon the CPO to demonstrate to the satisfaction of the State Purchasing Director, in accordance with the rules of this chapter, that all continuing education courses reported meet all of the requirements as to content and subject matter related to the procurement practices.~~
~~(2) Reporting and documentation by CPOs. Continuing education credit may be claimed by a CPO only for the compliance period in which the course was completed and credit granted.~~
(1) Prior to December 31 of each calendar year, a CPO shall submit to the State Purchasing Director, documentation verifying continuing education course attendance. The burden of proof rests solely upon the CPO to demonstrate, in advance of taking a course and to the satisfaction of the State Purchasing Director, that all continuing education courses reported meet all of the requirements as to content and subject matter related to procurement practices.

(2) A CPO may claim continuing education credit only for the compliance period in which the course was completed and credit granted.
(3) Failure by a CPO to complete the required 18 hours of qualifying education within the allowed period will result in suspension of the CPO's purchasing authority.
(4) A suspended CPO must attend the next available CPO certification course approved by the State Purchasing Director.
(5) A suspended CPO that has remained suspended for a period of more than one year must repeat the CPO certification course and demonstrate proficiency in procurement practices by passing the CPO prescribed certification examination.
(6) In the event of extenuating circumstances, a CPO may submit a written request to the State Purchasing Director for reinstatement and an extension of time to allow the CPO to fulfill the previous year's required continuing education credits. The State Purchasing Director may approve or deny the request. A reinstatement approved to allow an extension of time to fulfill education credits shall not exceed three (3) months.

(g) Change in status. A CPO shall notify the State Purchasing Director when they are no longer performing as a CPO, when they transfer to another state agency, or when they terminate their employment with the state.

580:15-6-4. State agency acquisition records retention

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

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 ~~statewide~~ contracts are mandatory ~~statewide~~ contracts. State agencies shall ~~reference~~ utilize the State Use Committee procurement schedule to ensure all acquisitions are made pursuant to 74 O.S., Section ~~3007~~ 3001, et seq. ~~An agency may make an open market acquisition of a specified commodity or class of commodities on the State Use Committee procurement schedule upon receipt of a written waiver from the State Use Committee contracting officer.~~ 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~~ state agencies shall make acquisitions from the Oklahoma Correctional Industries pursuant to 57 O.S., Section 549.1 ~~if such article or service is the lowest and best bid~~. ~~State agencies shall submit requisitions for acquisitions from Oklahoma Correctional Industries to the Purchasing Division or to Oklahoma Correctional Industries. If an acquisition is available from the State Use Committee procurement schedule and from Oklahoma Correctional Industries, the state agency shall make the acquisition from the State Use Committee procurement schedule. 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. If the State Purchasing Director determines that an acquisition Oklahoma Correctional Industries produces does not meet minimum state agency requirements, the State Purchasing Director shall notify Oklahoma Correctional Industries. If Oklahoma Correctional Industries disagrees with the State Purchasing Director, the Director shall resolve the dispute. An agency may make an open market acquisition of a specified commodity or class of commodities produced by the Oklahoma Correctional Industries upon receipt of a written waiver from the Oklahoma Correctional Industries or whenever the Oklahoma Correctional Industries cannot provide the lowest and best bid for such acquisition.~~

(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) ~~Scheduled acquisitions.~~ Standard contracts. ~~If the State Purchasing Director makes scheduled acquisitions from suppliers for a state agency, the state agency shall not make open market purchases for the same commodity or group of commodities.~~

(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) Nonencumbered Contracts.~~

~~(A) For a state agency. If a state agency is unable to establish a quantity of items or services, or delivery dates for an acquisition, the State Purchasing Director or the state agency may establish a nonencumbered contract for the acquisition by the state agency.~~

~~(B) For state agencies. If the State Purchasing Director is unable to establish a quantity of items or services, or delivery dates for an acquisition, the State Purchasing Director may establish a nonencumbered contract for acquisitions by state agencies.~~

~~(6) Open market acquisitions. State agencies may make open market acquisitions not exceeding Twenty Five Thousand Dollars ($25,000.00) pursuant to provisions of the Oklahoma Central Purchasing Act and rules of the Purchasing Division.~~

(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 Thousand Five Hundred Dollars ($2,500.00) 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 open market acquisitions not exceeding two thousand five hundred dollars ($2,500.00)~~ State agency acquisitions

~~State agencies shall make open market acquisitions not exceeding Two Thousand Five Hundred Dollars ($2,500.00) that are fair and reasonable. State agencies shall make acquisitions pursuant to 580:15-6-8.~~

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

(c) **Acquisitions over $2,500.00 and under $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 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. 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.

(1) **Solicitations.** The state agency shall prepare and document the state agency's specifications for an acquisition. The state agency shall provide the complete specifications, terms and conditions for the acquisition to all notified suppliers.

(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' pricing and delivery dates in writing or document price quotation and delivery dates.

(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.** If the state agency and the supplier execute a contract for the acquisition, the supplier shall provide an affidavit pursuant to 74 O.S., Section 85.23 (DCS/Purchasing Form 003). The affidavit shall have the original signature of an authorized person, signed in ink, and notarized with full knowledge and acceptance of all its provisions. A facsimile or photocopy of an original signature is not acceptable.

(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.

(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) **Exceptions.** Sales tax permit verification does not apply to acquisitions for services only.

(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 $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 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. 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 statute.

(1) **Solicitations.** The state agency shall prepare and document the state agency's specifications for an acquisition. The state agency shall provide the complete specifications, terms and conditions for the acquisition to all notified suppliers. 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 affidavit form pursuant to 74 O.S., Section 85.22 and the provisions of (d)(4) of this Section.

(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.

(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.

(4) **Non-Collusion Affidavit.** The state agency shall provide suppliers a non-collusion affidavit form pursuant to 74 O.S., Section 85.22 (DCS/Purchasing Form 004) with any solicitation that is competitively bid. A supplier shall submit the non-collusion affidavit with their response to the solicitation. The non-collusion affidavit shall have the original signature of an authorized person, signed in ink, and notarized with full knowledge and acceptance of all its provisions. A facsimile or photocopy of an original signature is not acceptable. If a supplier submits a bid by facsimile or by means of electronic commerce, the supplier shall

submit the non-collusion affidavit with the original signature prior to the closing date the state agency specifies.

(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.** If the state agency and the supplier execute a contract for the acquisition, the supplier shall provide an affidavit pursuant to 74 O.S., Section 85.23 (DCS/Purchasing Form 003). The affidavit shall have the original signature of an authorized person, signed in ink, and notarized with full knowledge and acceptance of all its provisions. A facsimile or photocopy of an original signature is not acceptable.

(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.

(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) **Exceptions.** Sales tax permit verification does not apply to acquisitions for services only.

(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.

580:15-6-7. State agency open market acquisitions exceeding two thousand five hundred dollars ($2,500) and not exceeding ten thousand dollars ($10,000.00) [REVOKED]

~~State agencies that meet requirements of Sections 580:15-6-2 and 580:15-6-3 shall make open market acquisitions exceeding Two Thousand Five Hundred Dollars ($2,500.00) but not exceeding Ten Thousand Dollars ($10,000.00). State agencies shall make open market acquisitions pursuant to 580:15-6-8.~~

580:15-6-8. State agency open market acquisitions not exceeding ten thousand dollars ($10,000.00) [REVOKED]

~~State agencies that do not have a CPO and approved internal purchasing procedures pursuant to the requirements of 580:15-6-2 and 580:15-6-3 shall make open market acquisitions not exceeding Two Thousand Five Hundred Dollars ($2,500.00) pursuant to this section. State agencies that do have a CPO and approved internal purchasing procedures shall make open market acquisitions not exceeding Ten Thousand Dollars ($10,000.00) pursuant to this section.~~

~~(1) Supplier selection. The State Purchasing Director shall make the Division registered supplier list available to state agencies. A state agency may select suppliers from the registered supplier list. State agencies shall not select a supplier that is suspended or debarred by the State Purchasing Director or the Oklahoma Tax Commission or a supplier that is~~

~~suspended or debarred by the federal government if federal funds are being used in the acquisition.~~

~~(2) State agency terms and conditions. The state agency shall document the state agency's specifications. The state agency shall notify suppliers of the state agency's specifications for the acquisition. The state agency shall give suppliers written specifications upon the suppliers' request.~~

~~(3) Price quotation. The state agency shall solicit price quotations and delivery dates by mail, telephone, facsimile or by means of electronic commerce from a minimum of two suppliers. The state agency shall secure the suppliers' price quotation in writing or document the suppliers' price quotation and delivery dates.~~

~~(4) 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 74 O.S., Section 85.4(E)(1).~~

~~(5) Contracts. If the state agency and the supplier execute a contract for the acquisition, the supplier shall provide a noncollusion affidavit pursuant to 74 O.S., Section 85.23. The noncollusion affidavit shall have the original signature of an authorized person, signed in ink, and notarized with full knowledge and acceptance of all its provisions. A facsimile or photocopy of an original signature will not be accepted.~~

~~(A) Prior to awarding a contract exceeding Two Thousand Five Hundred Dollars ($2,500.00), the awarding agency must verify that the vendor has obtained a sales tax permit in accordance with the laws of Oklahoma.~~

~~(B) Verification. Sales tax permit verification may be confirmed through the link provided on the Department of Central Services' website. If a vendor cannot be identified by searching this database, agencies should call the Oklahoma Tax Commission for assistance.~~

~~(C) Documentation. Verification of the sales tax permit must be documented in the acquisition file.~~

~~(D) Exceptions. This verification requirement does not apply to acquisitions for services only or to acquisitions made with the state purchase card.~~

~~(6) Delivery document from supplier. When the state agency takes possession of the acquisition, the state agency shall obtain a delivery document from the supplier stating, at a minimum, the date of the acquisition, 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.~~

580:15-6-9. State agency acquisitions exceeding ten thousand dollars ($10,000.00) and not exceeding twenty-five thousand dollars ($25,000.00) [REVOKED]

~~State agencies with a CPO and approved internal purchasing procedures pursuant to the requirements of Sections 580:15-6-2 and 580:15-6-3 shall make acquisitions exceeding Ten Thousand Dollars ($10,000.00) but not exceeding Twenty-Five Thousand Dollars ($25,000.00) pursuant to this section.~~

~~(1) Supplier selection. The State Purchasing Director shall make the Division registered supplier list available to state agencies. The state agency shall select a minimum of three (3)~~

~~suppliers from the commodity classification for bid solicitation. The state agency may select suppliers from the registered supplier list. State agencies shall rotate use of suppliers. State agencies shall not select a supplier that is suspended or debarred by the State Purchasing Director or the Oklahoma Tax Commission or a supplier that is suspended or debarred by the federal government if federal funds are being used in the acquisition.~~

~~(2) Solicitations. The state agency shall prepare specifications for a solicitation. The state agency shall solicit bids from a minimum of three (3) suppliers using mail, telephone, facsimile or by means of electronic commerce. The state agency shall notify the suppliers of the state agency's specifications for the acquisition.~~

~~(3) Noncollusion affidavit. The state agency shall provide suppliers a noncollusion affidavit form pursuant to 74 O.S., Section 85.22. Suppliers shall submit the forms as stated in the solicitation. The noncollusion affidavit shall have an original signature of an authorized person, signed in ink, and notarized with full knowledge and acceptance of all its provisions. A facsimile or photocopy of an original signature will not be accepted.~~

~~(4) Supplier bid submission. Suppliers shall submit bids to the state agency in person, by mail, by facsimile or by means of electronic commerce. If a supplier submits a bid, the supplier shall submit an original notarized noncollusion affidavit pursuant to 74 O.S., Section 85.22. If a supplier submits a bid by facsimile or by means of electronic commerce, the supplier shall submit the noncollusion affidavit with the original signature prior to the closing date the state agency specifies. The noncollusion affidavit shall have an original signature of an authorized person, signed in ink, and notarized with full knowledge and acceptance of all its provisions. A facsimile or photocopy of an original signature will not be accepted.~~

~~(5) Bid evaluation. The state agency shall make a written bid evaluation. The state agency shall select the lowest and best bid or bid providing the best value to the state agency.~~

~~(6) 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 74 O.S., Section 85.4(E)(1).~~

~~(7) Award to a supplier. When the state agency selects a bid, the state agency shall notify the supplier of the award.~~

~~(A) Prior to awarding a contract exceeding Two Thousand Five Hundred Dollars ($2,500.00), the awarding agency must verify that the vendor has obtained a sales tax permit in accordance with the laws of Oklahoma.~~

~~(B) Verification. Sales tax permit verification may be confirmed through the link provided on the Department of Central Services' website. If a vendor cannot be identified by searching this database, agencies should call the Oklahoma Tax Commission for assistance.~~

~~(C) Documentation. Verification of the sales tax permit must be documented in the acquisition file.~~

~~(D) Exceptions. This verification requirement does not apply to acquisitions for services only or to acquisitions made with the state purchase card.~~

~~(8) Contract noncollusion affidavit. If the state agency and the supplier execute a contract for the acquisition, the supplier shall submit a noncollusion affidavit pursuant to 74 O.S., Section 85.23. The noncollusion affidavit shall have an original signature of an authorized person, signed in ink, and notarized with full knowledge and acceptance of all its provisions. A facsimile or photocopy of an original signature will not be accepted.~~

~~(9) Delivery document from supplier. The state agency shall receive a delivery document from the supplier stating, at a minimum, the date of the acquisition, 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.~~

~~(10) Supplier payment. The state agency shall pay the supplier following receipt, inspection and acceptance by the state agency of the acquisition.~~

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

State agencies that do not have a CPO ~~and~~ 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 Thousand Five Hundred Dollars ($2,500.00) ~~the state agency's acquisition authority dollar amount~~ 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) 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 ~~74 O.S., Section 85.4(E)(1)~~ 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 ~~and the state agency~~ shall evaluate bids ~~for acquisition of professional services~~ 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.

580:15-6-11. Additional purchasing information [REVOKED]

~~(a) Split purchases. A state agency shall not make split purchases for the purpose of evading the state agency's dollar amount threshold for competitive bids. Conviction for making an acquisition by split purchase is a felony pursuant to 74 O.S., Section 85.7.~~

~~(b) Acquisitions by component. If a state agency makes an acquisition that the state agency receives in components, the acquisition purchase price is the total acquisition purchase price for all components.~~

~~(c) 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.~~

~~(d) Fixed rates. The Department may approve service acquisitions as qualifying for a fixed rate pursuant to the provisions of 74 O.S., Section 85.7(11).~~

~~(e) State agency acquisitions from another state agency. A state agency may contract with another state agency pursuant to 74 O.S., Section 581. A state agency shall not make an acquisition with or through another state agency for the purpose of evading competitive bidding provisions of the Oklahoma Central Purchasing Act, rules of the Purchasing Division or State Use Committee.~~

~~(f) State agency acquisitions from another governmental agency. A state agency may contract with a political subdivision, agency of the United States or a political division pursuant to 74 O.S., Sections 1001 through 1008. A state agency shall not make an acquisition with or through a political division, political subdivision, or agency of the United States for the purpose of evading competitive bidding requirements, provisions of the Oklahoma Central Purchasing Act, rules of the Purchasing Division or State Use Committee.~~

~~(g) Recycled materials. State agencies shall procure acquisitions with recycled or recyclable materials whenever feasible. Upon request, the State Purchasing Director shall supply information regarding acquisitions that contain recycled materials to a state agency.~~

~~(h) Trade-ins. State agencies may use state agency items as trade-in items when the state agency makes an acquisition with 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.~~

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

~~(j) Signature authorization. State agencies shall provide the State Purchasing Director with a current original Authorized Signature Form. 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, sole source affidavits, change order requests, and surplus property transactions. The State Agency shall submit revisions of the form to the State Purchasing Director within 30 days of any change in the authorized signatures.~~

580:15-6-13. Sole source and sole brand acquisitions [REVOKED]

~~State agencies with a CPO and approved internal purchasing procedures that meet the requirements of Sections 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.~~

580:15-6-14. State travel

The ~~state~~ State Travel Office is within the Purchasing Division. The Travel Office awards ~~nonencumbered~~ contracts to ~~travel agencies~~ for travel and travel services. State agencies shall make travel arrangements through contract travel agencies for commercial air travel for state ~~officials~~ 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. ~~Travel Office contracts with travel agencies shall indicate the zone the travel agency services.~~ 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 ~~for the travel zone of the state agency location~~, the state agency may use this exception.

(B) If air travel ~~by the contract travel agency for the travel zone of the state agency location~~ 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 ~~for the travel zone of the state agency location~~, 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.

580:15-6-15. ~~State Purchasing Director audits~~ Audits of state agencies

The State Purchasing Director shall review state agency acquisitions to ensure state agency compliance with provisions of the Oklahoma Central Purchasing Act, promulgated rules of the ~~Purchasing Division promulgates~~ Department, provisions of 74 O.S., Sections 3001 through 3010, ~~State Use Committee,~~ other laws of the State of Oklahoma, and the state agency's approved internal purchasing procedures. If the State Purchasing Director finds state agency procurement practice deficiencies, the State Purchasing Director shall report the findings to the Director. ~~The Director shall determine corrective actions for the state agency.~~

(1) ~~State Purchasing Director~~ Audit notification. The ~~State Purchasing Director~~ Department shall notify the state agency ~~that the Division audit team shall audit state agency acquisitions~~ of all scheduled audits. ~~The notice shall advise the state agency of the audit team arrival date,~~

~~the number of audit team members, the expected time period the audit team may be at the state agency and the time period for acquisitions the audit team shall review.~~

(2) State agency responsibilities.

(A) The state agency shall provide work space for the audit team.

(B) The state agency shall provide records for acquisitions ~~during the time period the State Purchasing Director specifies~~ for the audit period.

(C) The state agency shall make the state agency's CPO available to assist the audit team.

(3) ~~Purchasing Division audit~~ Audit following ~~Director~~ reduction of state agency purchasing authority. If the Director reduces the purchasing authority of a state agency, ~~the State Purchasing Director shall periodically audit the state agency's acquisitions~~ the Audit Team shall periodically audit the state agency's acquisitions in order to review the agency's efforts to correct audit findings of noncompliance.

580:15-6-21. ~~**Procurement of information technology**~~ **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) ~~(b)~~ 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 ~~these~~ all applicable standards, unless an undue burden would be imposed on the agency.

(3) ~~(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~~. Accessibility will be considered among the general, technical and functional requirements of the procurement specifications. At a minimum, it will be done ~~though~~ through review of vendor provided information submitted in the form of ~~the~~ 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 that 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 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 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.

580:15-6-22. Information technology contract clauses [REVOKED]

~~(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 Accessbility 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 [REVOKED]

~~(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 [REVOKED]

~~(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.~~