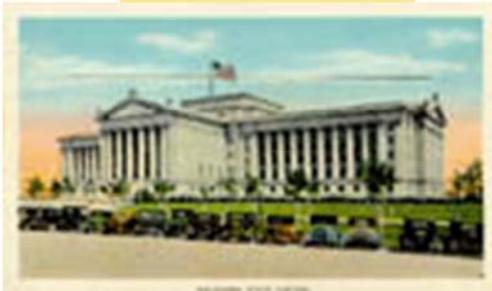


STATE OF OKLAHOMA

**Department of Central Services
Audit Unit**



OKLAHOMA DEPARTMENT
OF VETERANS AFFAIRS
Procurement Program
Compliance Audit

*Report Released
July 28, 2008*

JOHN S. RICHARD
Director



BRAD HENRY
Governor

STATE OF OKLAHOMA
DEPARTMENT OF CENTRAL SERVICES

July 28, 2008

TO MR. PHILLIP L. DRISKILL, EXECUTIVE DIRECTOR AND THE WAR VETERANS COMMISSION:

With this letter, we transmit the report of the Oklahoma Department of Veterans Affairs Procurement Compliance Audit for the audit periods October 1, 2006 to September 30, 2007 for procurement compliance and October 29, 2006 to October 3, 2007 for the purchase card program.

We performed our audit in accordance with professional auditing standards to ensure that programs and contracts administered by the Department of Central Services are conducted in accordance with laws and regulations and used in an ethical, effective and efficient manner while limiting exposure to fraud, waste, mismanagement, or abuse.

The accompanying report presents our findings and recommendations, as well as management's responses and corrective action plans. This report is available to the public on the Department of Central Services website, www.dcs.ok.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "John S. Richard".

John S. Richard
Director of the Department of Central Services

"Committed to Quality"

STATE OF OKLAHOMA
OKLAHOMA DEPARTMENT OF VETERANS AFFAIRS
PROCUREMENT COMPLIANCE AUDIT
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OKLAHOMA DEPARTMENT OF VETERANS AFFAIRS
PROCUREMENT COMPLIANCE AUDIT
FOR THE AUDIT PERIOD OCTOBER 1, 2006 TO SEPTEMBER 30, 2007**

PURPOSE, OBJECTIVE AND SCOPE

The Audit Unit of the Department of Central Services has completed an audit of the procurement program for the Oklahoma Department of Veterans Affairs, hereinafter referred to as the "Agency", for the period October 1, 2006 to September 30, 2007 for the Agency's procurement program and for the period October 29, 2006 to October 3, 2007 for the Agency's purchase card program. The purpose of this audit report is to communicate the results of the audit.

The objectives of this audit were:

- ensure your Agency is in compliance with provisions of the Oklahoma Central Purchasing Act;
- ensure your Agency is in compliance with purchasing rules promulgated by the Department of Central Services;
- ensure your Agency is in compliance with the State of Oklahoma Purchase Card Procedures;
- ensure your Agency is in compliance with approved internal purchasing procedures;
- and, determine if the Agency has implemented internal controls and if your Agency's controls are operating effectively in relation to the procurement program.

This audit was performed pursuant to 74 O.S. § 85.5.E. and the State of Oklahoma Purchase Card Procedures in accordance with generally accepted *Government Auditing Standards*.

METHODOLOGY

- Interviews were conducted with the Agency's staff members.
- Internal controls over the procurement program were documented and evaluated.
- Procurement and purchase card transactions were examined.
- Overall program compliance with the rules related to the audit objectives was evaluated.

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EXECUTIVE SUMMARY

Organization

The Oklahoma Department of Veterans Affairs was created by the Oklahoma Legislature in 1947 as the successor to the Soldiers Relief Commission; the department is responsible for the administration of the general duties of the commission, which includes assistance to veterans and their dependents in obtaining benefits.

Agency Information

As of September 1, 2007 (ABC Book 2007), the Agency consists of 1,994 personnel - 1,929 classified and 65 unclassified. At the time of the audit, there were 20 certified procurement officers and 51 total purchase card cardholders (49 regular, 2 statewide and 2 travel) in the Agency.

War Commission Members

(During the Audit Period)

- Dean Derieg, Veterans of Foreign Affairs, Chairperson
- William Finch, the American Legion, Vice-Chairperson
- Dennis Parrott, Disabled American Veterans, Secretary
- Phil Boatner, the American Legion
- Ray Penrod, the American Legion
- Jay Bjorgo, Veterans of Foreign Wars
- Frank Zanbrano, Veterans of Foreign Affairs
- Loretta Rethard, Disabled American Veterans

Key Staff

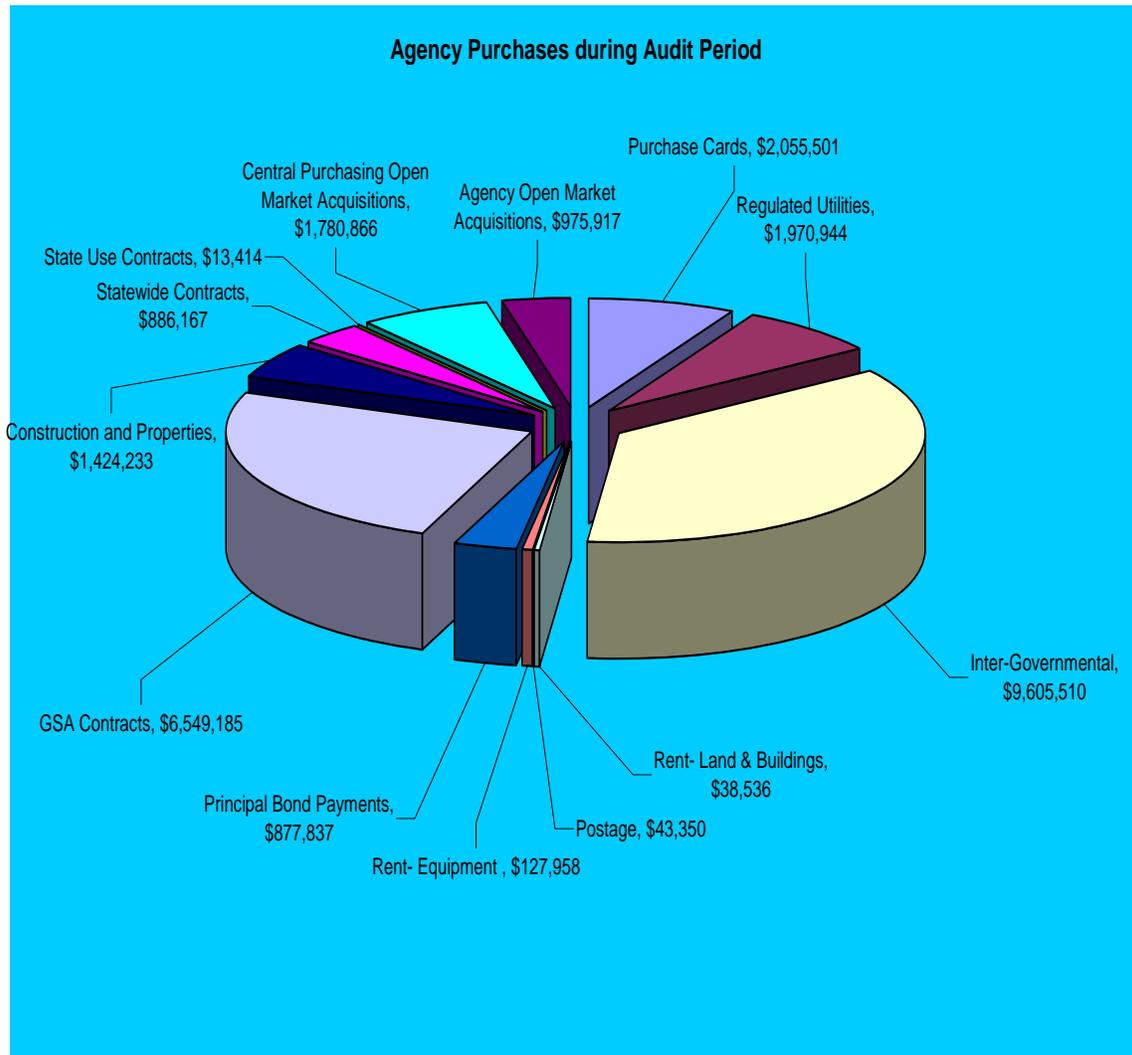
(During the Audit Period)

- Phillip Driskill, Executive Director
- Martha Spear, Deputy Director
- James Calkins, Chief Financial Officer and Certified Procurement Officer
- Ed Noltensmeyer, Accounting Supervisor
- Steve Diffie, Quality Assurance Programs Manager
- John Duggan, Purchase Card Administrator

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AGENCY ACQUISITION SUMMARY

The following chart depicts pictorially purchases, separated into various categories, made by the Oklahoma Department of Veterans Affairs for the audit period.



The Agency had \$3,031,418 ($\$975,917 + \$2,055,501$) in open-market acquisitions for the audit period. This dollar amount in acquisitions was the Agency's primary purchasing responsibility in accordance with the Oklahoma Central Purchasing Act and Oklahoma Department of Central Services Central Purchasing Administrative Rules. These acquisitions were the primary focus of our audit based on the aforementioned audit objectives.

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AUDIT RESULTS

The Audit Unit of the Department of Central Services reviewed a total of 74 purchase orders with a dollar value of \$1,231,063.26. The audit included a review of purchase orders for open market acquisitions, professional services, GSA contracts and the agency's purchase card program.

Agency Purchase Card Program

The agency's purchase card program was a large part of this procurement audit. No reportable exceptions were noted during our audit of the agency's purchase card program. The agency's internal controls for monitoring the purchase card program are well-developed and operating effectively. The monthly reviews of each purchase card transaction by the internal audit unit ensure compliance with the purchase card rules and regulations. In addition, the individual division employees responsible for performing purchase card activities within the agency's internal controls implemented, are doing so with minimal deficiencies. The overall agency purchase card program is exceptional and the procurement staff should be commended.

Audit Finding Summary

Error rates are based on transactions and/ or purchase orders.

- 2 of 3 (67%) purchase orders were not in accordance with purchasing rules for the dollar threshold for the total dollar value of the contract. [Finding 07-650-07](#)
- 1 of 3 (33%) purchase orders should have been processed by Central Purchasing. [Finding 07-650-07](#)
- Purchase order for trash removal services was not competitively bid. [Finding 07-650-10](#)
- 1 of 9 purchase orders was not submitted to Central Purchasing for processing. [Finding 07-650-10](#)
- Revised bid solicitation for pest control services was awarded to the low bidder of the original bid solicitation. [Finding 07-650-08](#)
- 2 of 9 (22%) purchase order files did not include a notarized sworn statement in support of an executed contract. [Finding 07-650-03](#)
- 3 of 3 (100%) purchase orders were not supported by a notarized sworn statement pursuant to 74 O.S. § 85.23. [Finding 07-650-03](#)
- 3 of 17 (18%) purchase order files did not include an affidavit certifying persons involved in the development of the contract while employed by the State will not also perform contracted services. [Finding 07-650-03](#)

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- 1 of 3 (33%) purchase orders was not supported by an affidavit pursuant to 74 O.S. § 85.22. [Finding 07-650-03](#)
- 3 of 10 (30%) professional services contracts did not have an audit clause. [Finding 07-650-01](#)
- One professional service contract with a completed contract year did not have a completed professional service performance evaluation. [Finding 07-650-01](#)
- 4 of 11 (36%) purchase orders were not supported by documentation that the vendor status was verified prior to making the acquisition. [Finding 07-650-05](#)
- 7 of 11 (64%) purchase orders verified vendor status at the time of substantive testing and not at the time of acquisition. [Finding 07-650-05](#)
- 4 of 9 (44%) purchase orders were not supported by documentation that the sales tax permit of the vendor was verified. [Finding 07-650-06](#)
- 4 of 9 (44%) purchase orders verified sales tax permit at the time of substantive testing and not at the time of the acquisition. [Finding 07-650-06](#)

Audit Finding Detail

Findings and recommendations are reported based on audit significance.

Finding [07-650-07](#): Competitive Bids

Criteria: Oklahoma Central Purchasing Act Title 74 O.S. § 85.7 **Competitive Bid or Proposal Procedures A.1.** states, “Except as otherwise provided by the Oklahoma Central Purchasing Act, no state agency shall make an acquisition for an amount exceeding Twenty-five Thousand Dollars (\$25,000.00) without submission of a requisition to the State Purchasing Director and submission of suppliers’ competitive bids or proposals to the State Purchasing Director.”

Oklahoma Central Purchasing Rules 580:15-6-10 **State agency acquisitions the Purchasing Division processes** states in part, “...All acquisitions exceeding twenty-five thousand dollars (\$25,000.00) shall be submitted to the State Purchasing Director.”

Oklahoma Central Purchasing Rules (effective June 25, 2007) 580:15-6-6 **State agency acquisitions (d) Acquisitions over \$10,000.00 and under \$25,000.00 (2) Supplier selection** states in part, “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...”

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Condition: During substantive testing, we noted three renewable contracts in our population of 74 contracts selected for review. Based on our review, the following exceptions were noted:

- 2 of 3 (67%) purchase orders were not made in accordance with the purchasing rules for the dollar threshold for the total dollar value of the contract.
- 1 of 3 (33%) purchase orders should have been processed by Central Purchasing.

Contracts were bid at the PO Amount level stated below, when the contract should have been bid at the Total Contract Amount. The agency used less restrictive bidding practices, such as receiving informal quotes, to bid a larger contract.

The table below details the exceptions noted:

<u>PO # (and all related PO #s)</u>	<u>PO Date</u>	<u>Vendor</u>	<u>PO Amount</u>	<u>Facility</u>	<u>Total Contract Amount</u>	<u>Comments</u>
6509011164 (6509008233)	7/18/2007	Air Products Supply	\$4,000	Norman	\$12,000	2 nd year of 3 year contract. Initial year of contract issued on PO #6509008233.
6509011202 (6509008230)	7/19/2007	Hambrick Ferguson Inc.	\$5,500	Norman	\$16,550	2 nd year of 3 year contract. Initial year of contract issued on PO #6509008230.
6509011169 (6509008230)	7/18/2007	James Supplies & Rental	\$25,000	Norman	\$74,806.70	2 nd year of 3 year contract. Initial year of contract issued on PO #6509008230.

After noting exceptions for the 3 renewable contracts, we looked for additional purchase orders that may be a part of renewable contract. There were two additional purchase orders noted where the development and initiation of the purchase order was completed based on the first year cost of the contract and not the total cost of the contract. The following exceptions were noted:

- 2 purchase orders were not made in accordance with the purchasing rules for the dollar threshold for the total dollar value of the contract.

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The table below details the exceptions noted:

<u>PO # (and all related PO #s)</u>	<u>PO Date</u>	<u>Vendor</u>	<u>PO Amount</u>	<u>Facility</u>	<u>Total Contract Amount</u>	<u>Comments</u>
6509011153 (6509008228)	7/18/2007	Winnelson	\$5,000	Norman	\$15,000	2 nd year of 3 year contract. Initial year of contract issued on PO #6509008228.
6509011160	7/18/2007	Commercial Equipment Co.	\$6,500	Norman	\$19,500	Initial year of contract.

During our review of the internal controls for the Agency's procurement program, we also noted an acquisition for pest control services that was not made in accordance with the state statute or purchasing rules. The total dollar value of the pest control renewable contract exceeded \$25,000.00 and the purchase should have been processed by Central Purchasing. The table below details the exception noted:

<u>PO #</u>	<u>Contract Year</u>	<u>Vendor</u>	<u>PO Amount</u>	<u>Facility</u>	<u>Contract Year</u>	<u>Comments</u>
6509004923	7/27/2005	Aim to Kill	\$7,764.00	Norman	FY 2005	
6509009883	6/15/2006	Aim to Kill	\$1,120.00	Norman	FY 2006	Extra ant control measures
6509009883	6/19/2006	Aim to Kill	\$7,764.00	Norman	FY 2006	
6509009883	1/8/2007	Aim to Kill	\$7,764.00	Norman	FY 2007	
6509009883	1/8/2007	<u>Aim to Kill</u>	<u>\$1,020.00</u>	Norman	FY 2007	Extra ant control measures
			<u>\$25,432.00</u>			Total purchase order amount

Cause: Contracts have the option for renewal. Length of contract is not determinable.

Effect or Potential Effect: By not making open market acquisitions in accordance with purchasing rules, controls and measures in place to ensure acquisitions are fair and reasonable, lowest and best, or best value are circumvented.

Recommendation: We recommend the Agency:

1. Initiate and implement a process whereby renewable contracts from the Norman facility are reviewed and approved by Central Office prior to the acquisition to

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ensure the procurement process is accordance with Oklahoma Central Purchasing Act and Oklahoma Central Purchasing Administrative Rules.

2. Consult with Central Purchasing to clarify the appropriate bidding requirements for renewable contracts.
3. Perform continuous monitoring activities for the acquisition dollar threshold of exceeding \$10,000 and not exceeding \$25,000 to ensure compliance with Oklahoma Central Purchasing Act and Oklahoma Central Purchasing Administrative Rules.
4. Provide training to the Norman facility purchasing personnel related to bidding requirements for renewable contract acquisitions.
5. Submit the above contracts along with all supporting documentation to the State Purchasing Director for review to ensure proper bidding practices have been followed and determine if any further action needs to be taken.

Management's Response

Date: July 11, 2008

Respondent: Certified Financial Officer/ Certified Procurement Officer

Response: **Partially Concur** - DCS has promulgated rules on agency procurement. Unfortunately these rules do not give guidance on "multi year contracts" or on "One year contracts with an option to renew". Our understanding on multi year contracts is that they can only be signed with a clause stating that contract is "subject to funding". It seems obviously that these contracts would be subject to the normal dollar value restrictions for the entire period. On the other hand contracts that are for 1 year with an option to renew are really only one year contracts. The 2nd and 3rd year represent DCS determination that the bidding process that occurred in the first year can be used for two more years. This is in the States interest because changing vendors every year may actually cost the state more money than can be gained in the bidding process. There is no legal obligation on either party to accept the bid for the second year thus there is no contract formed other then during the next year when both parties approve the renewal. As such we have always felt that the dollar value of the acquisition is just the one year and subject only to the one year's rules and regulations. If as the auditor states the rule is that you have to use the entire periods contract price for bidding, we will follow the rule. However, this will inevitably cause the contracts to be bid out every year costing the state money in processing bid and new vendor startup costs.

Regarding purchase order #6509011169 (and related purchase order #6509008230) to James Supplies and Rental for medical oxygen, the Central Office had already noted that the total contract amount exceeded the Agency

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acquisition amount and turned the purchase order over to Central Purchasing in April 2008.

Corrective Action Plan

Contact Person: Accounting Supervisor

Anticipated Completion Date: On-going

Corrective Action Planned: We have already begun training of the Norman purchasing personnel and will continue to do so in the next few months. We will submit the above contracts to the State Purchasing Director for review. We will continue and enhance our monitoring program with regard to the Norman facility.

Auditor's Response

Reportable

Response: Bid solicitations were reviewed for three (3) of the six (6) purchase orders referenced in this finding. The following language was noted in each of these bid solicitations:

Medical Oxygen

*...Contract is a one (1) year beginning from **date** to **date** and renewable for **x** additional fiscal years providing both parties agree and no significant price increase of 3% per each succeeding years. This contract shall be in force until expiration date or until 30 days after notice has been given by the State of Oklahoma of its desire to terminate the contract. After the first 6 months, vendor may cancel with a 30 day written notice...*

...Upon award of each new three year contract and before first delivery of bulk liquid medical oxygen...

Commercial Laundry Equipment

...Pricing shall be from manufacturer parts catalog for each identified item and a dated pricing catalog shall be attached with bid. A new dated pricing catalog shall be furnished for each year renewed unless pricing remains the same for additional years. Pricing catalog shall be received within 30 days of receipt of each renewal contract, if applicable...

*...Contract is for one-year period beginning date through date and renewable for **x** additional fiscal years providing both owner and vendor agree and no significant costs increase above wholesale cost...*

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...This contract shall be in force until expiration date or until 30 days after notice has been given by the State of Oklahoma of its desire to terminate the contract. After the first 6 months, vendor may cancel with a 30 day written notice...

Pest Control (This solicitation included lines for quotes for each fiscal year.)

...Contract is for one fiscal year period beginning date through date and renewable for x additional fiscal years providing both owner, vendor agree and no significant costs increase above stated yearly rate.

This contract shall be in force until expiration date or until 30 days after notice has been given by the State of Oklahoma of its desire to terminate the contract. After the first 6 months, vendor may cancel with a 30 day written notice...

Each of the bid solicitations contain language that allows either party to terminate the contract (prior to the end of the contractual year) after a specific length of time- 30 days after notice given by the State and 30 day written notice after the first six (6) months by the vendor. Effectively, there is no legal obligation to keep in force the contract beyond a 7 month period. However if the contract year is completed, there are provisions in each of the bid solicitations that indicate that the intent of the solicitation is to have a renewable contract beyond the initial year based on specific factors, i.e. agreement between the vendor and the agency.

In contracting for renewable contracts, consideration should be given to the following:

1. Intent of the contract per bid solicitation- Does the agency desire to contract with the vendor for more than a year? Is consideration given to price and the quality of good/ service?
2. Price protection- Is the goal to 'lock' in contract price at first year prices for the term of the contract, i.e. hedging against future price increases?
3. Bilateral or unilateral option to renew the contract- At the time of contract renewal, which party has the option to renew the contract- the agency, the vendor, or both?
4. Impact on competition- Use of renewable contracts has the potential for reducing competition for the goods or service. Best price offered in the open-market is ignored when a contract is renewed for an additional term.

Finding [07-650-10](#): Competitive Bids

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Criteria:

1. Oklahoma Central Purchasing Rules (effective June 25, 2007) 580:15-6-6 **State agency acquisitions (d) Acquisitions over \$10,000.00 and under \$25,000.00 (2) Supplier selection** states in part, "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..."
2. Oklahoma Central Purchasing Rules (effective June 25, 2007) 580:15-6-10 **State agency acquisitions the Purchasing Division processes** states in part, "... All acquisitions exceeding twenty-five thousand dollars (\$25,000.00) shall be submitted to the State Purchasing Director."

Condition:

1. During planning, purchase order 6509011180 to vendor IESI-TX was not competitively bid. The purchase order was for trash removal services in the amount of \$22,160.00.
2. During substantive testing, 74 purchase orders were reviewed. Of these 74 purchase orders, 10 (14%) purchase orders with a dollar threshold of \$25,000.01 and greater were reviewed. We noted 1 of 9 (11%) purchase orders was not submitted to Central Purchasing for processing. The purchase order was for a Title 18 professional service in the amount of \$26,160.00.

Cause:

1. The purchasing official believed services was a regulated utility. Solid waste pickup was being paid for as part of the utility bill.
2. The purchasing official believed that Title 18 professional services exceeding \$25,000 were excluded from being submitted to Central Purchasing for process.

Effect or Potential Effect:

1. By not making open market acquisitions in accordance with purchasing rules, controls and measures in place to ensure acquisitions are fair and reasonable, lowest and best, or best value are circumvented.
2. All acquisitions exceeding \$25,000 are not submitted to Central Purchasing for processing.

Recommendation: We recommend the Agency:

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- Consult with the Oklahoma Corporation Commission for assistance in understanding what defines a regulated utility and what services are considered a regulated utility.
- Perform continuous monitoring activities for the acquisition dollar threshold of exceeding \$10,000 and not exceeding \$25,000 to ensure compliance with Oklahoma Central Purchasing Act and Oklahoma Central Purchasing Administrative Rules.
- Develop and implement a process whereby all acquisitions exceeding \$25,000 are identified, a requisition is created, and the requisition is submitted to Central Purchasing for processing.

Management's Response

Date: July 11, 2008

Respondent: Accounting Supervisor

Response: Partially Concur – The Central Office Purchasing staff and our Internal Audit staff have been unable to find a definition of a regulated utility. We requested DCS Audit staff to furnish us a citation or definition of a regulated utility. We suggest that DCS and the Corporation Commission consult to provide a definition of a regulated utility in the Central Purchasing Rules. This will be extremely important since legislation has been signed by the Governor which authorizes the use of the purchase card to pay for regulated utilities.

Corrective Action Plan

Contact Person: Accounting Supervisor

Anticipated Completion Date: August 31, 2008

Corrective Action Planned: We will modify our checklists specific to Title 18 professional services contracts which details specific action items to be completed when contracting, issuing the purchase order, and closing the professional service contract file. We will consult with the Corporation Commission to attempt to get a better understanding of regulated utilities. Additionally, we will continue our existing continuous monitoring program of our procurement program.

Finding [07-650-08](#): Internal Controls

Criteria: Oklahoma Central Purchasing Rules (effective June 25, 2007) 580:15-6-6
State agency acquisitions (d) Acquisitions over \$10,000.00 and under \$25,000.00

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(2) Supplier selection states in part, “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...”

Oklahoma Central Purchasing Rules (effective June 25, 2007) 580:15-6-6 **State agency acquisitions (d) Acquisitions over \$10,000.00 and under \$25,000.00 (3) Pricing** states, “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.”

Condition: During the review of the internal controls for the Agency’s procurement program, three purchase orders were reviewed to ensure the purchase orders were supported by bid documentation inclusive of evaluation criteria and scoring system, specifications, and minimum number of required suppliers. The following exception was noted:

- A bid solicitation for pest control services were revised with new specifications in May 2007. The revised solicitations were e-mailed to the responders of the original solicitation on May 31, 2007. The only responsive bid received was from Orkin, Inc. However, the solicitation was awarded to Professional Pest Control, Inc. This vendor was the low bidder on the original solicitation for pest control services.

Cause: Vendor awarded contract was the low bidder to the original solicitation.

Effect or Potential Effect: By not making open market acquisitions in accordance with purchasing rules, controls and measures in place to ensure acquisitions are fair and reasonable, lowest and best, or best value are circumvented.

Recommendation: We recommend the Agency:

1. Review the Central Purchasing Act and the Central Purchasing Administrative Rules to ensure compliance with requirements specific to the acquisition dollar threshold and the acquisition process in general.
2. Initiate and implement a process whereby all renewable contracts are reviewed and approved by Central Office prior to the acquisition to ensure the procurement process is accordance with Oklahoma Central Purchasing Act and Oklahoma Central Purchasing Administrative Rules.
3. Perform continuous monitoring activities for the acquisition dollar threshold of exceeding \$10,000 and not exceeding \$25,000 to ensure compliance with Oklahoma Central Purchasing Act and Oklahoma Central Purchasing Administrative Rules.

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4. Submit the contract along with all supporting documentation to the State Purchasing Director for review to ensure proper bidding practices have been followed and determine if any further action needs to be taken.
5. Consult with Central Purchasing to clarify the appropriate bidding requirements for renewable contracts.

Management's Response

Date: July 11, 2008

Respondent: Accounting Supervisor

Response: Concur

Corrective Action Plan

Contact Person: Accounting Supervisor

Anticipated Completion Date: August 31, 2008

Corrective Action Planned: We will submit the contract along with all supporting documentation to the State Purchasing Director for review to ensure proper bidding practices have been followed and determine if any further action needs to be taken and we will consult with Central Purchasing to clarify the appropriate bidding requirements for renewable contracts. Additionally, we will continue our existing continuous monitoring program of our procurement program.

Finding [07-650-03](#): Affidavits

Criteria:

1. Oklahoma Central Purchasing Act Title 74 § 85.23 **Notarized Sworn Statement Attached to Contract** states in part, "A notarized sworn statement shall be attached to each contract for goods and services awarded by the state..."

Oklahoma Central Purchasing Rules 580:15-6-6 **State agency acquisitions (c) Acquisitions over \$2,500.00 and under \$10,000.00 (5) Contracts** and Oklahoma Central Purchasing Rules 580:15-6-6 **State agency acquisitions (d) Acquisitions over \$10,000.00 and under \$25,000.00 (6) Contracts** states:

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

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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.

2. Oklahoma Central Purchasing Act Title 74 § 85.42 **One Year Limitation on Entering Contracts with Certain Persons- - Exceptions B.** states in part, "Each contract entered into by any person or firm with the State of Oklahoma shall include an affidavit certifying that no person who has been involved in any manner in the development of that contract while employed by the State of Oklahoma shall be employed to fulfill any of the services provided for under said contract..."
3. Oklahoma Central Purchasing Rules (effective July 2005) **580:15-6-9 State agency acquisitions exceeding ten thousand dollars (\$10,000.00) and not exceeding twenty-five thousand dollars (\$25,000.00) (3) Noncollusion affidavit** states in part, "The state agency shall provide suppliers a noncollusion affidavit form pursuant to 74 O.S. § 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..."

Condition: For the audit period reviewed (October 1, 2006 to September 30, 2007), the Agency issued 1,339 purchase orders for a total dollar value of \$26,349,417.22. Of these purchase orders, 482 (36%) purchase orders totaling \$2,539,028.74 (10%) applied to the Central Purchasing Act and the Central Purchasing Rules. Through statistical sampling, 74 (15%) purchase orders with a total dollar value of \$1,231,063.26 (48%) were selected for review.

1. Of the 74 purchase orders, 19 (26%) purchase orders required a notarized sworn statement pursuant to 74 O.S. § 85.23. Total dollar value of the purchase orders is \$212,060.66 (17%). The 19 purchase orders consisted of 9 purchase orders from the over \$2,500.00 and under \$10,000.00 threshold and 10 purchase orders from the over \$10,000.00 and under \$25,000.00 threshold. The following exceptions were noted:
 - 2 of 9 (22%) purchase order files did not include a notarized sworn statement in support of executed contract.

During the review of the internal controls for the Agency's procurement program, four purchase orders were reviewed to ensure the purchase orders were supported by affidavits required for the acquisition dollar threshold. Of these four purchase orders, three purchase orders required affidavits. The following exception was noted:

- 3 of 3 (100%) purchase orders were not supported by a notarized sworn statement pursuant to 74 O.S. § 85.23.

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2. Of the 74 purchase orders, 17 (23%) purchase orders with a total dollar value of \$195,430.76 (16%) required an affidavit pursuant to 74 O.S. § 85.42.B. The following exception was noted:
 - 3 of 17 (18%) purchase order files did not include an affidavit certifying persons involved in the development of the contract while employed by the State will not also perform contracted services.
3. During the review of the internal controls for the Agency's procurement program, four purchase orders were reviewed to ensure the purchase orders were supported by affidavits required for the acquisition dollar threshold. Of these four purchase orders, three purchase orders required affidavits. The following exception was noted:
 - 1 of 3 (33%) purchase orders was not supported by an affidavit pursuant to 74 O.S. § 85.22.

Cause:

1. Non-collusion affidavit for the executed contract could not be located by the Agency.
2. Facility was unaware that affidavit was necessary if another facility wrote the contract.
3. Non-collusion affidavit for competitive bids could not be located by the Agency.

Effect or Potential Effect:

1. By not including a notarized sworn affidavit with an executed contract, there is no written documentation attesting to the full knowledge and acceptance of the provisions of non-collusion affidavit by the supplier of the good or services contracted for.
2. By not including an affidavit pursuant to 74 O.S. § 85.42.B. with each required contract entered into, there is no written documentation certifying individuals who developed contract as employees of the State will not also be performing under the executed contract.
3. By not including a notarized sworn affidavit with competitive bids, there is no written documentation certifying facts related to collusion and/ or the offering of things of value for special consideration.

Recommendation: We recommend the Agency:

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1. Review the Central Purchasing Act and the Central Purchasing Administrative Rules to ensure compliance with requirements specific to the acquisition dollar threshold and the acquisition process in general.
2. Implement a review process of all requisitions and purchase orders prior to the acquisition of goods and services to ensure all required affidavits, language, and other supporting documentation are present. The purchasing checklists developed by the Agency and currently in use should be utilized in the implementation of the review process. The purchasing checklists should serve as an independent verification of the completeness of the purchase order file to be signed-off on by the Certified Procurement Officer.
3. Perform periodic audits of the Agency's procurement program.

Management's Response

Date: July 11, 2008

Respondent: Accounting Supervisor

Response: Concur

Corrective Action Plan

Contact Person: Accounting Supervisor

Anticipated Completion Date: August 31, 2008

Corrective Action Planned: We will revise our existing purchasing checklists regarding required affidavits and supporting documentation and will include a sign-off by the Certified Procurement Officer. Additionally, we will continue our existing continuous monitoring program of our procurement program.

Finding [07-650-01](#): Professional Services Contracts

Criteria:

1. The Oklahoma Central Purchasing Act Title 74 § 85.41 **Professional Services Contracts E.** states:

A professional services contract shall include an audit clause which provides that all items of the supplier that relate to the professional services are subject to examination by the state agency, the State Auditor and Inspector and the State Purchasing Director.

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2. The Oklahoma Central Purchasing Act Title 74 § 85.41 **Professional Services Contracts B.** states:

The state agency shall evaluate the performance of the professional services provided pursuant to a professional services contract. The performance evaluation shall indicate the quality of service or work product to the supplier. The state agency shall retain the evaluation in the document file the state agency maintains for the acquisition pursuant to Section 85.39 of this title. If the evaluation indicates deficiencies with the supplier's work, the state agency shall send a copy of the evaluation to the State Purchasing Director.

Condition: For the audit period reviewed (October 1, 2006 to September 30, 2007), the Agency issued 1,339 purchase orders for a total dollar value of \$26,349,417.22. Of these purchase orders, 482 (36%) purchase orders totaling \$2,539,028.74 (10%) applied to the Central Purchasing Act and the Central Purchasing Rules. Through statistical sampling, 74 (15%) purchase orders with a total dollar value of \$1,231,063.26 (48%) were selected for review.

Of the 74 purchase orders sampled, 10 purchase orders (14%) for a total dollar value of \$167,867.36 (14%) were for professional services contracts. The following exceptions were noted:

1. 3 of 10 (30%) professional services contracts did not have an audit clause. Combined total of these purchase orders is \$24,000.

There was also a professional service contract reviewed during our review of the Agency's internal controls. This contract did not have an audit clause. Total of this purchase order is \$20,100.

2. For the audit period reviewed, only one (1) professional service purchase order had a completed contract year (05/01/2007 – 06/30/2007). This purchase order did not have a completed professional service performance evaluation.

Cause:

1. Audit clause was erroneously omitted from the contract.
2. Oversight by facility management.

Effect or Potential Effect:

1. By not having an audit clause included in the contract, there is no provision allowing the service provider's records to be examined by outside parties.

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2. By not performing a performance evaluation for professional services received, there is no written documentation of the level of service received from contracted vendors or written documentation of deficiencies noted in services received.

Recommendation: We recommend the Agency:

1. Create a checklist specific to professional services contracts which details specific action items to be completed when contracting, issuing the purchase order, and closing the professional service contract file.
2. Perform periodic reviews of all purchase order files (at the facility level) to ensure all supporting documentation for the acquisition has been obtained and included in the file.
3. Perform periodic audits of the Agency's procurement program.

Management's Response

Date: June 27, 2008

Respondent: Accounting Supervisor and Chief Financial Officer/ Certified Procurement Officer

Response: Partially Concur – While we concur that we did not comply with the letter of the law regarding the audit clause, we did comply with the spirit in that the contracts required all work product to be submitted to the agency and placed into the medical record in compliance with HIPPA, VA and other medical record rules and regulations.

Corrective Action Plan

Contact Person: Accounting Supervisor

Anticipated Completion Date: August 31, 2008

Corrective Action Planned: We will create a checklist specific to professional services contracts which details specific action items to be completed when contracting, issuing the purchase order, and closing the professional service contract file. Additionally, we will continue our existing continuous monitoring program of our procurement program.

Finding [07-650-05](#): Verification of Vendor Status

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Criteria: Oklahoma Central Purchasing Rules 580:15-6-6 **State agency acquisitions (c) Acquisitions over \$2,500.00 and under \$10,000.00 (2) Supplier selection** and Oklahoma Central Purchasing Rules 580:15-6-6 **State agency acquisitions (d) Acquisitions over \$10,000.00 and under \$25,000.00 (2) Supplier selection** states in part, "...Suppliers that have been suspended or debarred by the State Purchasing Director, the Oklahoma Tax Commission or the federal government shall not be solicited."

Condition: For the audit period reviewed (October 1, 2006 to September 30, 2007), the Agency issued 1,339 purchase orders for a total dollar value of \$26,349,417.22. Of these purchase orders, 482 (36%) purchase orders totaling \$2,539,028.74 (10%) applied to the Central Purchasing Act and the Central Purchasing Rules. Through statistical sampling, 74 (15%) purchase orders with a total dollar value of \$1,231,063.26 (48%) were selected for review.

Of the 74 purchase orders, 11 (15%) purchase orders with a total dollar value of \$91,637.70 (7%) required verification of vendor status. Eight of the 11 purchase orders were in the over \$2,500 and under \$10,000 threshold and three of the 11 purchase orders were in the over \$10,000 and under \$25,000 threshold. The following exceptions were noted:

- 4 of 11 (36%) purchase orders were not supported by documentation that the vendor status was verified prior to making the acquisition.
- 7 of 11 (64%) purchase orders verified vendor status at the time of substantive testing and not at the time of acquisition.

Cause: General understanding that if vendor was in the PeopleSoft system then the vendor was a qualified vendor.

Effect or Potential Effect: By not verifying the status of the vendor prior to the acquisition of goods or services, a contract may be entered into with a vendor that is not qualified to do business with the State of Oklahoma.

Recommendation: We recommend the Agency:

1. Add to the existing purchasing checklists a line item as an action step to document the verification of vendor status prior to the acquisition of goods and services.
2. Implement a review process of all requisitions and purchase orders prior to the acquisition of goods and services to ensure all required affidavits, language, and other supporting documentation are present. The purchasing checklists developed by the Agency and currently in use should be utilized in the implementation of the review process and also serve as an independent verification of the completeness of the purchase order file to be signed off on by the Certified Procurement Officer.

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3. Perform periodic audits of the Agency's procurement program.

Management's Response

Date: July 11, 2008

Respondent: Accounting Supervisor

Response: Partially Concur – The process of verifying vendor status is very confusing to most purchasing staff. It would help if the DCS would maintain a list of debarred vendors. The link on the DCS web site for vendor verification has Sales Tax Permit Verification, Business Registration Verification with the Secretary of State and various federal links to Foreign Terrorist Organizations, Comprehensive List of Terrorists and Groups Identified Under Executive Order 13224 and Department of Treasury – Specially Designated Nationals list. There is no link to Debarred Vendors.

Corrective Action Plan

Contact Person: Accounting Supervisor

Anticipated Completion Date: August 31, 2008

Corrective Action Planned: We will add to the existing purchasing checklists a line item as an action step to document the verification of vendor status and that all supporting documentation is present prior to the acquisition of goods and services. Additionally, we will continue our existing continuous monitoring program of our procurement program.

Finding [07-650-06](#): Verification of Sales Tax Permit

Criteria: HB 1593 requires the verification that a vendor to which a contract is to be awarded has obtained a sales tax permit from the Oklahoma Tax Commission pursuant to 68 O.S. § 1634.

Oklahoma Central Purchasing Rules (effective July 13, 2006) 580:15-6-8 **State agency open market acquisitions not exceeding ten thousand two thousand dollars (\$10,000.00)(5)(D)** and 580:15-6-9 **State agency open market acquisitions exceeding \$10,000.00 and not exceeding twenty-five dollars (\$25,000.00)(7)(D)** states, "This verification requirement does not apply to acquisitions for services or only to acquisitions made with the state purchase card."

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Oklahoma Central Purchasing Rules (effective June 25, 2007) 580:15-6-6(c)(C) **Acquisitions over \$2,500.00 and under \$10,000.00** and 580:15-6-6(d)(C) **Acquisitions over \$10,000.00 and under \$25,000.00 \$10,000.00 and not exceeding twenty-five dollars (\$25,000.00)(7)(D)** states, "This verification requirement does not apply to acquisitions for services or only to acquisitions made with the state purchase card."

Oklahoma Central Purchasing Act Title 74 § 85.2 **Definitions 10. "Contract"** states in part, "Contract" means a mutually binding legal relationship obligating the seller to furnish an obligation and the buyer to pay for it. It includes all types of commitments that obligate a state agency to an expenditure of funds or action that unless otherwise authorized, is in writing..."

Oklahoma Central Purchasing Rules (effective July 13, 2006) 580:15-6-6 **State agency open market acquisitions not exceeding two thousand five hundred dollars (\$2,500.00)** states, "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."

Oklahoma Central Purchasing Rules (effective July 13, 2006) 580:15-6-8 **State agency open market acquisitions not exceeding ten thousand dollars (\$10,000.00) (5) Contracts (C) Documentation** states, "Verification of the sales tax permit must be documented in the acquisition file."

Oklahoma Central Purchasing Rules (effective June 25, 2007) 580:15-6-6 (c) **Acquisitions over \$2,500.00 and under \$10,000.00 (5) Contracts (A) Sales Tax Permit Verification** and 580:15-6-6 (d) **Acquisitions over \$10,000.00 and under \$25,000.00 (6) Contracts (A) Sales Tax Permit Verification** states, "Prior to the award of a contract, that state agency must verify that the supplier has obtained a sales tax permit in accordance with the laws of Oklahoma."

Oklahoma Central Purchasing Rules (effective June 25, 2007) 580:15-6-6 (c) **Acquisitions over \$2,500.00 and under \$10,000.00 (5) Contracts (B) Verification and Documentation** and 580:15-6-6 (d) **Acquisitions over \$10,000.00 and under \$25,000.00 (6) Contracts (B) Verification and Documentation** states, "Sales tax verification may be confirmed through the link provided on the Department of Central Services' website or calling the Oklahoma tax Commission for assistance. Verification of the sales tax permit must be documented in the acquisition file."

Condition: For the audit period reviewed (October 1, 2006 to September 30, 2007), the Agency issued 1,339 purchase orders for a total dollar value of \$26,349,417.22. Of these purchase orders, 482 (36%) purchase orders totaling \$2,539,028.74 (10%) applied to the Central Purchasing Act and the Central Purchasing Rules. Through statistical sampling, 74 (15%) purchase orders with a total dollar value of \$1,231,063.26 (48%) were selected for review.

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Of the 74 purchase orders, 9 (12%) purchase orders with a total dollar value of \$52,505.59 (4%) required verification of sales tax permit of the vendor. Three of these purchases orders were for acquisitions not exceeding \$2,500 threshold; four purchase orders were for acquisitions exceeding \$2,500 but not greater than \$10,000 threshold; and, two purchase orders were for acquisitions exceeding \$10,000 but not greater than \$25,000. The following exceptions were noted:

- 4 of 9 (44%) purchase orders were not supported by documentation that the sales tax permit of the vendor was verified.
- 4 of 9 (44%) purchases orders were supported by documentation verifying status of sales tax permit. However, verification of the status of the sales tax permit was not performed until the time of substantive testing.

Cause: Per the responses received from the facilities, purchase orders not exceeding \$2,500 do not require the verification of a sales tax permit.

Effect or Potential Effect: By not verifying the status of a supplier's sales tax permit, the Agency could enter into a contract with a supplier who is not eligible to provide goods or services to the State of Oklahoma.

Recommendation: We recommend the Agency:

1. Implement a review process of all requisitions and purchase orders prior to the acquisition of goods and services to ensure all required affidavits, language, and other supporting documentation are present. The purchasing checklists developed by the Agency and currently in use should be utilized in the implementation of the review process and also serve as an independent verification of the completeness of the purchase order file to be signed off on by the Certified Procurement Officer.
2. Perform periodic audits of the Agency's procurement program.

Management's Response

Date: July 11, 2008

Respondent: Accounting Supervisor and Chief Financial Officer/ Certified Procurement Officer

Response: Partially Concur - There has been some confusion in the centers regarding the sales tax permits. Some of the acquisitions for products came from vendors who primarily provide services and therefore are not required to have a sales tax permit under the provisions of 68 O.S. 2001, Sections 1363 and 1364. In addition, there is a discrepancy between the Purchasing Rules and the Central Purchasing Act regarding the requirement for the Sales Tax Permit. 74 O.S. 2001, Section 85.5 (O) states: "As a condition of awarding a contract pursuant to

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the Oklahoma Central Purchasing Act, the State Purchasing Director shall verify with the Oklahoma Tax Commission that the business entity to which the state contract is to be awarded, whether subject to the procedures required by Section 85.7 of this title or not, has obtained a sales tax permit pursuant to the provisions of Section 1364 of Title 68 of the Oklahoma Statutes if such entity is required to do so.” Further, verification of sales tax permit should be part of the vendor setup process and not part of the process done with each Purchase Order. That way, a vendor’s sales tax status would not have to be repeatedly checked by each state agency that uses that vendor.

Corrective Action Plan

Contact Person: Accounting Supervisor

Anticipated Completion Date: August 31, 2008

Corrective Action Planned: We will add to the existing purchasing checklists a line item as an action step to document the verification of sales tax status and that all supporting documentation is present prior to the acquisition of goods and services. Additionally, we will continue our existing continuous monitoring program of our procurement program.

OVERALL CONCLUSION

Based on our audit, we have determined the Oklahoma Department of Veterans Affairs has significantly complied with the stated objectives for the audit. However, there were deficiencies noted during the audit which included incorrect acquisition process for renewable contracts, erroneous awarding of bid for a revised solicitation, and the non-completion of the appropriate affidavits for contracted goods and services. The Oklahoma Department of Veterans Affairs has developed corrective actions plans, which we believe will ensure the Agency, will comply, in all material respects, with the aforementioned requirements.