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STATE OF OKLAHOMA
DEPARTMENT OF CENTRAL SERVICES

PROCUREMENT INFORMATION MEMORANDUM (Number 09-03)

TO: All Certified Procurement Officers

REVISION DATE: September 15, 2009

SUBJECT: Split Purchasing – Policy Guidance

1. References:

- a. Title 74 O.S. 2007 §§ 85.2(1); 85.2(31).; 85.7 (A) (2) (a)
- b. Oklahoma Administrative Code, Title 580:15-6-6(e)(1)
- c. Split Purchasing Guidelines, dated September 7, 1994.

2. The Central Purchasing Division recognizes that fair and open competition is a basic tenet of public procurement; that such competition reduces the appearance and opportunity for favoritism and inspires public confidence that contracts are awarded equitably and economically; and that documentation of the acts taken and effective monitoring mechanisms are important means of curbing any improprieties and establishing public confidence in the process by which commodities and contractual services are procured. It is essential to the effective and ethical procurement of commodities and contractual services that there be a system of uniform procedures to be utilized by state agencies in managing and procuring commodities and services; that detailed justification of agency decisions in the procurement of commodities and services be maintained; and that adherence by the agency and the vendor to specific ethical considerations be required.

3. The current provisions relating to split purchasing are in 74 O.S. § 85.7(A) (2) (a), which provides as follows: “Split purchasing for the purposes of evading the requirement of competitive bidding shall be a felony.” According to 74 O.S. §85.2 (31) "Split purchase" means dividing a known quantity or failing to consolidate a known quantity of an acquisition **for the purpose of evading a competitive bidding requirement** (emphasis added). Pursuant to the Central Purchasing Rules in the Oklahoma Administrative Code, Title 580:15-6-6(e)(1), relating to split purchases, state agencies “shall not make split purchases **for the purpose of evading their approved dollar threshold for competitive bids.**” (emphasis added) A split purchase occurs when an agency acquisition (known requirement or quantity of items), as defined by the agency, is either divided into separate transactions for the purpose of evading the appropriate statutory threshold for competitive bids; or the agency fails to consolidate a known quantity required for a purchase, and the purchases are conducted as separate transactions because the total costs would have exceeded the established statutory competitive bidding thresholds.

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4. Split Purchasing Guidelines, reference 1c above, are rescinded. These guidelines were premised on statutory provisions in Title 74 O.S. § 85.7 that have since been deleted from the statute, and are no longer valid.
5. **This PIM does not** pertain to transactions made pursuant to Title 61 and administered by the Construction and Property Division of the Department of Central Services.
6. The following are examples of situations that are not split purchasing, because the acquisitions are not being divided up by the agency for the purpose of evading competitive bidding requirements:
 - a. Acquisitions made by a state agency are divided up due to insufficient agency funding for the total acquisition in a fiscal period;
 - b. The availability of portions of acquisitions from established Statewide or other appropriate contracts;
 - c. Specification requirements that result in the need for specialized or different suppliers;
 - d. Project expenditures are handled in separate transactions because the products or services required are only available from different commodity vendors;
 - e. or any situations in which total required quantities are unknown at the time a portion of the acquisition should be made.
7. Agency personnel are responsible for documenting acquisitions in order to respond to any inquiries about split purchasing. Such responsibilities should include documentation supporting valid reasons for dividing up or failing to consolidate any agency acquisitions that could appear to have been made in a single transaction.
8. Agency internal purchasing procedures will require revision to comply with this guidance

If you have questions about whether or not a transaction or a group of transactions would be considered split purchasing, contact your legal counsel for additional guidance.

The point of contact for this memorandum is Lee Johnson, Contract Manager 522-5395.



Scott Schlotthauer
State Purchasing Director