

**CENTRAL PURCHASING ADMINISTRATIVE RULES**  
**OAC 580:15**  
**SUMMARY OF REVISIONS, ADDITIONS AND REVOCATIONS**  
**EFFECTIVE JUNE 25, 2007**

**Introduction**

Central Purchasing rules, effective June 25, 2007, represent many changes and additions based upon current procurement processes and procedures. Revisions and additions ensure the rules are consistent with the Central Purchasing Act, improve readability, organization and eliminate duplicate language.

Definitions have been revised or added to provide better clarity. Redundant language applicable to multiple procurement processes located throughout the Chapter have been consolidated into appropriate location(s). Some procedures have been simplified and consolidated into a single rule section rather than several sections.

The revised rules are the result of a collaborative effort by all of the Central Purchasing Division staff over a nine month period. Central Purchasing and various DCS staff held weekly open discussion meetings in addition to solicitation of input from other state agencies.

A summary of major revisions to the Central Purchasing rules are listed below. In addition, agencies will soon be invited to a meeting for discussion of the rules and to receive questions and/or recommendations.

**580:15-2-1. Purpose**

- Citations to the Online Bidding Act [74 O.S. §85.45s] and Accessibility of Information Technology for Individuals with Disabilities [62 O.S. §41.5t] are added to reflect statutes adopted subsequent to the promulgation of this subchapter and to which the rules apply.

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

- Five definitions added: Alteration; Amendment; Indefinite quantity contract; Original signature; and, Statement of Work.
- Two definitions deleted: Nonbinding contract and nonencumbered contract.
- Three definitions clarified by adding acronyms or alternate reference: Department; Material deficiency; and, Oklahoma Correctional Industries.

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

- New subsection (a) changes reference to "bid submitted electronically" to "an electronic bid" for clarification.
- New subsection (b) provides more specific direction to bidders related to submission and identification of confidential or proprietary information.
- New subsection (c) is relocation of rules related to State Purchasing Director's review of submitted confidential or proprietary information from subsection (a) with revisions to clarify process.

#### **580:15-2-7. State Purchasing Director Authority**

- Subsection (e) clarifies authority of State Purchasing Director to negotiate contracts when negotiation is noted in solicitation by deleting restrictions to specific types of contracts. Authorizes state agencies to negotiate contracts only with prior written approval of the State Purchasing Director.

#### **580:15-4-2. Supplier registration**

- Deletes subsection (d), which established December 31st expiration of supplier registration each calendar year so that registration expiration date is yearly anniversary date of registration in accordance with statute.

#### **580:15-4-4. Supplier provisions**

- Subsection (a) text revised to more closely mirror statutory language [74 O.S., §85.3] governing supplier relationship restrictions.

#### **580:15-4-5. Bid solicitation**

- Subsection (d) revisions include change from "bid award criteria" to "evaluation method" and more specifically states the requirement to identify the contract award evaluation method in a solicitation, which must be designated as either "lowest and best" or "best value."
- Subsection (h) was deleted as unnecessary language because all solicitations describe what product or service is being solicited.
- New subsection (h), formally subsection (i), revised to specify a solicitation shall state that a pre-bid conference is either mandatory or non-mandatory, which eliminates the ambiguity of a pre-bid conference being "optional."
- Subsection (k)(5) language is clarified to specify "whenever testing is determined necessary," appropriate standard testing procedures will be used.
- New subsection (k)(9) is added to clarify the State Purchasing Director, with input from the requisitioning state agency, makes the final determination of whether a sample meets solicitation requirements.

#### **580:15-4-6. Bid preparation**

- Requirement added to paragraph (c)(2) specifying that any form requiring a supplier's signature to the Central Purchasing Division shall have an authorized signature.
- Subsection (d) revisions more clearly designate documents which comprise a contract, i.e. amendments, change orders or modifications, as well as the requirement that all such documents must be reviewed and approved by the State Purchasing Director.
- Subsection (i) revisions and additions clarify the form of bonds to be submitted when required by a solicitation; requires approval of such bonds by the State Purchasing Director; requires payment by certified check or cashiers check when bond requires a cash deposit; requires State Purchasing Director approval of acceptance of irrevocable letter of credit in lieu of a bond; and clarifies language related to the return of bonds.
- Subsection (l) revisions further define contents requirements of an alternate bid, stating an alternate bid must be a complete bid and must clearly be identified as an alternate bid.
- Subsection (n) is revised to require a "statement of work" be included with all bids for new or upgrades to high technology systems. Additional revisions clarify documentation requirements for high technology system bids to more closely mirror the statute [74 O.S., §85.7c]

- Submission of sample information and requirements deleted from subsection (p) and replaced by reference to Section 580:15-4-5(k) in order to eliminate duplicate language from chapter.

**580:15-4-7. Bid submission**

- New subsection (f) is slightly modified language related to late bids, which has been moved from 580:15-4-10 to 580:15-4-7.

**580:15-4-8. Bid withdrawal**

- Subsection (a) is expanded to provide specific requirements of a bidder requesting withdrawal of a bid prior to the bid closing date.

**580:15-4-10. Public bid opening**

- Subsection (a) revisions better define public bid opening and specify that no evaluation or award will take place at a public bid opening.
- Subsection (b) deleted and relocated to 580:15-4-7, which is the more appropriate location based upon its occurrence during the acquisition process.

**580:15-4-11 Bid evaluation**

- Provision added to subsection (c) to clarify that the State Purchasing Director may allow a bid deficiency to be cured by a supplier pursuant to criteria established in subsection (j)(2) of this section.
- Subsection (j) reorganized to establish two categories of factors considered by the State Purchasing Director in the determination of an award. (1) establishes "minor deficiencies or informalities", which may be waived. (2) establishes "other types of deficiencies" which may be cured 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.

**580:15-4-12 Contract award**

- Revisions to subsection (a) clarify actions required to be completed prior to award of contract and add verification of Oklahoma and Federal debarment status to the required actions.

**580:15-4-13. Supplier protest**

- Contract award protest procedures have been clarified and expanded in accordance with the Administrative Procedures Act. Provisions added to govern the conduct of a protest administrative hearing include:
  - Pre-hearing conference for determination of issues;
  - Burden of proof upon the supplier;
  - Corporations' representation by legal counsel;
  - Authorized participants in protest proceedings;
  - Conduct of discovery;
  - Authority of Administrative Law Judge;
  - Remedies; and,
  - Supplier right to appeal Director's denial.

**580:15-4-14. Supplier contract performance**

- Subsection (b) revisions clarify when a state agency shall inspect acquisitions received from a supplier.
- Subsection (e) deleted, which eliminates requirement to verify a supplier's status with the Oklahoma Human Rights Commission related to discrimination because this information is not readily available from the Commission and prohibition of discrimination is also a standard contract term.
- Subsection (f) clarified by changing its reference title to "contract changes" rather than "change orders" and further specifies the section applies to "changes to a contract or performance." Language added to mandate that no change can be made prior to the approval of a change order pursuant to 580:15-6-6(e)(2).
- Subsections lettered incorrectly so that subsection g is missing. Subsections go from f to h.

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

- Rule cite corrected in subsection (4) (B)(ii) from 580:15-6-16 to 580:15-6-15.

#### **580:15-4-17. Contract termination**

- Subsection (a) revised to clarify the State Purchasing Director may cancel a contract in its entirety or any portion thereof. Criteria established to determine need for a contract termination is cleaned up for clarity and elimination of duplicate language.

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

- Revision to subsection (a) clarifies that a supplier may not only be suspended from the suppliers list but also from submitting bids to the Central Purchasing Division or any other state agency.
- Redundant language deleted from subsection (a) cause for suspension criteria.
- Subsection (a)(9) revised by deleting reference to Oklahoma Human Rights Commission and replacing with "appropriate regulatory authority or court" to encompass other bodies which may determine a supplier has engaged in discriminatory practices.
- Five-day time limits established in Subsections (b) and (c) for notification purposes have been clarified by specifying "business" days.
- Subsections (c) and (d) clarified by adding "in writing" to notification requirements.
- Subsection (d) expanded to require appeal provisions established in 580:15-4-13 also be applicable to a supplier suspension appeal.
- Subsection (e) added to clearly establish the suspension period of a suspended supplier.
- Subsection (f) revisions clarify the supplier reinstatement process by deleting the word "shall" in conjunction with the State Purchasing Director requiring a supplier to submit documents and adding "may consider" reinstatement by the State Purchasing Director "upon submission by the supplier of documents."

#### **580:15-4-19. Supplier debarment**

- Revisions clarify that a supplier may be debarred from the suppliers list and from submitting bids to the Central Purchasing Division or other state agencies subject to the Central Purchasing Act. New language also establishes a debarment period of no more than three years.
- Paragraph (2) revisions clarify that a debarment notice shall be in writing.
- Subparagraph (4)(C) establishes the beginning and end of the debarment period of a supplier.
- Paragraph (5) revisions establish that a reinstatement request by a supplier must be in writing and subsequently, the State Purchasing Director shall approve or deny the reinstatement request in writing.
- Subparagraph (5)(B) provisions governing procedures for a supplier's appeal of the State Purchasing Director's denial of reinstatement decision are deleted from this subparagraph and combined with language in Subparagraph (6) so that appeal procedures are uniform for both debarment and denial of reinstatement. Procedural language is deleted from subparagraph (6) and replaced by reference to the Administrative Procedures Act [75 O.S., §309 et seq] and the provisions of OAC 580:15-4-13.

#### **580:15-4-20. Other provisions**

- Section is revoked because requirements duplicate provisions of the Open Records Act. [51 O.S., 24A.1 et seq]

#### **580:15-6-2. Certified procurement officers**

- Language stricken and added to this section for clarification of continuing education required of Certified Procurement Officers in order to maintain certification.

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

- Subsection (c) revised to clarify requirement of agencies to make available acquisition records to both the State Purchasing Director and the Department of Central Services Audit staff, as necessary for review or audit purposes.

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

- Paragraph (2) clarifies the preference of State Use Committee over the Oklahoma Correctional Industries when considering an acquisition between the two entities pursuant to statutory requirements. [57 O.S., §549.1]
- Paragraph (3) revisions clarify criteria and procedures for Oklahoma Correctional Industries purchases pursuant to statutory requirements. [57 O.S., §549.1]
- Paragraph (4) deletes language related to scheduled acquisitions by the State Purchasing Director and adds new language to clarify four categories of standard contracts with applicable provisions for each contract category.
- Paragraph (5) is deleted, removing nonencumbered contracts as a method for state agencies to make acquisitions
- Paragraph (6) is deleted, removing open market acquisition language, which is generally covered by statute and other rules of this chapter.
- New Paragraph (5) is relocation of requirements for sole source and sole brand contracts as a method of acquisitions to this section from 580:15-6-13, where it has been deleted.

### **580:15-6-6. State agency acquisitions**

- Section title is changed to “State agency acquisitions”
- New subsection (a) specifies acquisition authority of state agencies.
- Rules establishing provisions and criteria for agency acquisitions within specific dollar thresholds have been reorganized and updated for clarification. Sections 580:15-6-7, 580:15-6-8, 580:15-6-9 and 580:15-6-11 have been revoked and subsequently consolidated into one section, 580:15-6-6.
- Subsection (b) revision removes the requirement to use the same procurement processes for acquisitions less than \$2,500 and acquisitions between \$2,500 and \$10,000. Acquisitions less than \$2,500 must be fair and reasonable as required by statute.
- Revisions to procedures for acquisitions over \$2,500 and under \$10,000 include:
  - Subsection (c) specifies that an agency must have a CPO within the agency or a CPO from another agency who has been designated through an interagency agreement and approved internal purchasing procedures in order to make acquisitions in this range. Also specifies the requirement that contracts be awarded based on lowest and best or best value criteria. Criteria for acquisition of professional or nonprofessional services are added to this subsection, which include requirement of statutory language for such contracts be specified as a term of the requisition or contract and signed by the state agency chief administrative officer or the chief administrative officer of the requisitioning unit certifying compliance with the Central Purchasing Act.
  - Paragraph (c)(1) clarifies preparation of acquisition documentation, including acquisition specifications.
  - Paragraph (c)(2) increases number of suppliers required to be solicited for prices and delivery dates from a minimum of two suppliers TO a minimum of three suppliers, which may be selected from the registered suppliers list. Rule language also requires rotation of supplier selection and prohibits soliciting a supplier suspended or disbarred by the State Purchasing Director, Oklahoma Tax Commission or federal government.
  - Paragraph (c)(3) establishes criteria for agency to solicit pricing and delivery dates from suppliers.
  - Paragraph (c) (4) adds requirement for agency to make a written evaluation of criteria considered when selecting the supplier for the acquisition; and placing the written evaluation in the acquisition file.
  - Paragraph (c)(5) specifies requirement that a supplier must provide an original, signed non-collusion affidavit whenever a contract is executed by an agency and supplier. [74 O.S., §85.23] Subparagraph (A), (B) and (C) specify documentation of sales tax permit verification and provide exceptions for acquisitions for services only.
  - Paragraph (c)(6) establishes delivery documentation requirements.
  - Paragraph (c)(7) specifies criteria for supplier payment.
- Revisions to procedures for acquisitions over \$10,000 and under \$25,000 include:
  - Subsection (d) specifies that an agency must have a CPO within the agency or a CPO from another agency who has been designated through an interagency agreement and approved internal purchasing procedures in order to make acquisitions in this range. Also specifies the requirement that contracts be awarded based on lowest and best or best value criteria. Criteria for acquisition of professional or nonprofessional services are added to this subsection, which include requirement of statutory language for such contracts be specified as a term of the requisition or contract and signed by the state agency chief administrative officer or the chief administrative officer of the

requisitioning unit certifying compliance with the Central Purchasing Act. (NOTE: The reference to Sections 580:15-6-3 was inadvertently published as 580:15-6 in this subsection. 580:15-6 is too broad a reference and should be noted as 580:15-6-3 until the rules can be amended again.)

- Paragraph (d)(1) establishes document requirements for a solicitation for acquisition by invitation to bid or request for proposal.
- Paragraph (d)(2) increases number of suppliers required to be solicited for prices and delivery dates from a minimum of three suppliers TO a minimum of ten suppliers, which shall be selected from the registered suppliers list. Rule language also requires rotation of supplier selection and prohibits soliciting a supplier suspended or disbarred by the State Purchasing Director, Oklahoma Tax Commission or federal government.
- Paragraph (d)(3) establishes criteria for agency to solicit pricing and delivery dates from suppliers.
- Paragraph (d)(4) specifies the requirement to include a non-collusion affidavit form with any solicitation that is competitively bid, which must have an original signature and notarization. [74 O.S., §85.22]
- Paragraph (d)(5) specifies requirement for agency to make a written evaluation of criteria considered when selecting the supplier for the acquisition; placing the written evaluation in the acquisition file; and upon selection, notification of award to the supplier.
- Paragraph (d)(6) specifies requirement that a supplier must provide an original, signed non-collusion affidavit whenever a contract is executed by an agency and supplier. [74 O.S., §85.23] Subparagraph (A), (B) and (C) specify documentation of sales tax permit verification and provide exceptions for acquisitions for services only.
- Paragraph (d)(7) establishes delivery documentation requirements.
- Paragraph (d)(8) specifies criteria for supplier payment.
- Section (e) provides additional provisions governing procurement practices, which include split purchases, change orders, fixed rates, acquisitions from another governmental agency, recycled materials, trade-ins, OneNet acquisitions, and authorized signature. These provisions were formerly located in revoked section 580:15-6-11.

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

- Revisions clarify that state agencies without a CPO and/or approved internal purchasing procedures shall submit requisitions for acquisitions exceeding \$2,500 to the State Purchasing Director.
- Paragraph (2) changes the specific statutory cite to the Central Purchasing Act to ensure all applicable statutes relating to services requisition requirements are complied with.
- Paragraph (5) revisions change bid evaluation requirements from both the State Purchasing Director and the state agency conducting the evaluation to the State Purchasing Director and the state agency only upon request for assistance of the agency by the State Purchasing Director. Language also deleted so section applies to all bids and not just bids for acquisition of professional services.

#### **580:15-6-11. Additional purchasing information**

- Revoked and moved to section 580:15-6-6 of these revised rules.

#### **580:15-6-13. Sole source and sole brand acquisitions**

- Revoked and moved to section 580:15-6-5 of these revised rules.

#### **580:15-6-14. State travel**

- Section revisions clarify the State Travel office awards contracts for travel and travel services.
- Paragraph (2) revision clarifies the zone served by a travel agency shall be indicated in the statewide contract.
- Language deleted in subparagraphs (4)(A), (B) and (C) eliminates the travel pricing limitation to the "zone of the state agency location" when comparing travel prices to statewide contract.

#### **580:15-6-15. State Purchasing Director audits of state agencies**

- Section title is changed to "Audits of state agencies"
- Revisions clarify the review process by the State Purchasing Director and audit process by DCS of a state agency's acquisition records to ensure compliance with all applicable statutes and promulgated rules.

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

- Section title is changed to "Information Technology (IT)"
- Sections 580:15-6-21, 580:15-6-22, 580:15-6-23, and 580-15-6-24 have been revoked and consolidated into one section (580:15-6-21), which consists of five subsections containing language relocated from the revoked sections.
- Revisions in section (a)(2) clarify that information technology products must comply with "all applicable" standards rather than "these standards."
- Revisions in section (a)(3) delete the word "objective" from description of "evaluation." Language stating accessibility determination was subservient to the general, technical and functional requirements of procurement specifications during an acquisition evaluation is deleted and replaced with "Accessibility will be considered among the general, technical and functional requirements of the procurement specifications."
- Paragraph (b)(1) revision clarifies acquisition compliance by adding "applicable" before IT Accessibility Standards.
- Paragraph (b)(3) revisions correct previous rule language by changing the requirement for a product or service to comply with procurement clauses to "complies with applicable IT Standards." Language also added authorization for a state agency to utilize a VPAT published on a supplier's primary website and establishes time period the VPAT is effective.
- Paragraph (c)(1) language revised to authorize "an employee of the agency to which responsibility for Section 508 compliance has been delegated," in addition to the agency chief administrative officer, to sign an Undue Burden Documentation form or justify a purchase meets an exception to the IT Standards.
- Requirement for agencies to maintain summary and statistical information of procurement exceptions and undue burden determinations, to be reported to DCS and OSF annually, was revoked in section 580:15-6-23 and not relocated to this section.
- New language added to section (d) governing the documentation of exceptions, eliminates requirement for agencies to maintain exception documentation for all IT acquisitions and instead, "encourages" agencies to maintain documentation for commercial off the shelf acquisitions of \$2,500 or less unless the purchase is part of an existing contract or affects a larger EIT system where accessibility is critical.