



OKLAHOMA DEPARTMENT OF LABOR
 PROCUREMENT PROGRAM AND VEHICLE MANAGEMENT
 AUDIT REPORT
 JULY 1, 2006 THROUGH JANUARY 1, 2008

**** State of Oklahoma ****
 Department of Central Services
 **** Audit Unit ****
 Report Released December 19, 2008

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AUDIT PERFORMED BY

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AUDIT CONCLUSION

Based upon the procedures performed to achieve the procurement audit objectives, the results as documented in our audit report supports our conclusion that the Agency has not significantly complied with the provisions of the Oklahoma Central Purchasing Act, the Central Purchasing Rules and the Agency's approved internal purchasing procedures.

Based upon our audit, we have determined the Oklahoma Department of Labor vehicle management program has ensured Agency's vehicle program is adequately utilized.

AUDIT RECOMMENDATIONS

Based upon our audit findings of the agency's procurement activities, we recommend:

- a consultation between the Agency and Central Purchasing to address all concerns noted in the audit and discuss the Agency's proposed corrective action plan to ensure compliance.
- the Director of the Department of Central Services to reduce the Agency's purchasing authority limits for open market purchases to \$10,000 until the corrective action plans are completed and Agency's procurement program fosters competition among vendors in accordance with state regulations.
- the State Purchasing Director to review and evaluate the audit findings to determine if any additional corrective actions should occur.

*It is our recommendation that the Fleet Management Division of the Department of Central Services (DCS) reconsider their rules and procedures for vehicle leasing and billing. Some recommended ways to decrease overage charges paid by Agencies and improve on instances of exceeding mileage allowed are:



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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.



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- Reexamine miles allowed per vehicle per month based on the business functions that the vehicles are required for. Possibly an increased number of miles could be allowed for a slightly higher lease rate for Agencies that merit this change in billing.
- Decrease the frequency of billing and charge on an average use per quarter or per year. This would help consider that sometimes vehicles are used more frequently in “busy seasons”. Some months vehicles are over utilized; however, they are sometimes under utilized as well. Average billing would help offset these fluctuations.

*The recommendations above were written previous to the recent conclusion of the procurement portion of the Department of Labor (DOL) Audit. Since the conclusion of the fleet portion, the Fleet Management Division of DCS presented a plan that allows DOL to share the mileage driven by all vehicles within their Agency. The concept is called “My Team”, and DOL chose to adopt the plan and put all of their vehicles in “My Team”. They currently have a total fleet of forty (40) vehicles. That means they are allowed 60,000 (40 x 1500) miles per month, to be included in the base lease rate. They are charged a per mile fee for any miles over 60,000. The fee charged per mile is calculated by dividing the monthly rate of the vehicle by 1500. The standard rate is .39 per mile for a midsize passenger sedan. Fleet Management examined the billings for DOL for 2008 and estimate they will save about \$40,000.00 during FY09.

Another recommendation to the Fleet Management Division, and request from the Oklahoma Department of Labor, is to implement a reporting tool on the DCS website for Agencies to report mileage. This would greatly decrease the time and administrative costs spent on paper reporting.

See [MANAGEMENT’S RESPONSE](#)

AUDIT FINDING SUMMARY

(Error rates are based on transactions reviewed.)

Finding 07-405-01 Competitive Purchasing / Internal Procedures

- We estimated **83%** of dollars spent for open market contracts performed by the Agency during the audit period were not competitively procured.

Acquisitions performed through questionable purchasing practices discovered during testwork totaled \$31,902.60. We project the total questionable purchase amount during the audit period to be \$157,629.38.

Finding 07-405-03 General Purchasing Practices

- An Administrative Law Judge (ALJ) performed almost eight months of services before the Agency created a purchase order or contract for the services. The contract should be in place prior to the services being rendered.



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The Department of Central Services, Auditing Unit has completed an audit of the Oklahoma Department of Labor, referred to as the "Agency" during the audit report. Our objective was to audit the agency's procurement program and vehicle management utilization for the period July 1, 2006 through January 1, 2008.

- An internal requisition form, as required by the Agency's internal purchasing procedures was not used for 50% of the purchases reviewed. In addition, one hotel stay exceeded the pre-approved amount by \$451.46.

Finding 07-405-02: Segregation of Duties

- Duties for the agency's change order process needed to be segregated.

Finding 07-405-06: General Procurement Requirements

- The Agency did not verify:
 - the sales tax permit for 100% of the contract files reviewed
 - if the vendor was suspended or debarred for 100% of the contract files reviewed.
- The Agency did not obtain:
 - 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 for 92% of the contracts reviewed.
 - a notarized non-collusion affidavit for 86% of contracts reviewed.

Finding 07-405-05: Change Orders

- The Agency did not have 80% of the change orders requested for review. We also noted a requisition in the amount of \$15,592.89 was not authorized by an individual on the Authorized Signature Form.

Finding 07-405-04: Professional Services

- 90% of professional service contracts did not have evidence that they were audited or monitored by the Agency.
- 20% professional service contracts did not have adequate supporting documentation.

AUDIT OVERVIEW

VEHICLE MANAGEMENT

After review of all mileage logs and invoices for the audit period and completion of Division questionnaires, it has been determined that each Division of the Agency has adequate procedures in place and follows their procedures to ensure that vehicles are adequately utilized.

Safety Standards is the Division with the most vehicles and which uses the most miles. Their vehicles are assigned to specific individuals stationed throughout the state. This coupled with the Division's business needs make it inefficient to swap vehicles among employees or other Divisions.



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Other Divisions swap vehicles among themselves and/or their employees when applicable; however, business needs in all Divisions often require vehicles to exceed 1,500 miles, regardless of swapping. There were very few instances during the audit period where it appeared that a Division had one or more vehicles using far more than 1,500 miles and one or more using far less.

A key function of this Agency is traveling the state to complete inspections and consultations. This inherently requires vehicles to be driven enough to meet business needs and service all clients in a timely manner.

Vehicle Utilization Statistics

Average monthly mileage for all Agency vehicles during the audit period – 1,620

Average quarterly mileage for all Agency vehicles during the audit period – 5,032

Miles included in lease rate for each vehicle -- 1,500

Division	# of Vehicles in Audit Period	Average Monthly Mileage	Average Quarterly Mileage	# of times vehicles exceeded 1,500 miles	Cost for miles used over allotted amount
Safety Standards	23	1,903	5,747	190	\$64,827.77
Asbestos	12	1,659	5,107	81	\$11,654.36
OSHA	12	1234	3928	47	\$4,419.23
PEOSH	4	1,370	4,049	21	\$2,424.78
Admin.	1	691	1,534	1	\$0.78
(Duplicate Vehicles)	-2				
TOTALS	50			340	\$83,326.92

PROCUREMENT PROGRAM

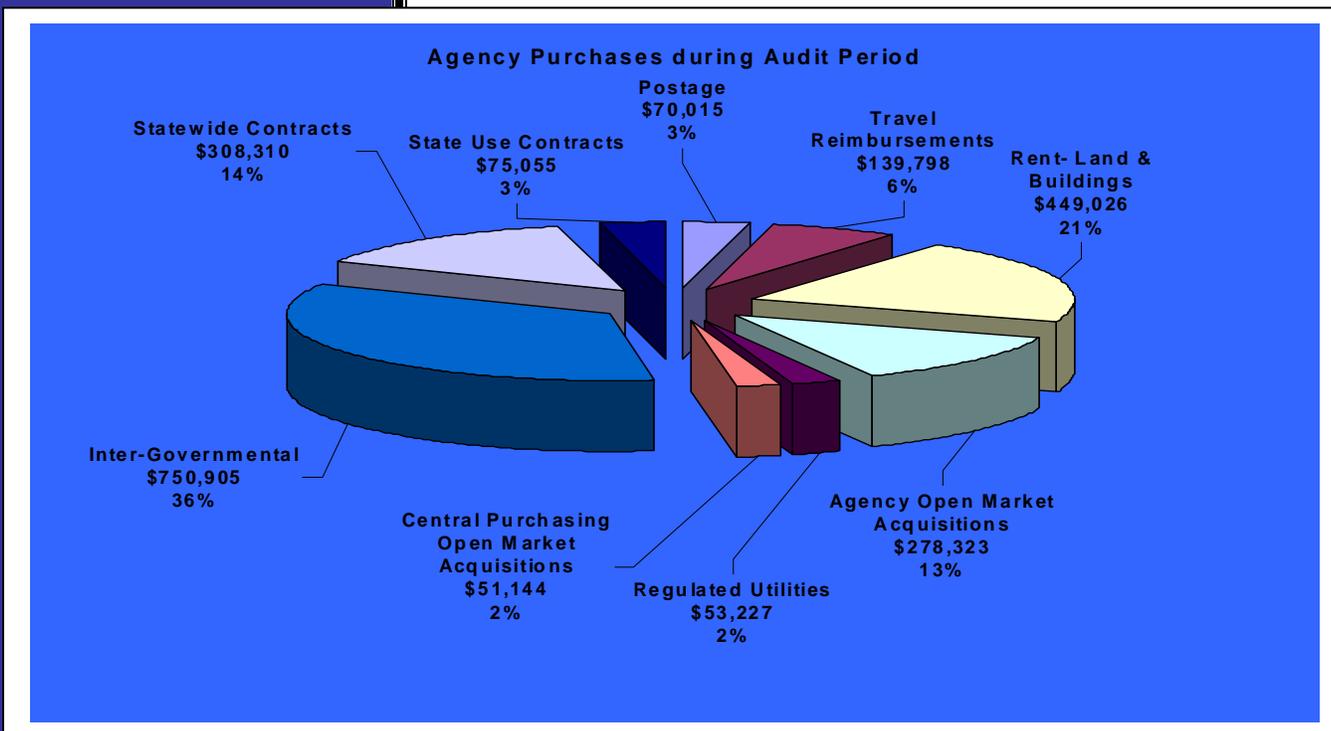
The Commissioner of Labor is an elected position. The administrative position changed during the audit period. During the audit period Brenda Reneau Wynn



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was the Labor Commissioner from July 1, 2006 through January 7, 2007 and Lloyd Fields was the Labor Commissioner from January 8, 2007 through January 1, 2008.

The following chart depicts purchases, separated into various categories, made by the Oklahoma Department of Labor for the period of July 1, 2006 to January 1, 2008.



Agency purchases for the audit period totaled \$2.2 million. Agency performed open market acquisitions totaling \$278,323. This purchasing amount was the primary focus of our procurement audit.

Of the \$2.2 million, prior administration was responsible for \$969,835 (45%) and current administration was responsible for \$1,205,968.54 (55%).

The sampling methodology for our general open market procurement population was:

- the population size consisted of 334 units totaling \$329,466.93
- statistical random sample was performed for the \$0 to \$2.5k and \$2.5k to \$10k purchasing thresholds
- we selected 100% of all sample units in the 10k to \$25k and 25k thresholds

The total sample size consisted of 41 sample units totaling \$183,623.83.





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DETAILED FINDINGS

Finding 07-405-01: Competitive Purchasing / Internal Procedures

Criteria: The Oklahoma Central Purchasing Act Title 74 § 85.15. **Strict Conformity – Penalties** states in part, “All persons, agents, officers and employees of the state included within the provisions of this act are required to conform strictly to the provisions of this act...”

The Oklahoma Department of Central Services, Central Purchasing Administrative Rules (July 13, 2006) 580:15-6-8, **State agency open market acquisitions not exceeding ten thousand dollars (\$10,000.00)**, states in part:

(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.

The Oklahoma Department of Central Services Central Purchasing Administrative Rules (June 25, 2007) 580:15-6-6 (c) **Acquisitions over \$2,500.00 and under \$10,000.00**, states in part:

(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.



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The Oklahoma Department of Labor **Internal Purchasing** Procedures (February 22, 1999) contains the following procedures:

Acquisitions exceeding \$2,500 and less than \$10,000 states in part, "The certified procurement officer will obtain a minimum of three (3) vendor quotes which will include the product specifications, cost, estimated delivery date and quote expiration date."

Acquisitions not exceeding \$2,500 states in part, "Comparative price quotes and terms will be noted on the agency requisition to support the vendor selection made."

Condition: We audited 27% (\$55,967.43 / \$209,098.53) of the open market purchasing amount performed by the Agency during July 1, 2006 through January 1, 2008. We noted the following during our testwork:

1. Competitive quotes were not obtained for 63% (5 / 8) of open market purchases reviewed between \$2,500 and \$10,000. The five purchases total \$21,137. The total projected questionable purchasing amount is \$38,036.21.

In addition to not obtaining competitive quotes for the five purchases stated above, the Agency did not comply with a majority of the general procurement compliance requirements. These general compliance requirements include: documenting specifications, written acquisition evaluations, non-collusion affidavits, verifying suspended vendors, verifying sales tax permits and obtaining an affidavit certifying persons who developed the contract will not also perform the contract.

2. Comparative price quotes were not obtained for 100% (13 / 13) of all open market purchases reviewed under \$2,500. The seventeen purchases totaled \$10,585.60. The 100% error rate projected across these purchases is \$119,593.17.

We estimated **83%** of dollars spent for open market contracts performed by the Agency were not competitively procured.

QUESTIONABLE PURCHASING AMOUNT: \$31,902.60
PROJECTED QUESTIONABLE PURCHASING AMOUNT: \$157,629.38

Cause:

1. Obtaining competitive quotes for this threshold is a standard practice used by state agencies and the cause is unknown why this process was not used.
2. Agency officials stated the internal purchasing procedures are outdated and the Agency no longer obtains comparative price quotes for purchases less than \$2,500.

Effect or Potential Effect:

1. The state Agency did not provide adequate open market competition to competing vendors. State vendors were not adequately solicited or given the opportunity to competitively compete for the state agency's contracts. The Agency may not have obtained the best and lowest prices for goods purchased and an increase



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risk of collusion and improper purchasing practices could occur and go undetected when non-bidding practices are used.

2. The Agency is not in compliance with their internal purchasing policy.

Recommendation: We recommend the Agency to competitively obtain goods and services when required by law.

We recommend management designate specific staff members with the responsibility and duties of ensuring all required procurement documentation is collected and maintained for each acquisition.

We recommend management to develop and implement quality control oversight in regard to the acquisition process. We recommend management implement independent oversight of the procurement process to include random internal review of the procurement process to ensure compliance.

We recommend the Agency adhere to their internal purchasing procedures. In final the Agency should review and evaluate their internal purchasing procedures to determine if requiring competitive quotes for purchases under \$2,500 and the internal requisition form are necessary, efficient and effective internal purchasing processes. If the Agency decides to revise the internal purchasing procedures, they should make the corrections and submit them to the Department of Central Services for approval.

Overall Audit Recommendation: We recommend the Agency consider implementing a procurement checklist for each type of purchase performed. This recommendation includes using the checklist to verify purchases were completed properly prior to signing the contract and that the procurement file is maintained properly when the contract is completed.

Management's Response:

Date: 11/07/2008

Respondents: Administrative Assistant to Commissioner of Labor / Chief Financial Officer and Acquisitions and Contracts Administrator / Primary CPO

Response: *Partially Concur*

Re #1: Corrective action has been implemented

Re #2: During a follow-up meeting with ODOL staff, auditors stated 20 of 20 purchases totaling \$13,149.95 were not in compliance. ODOL provided documentation that 7 of the purchases should not be included. 4 purchases totaling \$4,865.95 were made from state contracts. 1 purchase, totaling \$406.25, was Administrative Law Judge services (exempt by Oklahoma Statute Title 18 - 103). 2 were authority order purchases totaling \$511.24. These 7 purchases total \$5,783.44. Subtracting this from the original total nets: 13 purchases for \$7,366.51, not \$10,585.60 as stated above. Never the less, purchases were in accordance with Title 580: 15-6-6 b which states, "State agencies shall make open market acquisitions not exceeding \$2500 that are fair and reasonable." Therefore, No quotes are required. Agency procedures referenced in "Effect #2," were those developed by a previous administration. Upon taking office, the current administration followed Title 580: 15-6-6 b. At this time ODOL has updated written internal procedures and created a purchasing checklist to verify that all procurement requirements are met.

Corrective Action Plan

Anticipated Completion Date: Completed

Corrective Action Planned: ODOL has developed a checklist for use in the process of all requisitions and purchase orders prior to acquisition of goods and services to ensure all required affidavits, language and documents are present.



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Agency procedures have been updated to reflect procedures implemented by the new administration upon taking office which follow state requirements for purchases under \$2500.

Periodic internal audits by management as well as regular review and updates to internal procedures will ensure all aspects of purchasing requirements are strictly followed.

Auditors Response: The thirteen purchases totaling \$10,585.60 noted for #2 in the finding:

PO #	TOTAL AMOUNT	PO #	TOTAL AMOUNT
4059002007	\$136.70	4059002077	\$1,280.00
4059002216	\$335.00	4059001804	\$1,990.03
4059001923	\$379.00	4059001895	\$2,480.62
4059002314	\$400.00	Voucher 5262	\$219.84
4059002094	\$760.56	4059001861	\$291.40
4059001925	\$1,077.50	4059002170	\$99.95
4059002461	\$1,135.00		\$10,585.60

The agency also provided two different website screen prints that indicated a single price for a multi gas air monitor. The screen prints did not have a total quote or a delivery date. These screen prints were associated with purchase order 4059001738.



Miner Workers
Okmulgee Co., Oklahoma
about 1909-10



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Finding 07-405-03: General Purchasing Practices

Criteria: The Oklahoma Central Purchasing Act Title 74 § 85.15. **Strict Conformity – Penalties** states in part, “All persons, agents, officers and employees of the state included within the provisions of this act are required to conform strictly to the provisions of this act,…”

The Oklahoma Administrative Code 580:15-2-2, **Definitions** state in part, “**Settlement agreement**’ means a document that reflects an agreement between the state and an individual or business entity that ratifies an unauthorized commitment.”

The Oklahoma Department of Labor **Internal Purchasing Procedures** contain the following procedures:
General Guidelines, states in part, “Division personnel will identify purchasing needs and submit a Department of Labor requisition to the purchasing department.”

Internal requisition requirements within the internal acquisitions purchasing thresholds states in part, “Requisitions will be reviewed for vendor determination …”

Acquisitions not exceeding \$2,500 states in part, “Comparative price quotes and terms will be noted on the agency requisition to support the vendor selection made.”

Condition: We audited 27% (\$55,967.43 / \$209,098.53) of the open market purchasing amount performed by the Agency during the audit period of July 1, 2006 through January 1, 2008. We noted the following during our testwork:

1. An Administrative Law Judge (ALJ) performed almost eight months of services before the Agency created a purchase order or contract for the services. The purchase order (PO# 4059002175) was created on March 26, 2007 for a contract period of July 1, 2006 thru June 30, 2007. The contract should be in place prior to the services being rendered. Once the Agency determined they did not have a contract in place, the Agency should have ratified the unauthorized commitment through the settle agreement process outlined in the purchasing rules.
2. 50% (16 / 33) of the open market purchases reviewed were not initiated by an internal requisition form as required by the Agency’s internal purchasing procedures.

In addition, one purchase (Voucher #5818) exceeded the pre-approved amount on the internal requisition approval form by \$451.46 (\$4,021.46 - \$3,570) for hotel rooms.

Cause:

1. Administrative Law Judge services were rendered and the vendor needed to be paid.
2. Per Agency officials, part of the cause is due to administration division does not complete the internal requisition form for all purchases made.



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Effect or Potential Effect:

1. The Agency entered into an unauthorized commitment with the provider of services.
2. The Agency is not in compliance with their internal purchasing policy.

Recommendation: We recommend the Agency procure services in accordance with the requirements of the purchasing rules and the Oklahoma Central Purchasing Act.

We recommend the Agency adhere to their internal purchasing procedures. We also recommend the Agency review and evaluate their internal purchasing procedures to determine if the internal requisition form is necessary, efficient and effective for all purchasing types and determine who is and is not required to use the form. If the Agency decides to revise the internal purchasing procedures, they should make the corrections and submit them to the Department of Central Services for approval.

We recommend management designate specific staff members with the responsibility and duties of ensuring all required procurement documentation is collected and maintained for each acquisition.

Management's Response

Date: 11/07/2008

Respondent: Administrative Assistant to Commissioner of Labor / Chief Financial Officer and Acquisitions and Contracts Administrator / Primary CPO

Response: Partially Concur

#1 The Administrative Law Judge referenced was hired 7 months prior to the current administration assuming control. Upon taking office current administration reviewed all contracts, discovered this deficiency and immediately took corrective action. Current management is not responsible for deficiencies of a previous administration.

#2 To ensure efficiency and expediency the administration division does not utilize internal requisition forms, rather all purchases are made with a pending purchasing order that is approved and signed by the CFO and/or Chief of Staff prior to electronic authorization of the purchase order by the CPO. Internal rules have been revised to indicate this procedure, eliminating conflict with rules from the previous administration.

Corrective Action Plan

Anticipated Completion Date: Completed

Corrective Action Planned: Internal procedures have been updated to reflect procedures implemented at the onset of current administration's term.

Finding 07-405-02: Segregation of Duties

Criteria: The Codification of Statements on Auditing Standards AU § 319.110 (9) states in part,

Segregation of duties. Assigning different people the responsibilities of authorizing transactions, recording transactions, and maintaining custody of assets are intended to reduce the opportunities to allow any person to be in a position to both perpetrate and conceal errors or



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fraud in the normal course of his or her duties.

The United States General Accounting Office, GAO/AIMD-00-21.3.1, Internal Control Standards, **Segregation of Duties** states:

Key duties and responsibilities need to be divided or segregated among different people to reduce the risk of error or fraud. This should include separating the responsibilities for authorizing transactions, processing and recording them, reviewing the transactions, and handling any related assets. No one individual should control all key aspects of a transaction or event.

Condition: The Agency had a control deficiency relating to segregation of duties within the procurement program based upon the following:

One individual within the Agency had the responsibility of, access to and/or performed the following:

- responsible for agency purchasing
- creates agency acquisition documents within the State accounting system
- responsible for the agency inventory system – recording, maintaining and tracking
- receives delivery and invoice documents
- was the only individual authorized to sign change orders
- responsible for the agency record retention

One individual was able to create a change order that increased the purchase order and also could authorize the change order. They were also able to record, maintain and track the inventory related to the change order and were responsible for retaining the purchasing documents related to the change order. We also noted during the audit that the Agency could not provide 80% (16/20) of the change orders requested for review, further reducing mitigating controls. Segregation of this duty was needed.

When this draft finding was discussed with the Agency, we learned that Agency management had already identified the control deficiency and relieved the individual from authorizing change orders.

Cause: At one point during the change of administration, no other individual was available or authorized to sign change orders. Therefore, the purchasing officer continued the practice of authorizing change orders.

Effect or Potential Effect: One individual could control a majority of the key aspects of a procurement process cycle which would allow them to perpetrate and conceal errors or fraud in the normal course of their duties. Errors or abuse could occur and go undetected if duties are not properly segregated.

Recommendation: The Agency has removed this individual from authorizing change orders. We encourage the Agency to periodically monitor individual duties and determine if these duties are properly segregated. No further recommendation is made at this time.



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Management's Response

Date: 11/07/2008

Respondents: Administrative Assistant to Commissioner of Labor / Chief Financial Officer and Acquisitions and Contracts Administrator / Primary CPO

Response: Non-Concur - The current administration's procedures clearly define duties that are properly segregated to reduce risk, error or fraud. Any findings in this category resulted from activities by the previous administration. Current management is not responsible for deficiencies of a previous administration.

Corrective Action Plan

Anticipated Completion Date: N/A

Corrective Action Planned: Internal procedures were reviewed to ensure segregation of duties are clearly defined.

Finding 07-405-06: General Procurement Requirements

Criteria: The Oklahoma Central Purchasing Act Title 74 O.S. § 85.5 **Powers and Duties of State Purchasing Director** states in part:

O. As a condition of awarding a contract pursuant to 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.

The Oklahoma Central Purchasing Act Title 74 O.S. § 85.42 **One Year Limitation on Entering Contracts with Certain Persons—Exceptions** states in part:

B. 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.

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

(2) **Supplier selection** ... Suppliers that have been suspended or debarred by the State Purchasing Director, the Oklahoma Tax Commission or the Federal government shall not be solicited.

(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).

...

(5), (A) **Sales Tax Permit Verification.** Prior to the award of a contract, the state agency must



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verify that the supplier has obtained a sales tax permit in accordance with the laws of Oklahoma.

Condition: We audited 27% (\$55,967.43 / \$209,098.53) of the open market purchasing amount performed by the Agency during the audit period of July 1, 2006 through January 1, 2008. We noted the following during our testwork:

1. The Agency did not verify the sales tax permit for 100% (6/6) of the contract files reviewed.
2. The Agency did not verify if the vendor was suspended or debarred for 100% (14/14) of the contract files reviewed.
3. The Agency did not obtain 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 for 92% (13/14) of the contracts reviewed.
4. The Agency did not obtain a notarized non-collusion affidavit for 86% (12/14) of contracts reviewed.

Cause:

- 1 and 2. In general, verifying and documenting the compliance requirement each and every time a purchase is made by the Agency is an inefficient process, with which a majority of the state agencies do not comply.
3. and 4. Obtaining these affidavits did not appear to be a part of the Agency's procurement process.

Effect or Potential Effect:

1. The Agency may contract with a vendor that does not have a valid sales tax permit.
2. The Agency may contract with a vendor that has been suspended or debarred.
3. Vendors are not certifying that they have not been involved, in any manner, in the development of that contract while employed by the State of Oklahoma.
4. Vendors may not be held liable for collusion activities.

Recommendation: We recommend the Agency obtain the required information when procuring for the State. We also recommend the agency to include the required information during the procurement process by using a checklist.

Additional Recommendation:

We will also make a recommendation to the Department of Central Services, Oklahoma Tax Commission and the Office of State Finance, that they consider developing an efficient process for complying with these requirements. The state can comply with a majority of the requirements noted within this audit finding on a statewide effort rather than a purchase to purchase method. This change can occur while greatly enhancing efficiency and providing a streamlined process for purchasing.

This process can be reduced to a small centralized effort of monitoring and maintaining the state's vendor database. A vendor can be changed to inactive status when they did not comply with the requirement, disallowing anyone in the state to use the vendor. Everyone would benefit from the streamlined process and compliance with the laws would be maintained.



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Management's Response

Date: 11/07/2008

Respondents: Administrative Assistant to Commissioner of Labor / Chief Financial Officer and Acquisitions and Contracts Administrator / Primary CPO

Response: *Partially Concur*

Re: #1: 74 O.S. 2001, Section 85.5 (O) states: "As a condition of awarding a contract pursuant to 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."

Verification should be part of the vendor setup and not a part of the process done with each purchase order. This eliminates excessive duplication of verification efforts by each state agency using that vendor. However, absent of this, ODOL has developed a checklist that includes sales tax verification.

#2: ODOL conforms fully to state requirements and has NOT used suspended or debarred vendor(s). The checklist referenced in response #1 also includes verification that vendor has not been suspended or debarred.

#3 & 4: Previous administration's procedures did not match state requirements. Procedures implemented upon current administration taking office, follow state requirements. Current administration is not responsible for deficiencies of a previous administration.

Corrective Action Plan

Anticipated Completion Date: Completed

Corrective Action Planned: Acquisition process now includes a checklist to ensure all required affidavits and vendor compliance verification is completed.

Finding 07-405-05: Change Orders

Criteria: The Oklahoma Central Purchasing Act 74 § 85.15 **Strict Conformity – Penalties** states in part, "All persons, agents, officers and employees of the state included within the provisions of this act are required to conform strictly to the provisions of this act,..."

The Oklahoma Central Purchasing Act 74 § 85.39 **Agency Internal Purchasing Procedures** states in part,

C. Each state agency shall maintain a document file for each acquisition the state agency makes which shall include, at a minimum, justification for the acquisition, supporting documentation, copies of all contracts, if any, pertaining to the acquisition, evaluations, written reports if required by contract, and any other information the State Purchasing Director requires be kept.



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The Oklahoma Central Purchasing Administrative Rules 580:15-6-11, **Additional purchasing information**, states in part:

(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. ...

Condition: We audited 15% (\$23,567.14 / \$157,605.04) of the purchase order with change orders during the audit period. Hybrid sampling methodology was used to select 6 out of 137 purchases orders for review. We used judgmental and random stratified sampling. There were 20 change orders associated with the 6 purchases orders selected.

Based upon our audit, we noted the Agency did not have 80% (16/20) of the change orders requested for review. For these 80%, we were unable to determine if they were properly authorized or if the change in the project exceeded the contract's original scope.

We also noted a requisition during the audit period in the amount of \$15,592.89 was not authorized by an individual on the Authorized Signature Form. The purchase order number for this acquisition is 4059002214.

Cause: The change orders may be performed within the state accounting system, but a paper copy is not authorized and maintained in the procurement file.

Effect or Potential Effect: All change orders are not authorized by Agency management and changes to the contract are not documented in the procurement file.

An unauthorized individual processed and approved an Agency requisition.

Recommendation: We recommend that all change orders are printed out and properly authorized by an individual listed on the authorized signature list, and that the original be maintained in the procurement file.

We also recommend requisitions be signed by authorized individuals. See also audit finding 02.

Management's Response

Date: 11/07/2008

Respondents: Administrative Assistant to Commissioner of Labor / Chief Financial Officer and Acquisitions and Contracts Administrator / Primary CPO

Response: *Partially Concur*

Re change orders printed out and properly authorized: Corrective action is already in place for signature approval of change orders. Internal procedures were updated to reflect current procedures.

Re requisitions to be signed by authorized individuals: The referenced purchase order (4059002214) was signed by the Purchasing Director of the Dept. of Central Services. The agency had Purchasing Director sign this requisition since this purchase was made from a GSA contract.



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Corrective Action Plan

Anticipated Completion Date: Completed

Corrective Action Planned: Internal procedures have been updated to reflect procedures that were implemented early in the new administration's term which comply with change order requirements.

Auditor's Response: The requisition for purchase order 4059002214 was signed by the agency's Acquisitions and Contracts Administrator / Primary CPO who was not authorized to sign the requisition based upon the agency's authorized signature list.

Finding 07-405-04: Professional Services

Criteria: The Oklahoma Central Purchasing Act Title 74 O.S. § 85.41, **Professional Services Contracts** states in part:

D. A state agency shall administer, monitor, and audit the professional services contract. The State Purchasing Director may require the state agency to report to the State Purchasing Director the status of an unfinished professional services contract.

The Oklahoma Central Purchasing Act Title 74 O.S. § 85.41, **Professional Services Contracts** states in part:

B. The state agency shall evaluate the performance of the professional services provided pursuant to a professional services contract.

E. 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.

Condition: We audited 52% (\$40,624.36 / \$78,079.44) of the professional service contracts during the audit period. The 10 audited contracts were selected based on a statistical random sample from 28 contracts. We noted the following during our testwork:

- 90% (9/10) of professional service contracts did not have evidence that they were audited or monitored by the Agency.
- 20% (2 /10) professional service contracts did not have adequate supporting documentation. In addition to the missing information stated above, two contracts were also missing the audit clause and an evaluation of services performed.

Cause: Agency did not keep track of all supporting electronic data for monitoring activities.

Small contracts may have contributed to not having the audit clause and the evaluation of services performed.



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Effect or Potential Effect: The extent of monitoring professional service contracts by the agency and the quality of services provided are unknown. Poor or lack of performance for professional service contracts may occur and go undetected by the agency. Also, the audits of state vendors are impaired.

Recommendation: We recommend an independent review process or checklist be implemented to examine purchasing files prior to and after contracting with vendors to ensure all required information is obtained when required. We also recommend contract monitoring be assigned and a copy of the monitoring and auditing performed be placed in the procurement file to avoid lost or misplaced support.

Management's Response

Date: 11/07/2008

Respondent: Administrative Assistant to Commissioner of Labor / Chief Financial Officer and Acquisitions and Contracts Administrator / Primary CPO

Response: Partially Concur - Monitoring has been a function of the legal department. An employee of the previous administration's legal department deleted all monitoring reports prior to separating with the agency. To date, the IT department has not been able to recover lost files. The current administration maintains oversight to ensure full compliance and record keeping is achieved.

Corrective Action Plan

Anticipated Completion Date: Completed

Corrective Action Planned: Administration has scheduled and will conduct regular, periodic reviews of monitoring to ensure proper compliance and required reports are completed. Monitoring reports (hard copy) will now be stored in the purchasing office. New servers and improved backups have been added to ensure files can not be permanently deleted.



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APPENDIX

DIRECTOR'S TRANSMITTAL LETTER

JOHN S. RICHARD
Director



BRAD HENRY
Governor

STATE OF OKLAHOMA
DEPARTMENT OF CENTRAL SERVICES

December 19, 2008

**TO COMMISSIONER LLOYD FIELDS OF THE OKLAHOMA DEPARTMENT OF
LABOR**

With this letter, we transmit the report of the Oklahoma Department of Labor Procurement and Fleet audit for the audit period July 1, 2008 through January 1, 2008.

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,



John S. Richard
Director of the Department of Central Services

"Committed to Quality"

Administration, Will Rogers Office Building (2401 N. Lincoln) Suite 206 / P.O. Box 53218 · Oklahoma City, OK 73152-3218
Telephone 405/521-2121, Fax 405/521-6403, www.dcs.state.ok.us



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AUDIT OBJECTIVES

The audit objectives of this audit were to:

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

METHODOLOGY

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

EXECUTIVE SUMMARY

Organization

Mission Statement—To help ensure fairness, equity, and safety in Oklahoma workplaces through ethical behavior, conscientious guidance, and loyal service to Oklahoma's employers and employees.

Personnel—77 classified, 19 unclassified, 1 temporary

History and Function—The commissioner of labor is a constitutional office defined by Article VI Section 20. The department is responsible for administration and enforcement of minimum wage; child labor laws; workers' compensation insurance compliance; regulation of private employment agencies; investigation and mediation of unpaid wages; inspection of welded steam lines, boiler and pressure vessels, elevators (other than Oklahoma City and Tulsa), amusement and water rides, and water heaters in public facilities; certification of welders and weld-testing laboratories; regulation and certification of asbestos workers; and enforcement of occupational safety and health for public employees.



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Agency Information

Key Staff

(During the Audit Period)

(Preceding January 8, 2007)

Brenda Reneau Wynn, Commissioner of Labor

Trey Davis, Chief of Staff

Patrick B. McGuigan, Deputy Commissioner

Ila Sutton CPO, Acquisitions and Contracts Administrator / Primary CPO

(As of January 8, 2007)

Lloyd Fields, Commissioner of Labor

Mannix D. Barnes, Chief of Staff

Robert Everman, Chief Financial Officer and Administrative Assistant to the Commissioner

Ila Sutton CPO, Acquisitions and Contracts Administrator / Primary CPO



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MANAGEMENT'S RESPONSE

Oklahoma Department of Labor



Lloyd L. Fields
COMMISSIONER

December 16, 2008

Mr. JoRay McCoy
Chief Auditor
Oklahoma Department of Central Services
2401 N. Lincoln Boulevard, Suite 212
Oklahoma City, Oklahoma

Dear Mr. McCoy,

Per your request, I respectfully submit the following Agency response to the audit conducted by the Oklahoma Department of Central Services for the period covering July 1, 2006 through January 1, 2008. As discussed, the period from July 1, 2006 through January 7, 2007 was under the administrative direction of former Commissioner of Labor Brenda Reneau while the remaining twelve months were under Commissioner Lloyd L. Fields.

It's important to note the distinction of the administration responsible for the items in question. In many instances, the distinction was not part of the overall audit. Therefore, assigning proper accountability should be included and offered as an agency response.

●Regarding finding 07-405-01 for purchases between \$2,500 and \$10,000, only one of the eight purchases reviewed (totaling \$4,500) occurred under Commissioner Fields Administration.

Also, under Fields Administration, purchases under \$2,500 were conducted properly and in accordance with the Central Purchasing Act and Rules. Although six of the thirteen open market purchases occurred after January 7, 2007, the only basis for inclusion in the audit was that Commissioner Fields chose to follow the Central Purchasing Act and Rules rather than outdated internal rules produced by the previous administration.

Internal rules by nature are devised by the entity they govern. Therefore, the current administration asserts, it is inaccurate to apply rules from one administration to another. To negate further issues, a set of rules applicable to the current administration's procurement process have been developed. Projections contained in the audit for both levels of open market purchases can be concluded the current administration has an error rate of only 1% not an 85% rate as asserted in the audit.

●Finding 07-405-02 and 07-405-03 resulted from purchases initiated by the previous Administration or were a result of the current administration not following the previous administration's outdated internal rules and procedures. As discussed in finding 07-405-

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01, the Central Purchasing Act and Rules were adhered to by the Fields Administration and no findings were offered to indicate anything less than 100% compliance with current state law.

●Finding 07-405-04 found no evidence of professional service contract monitoring. A result caused by a former employee of the previous Administration who deliberately destroyed documents and electronic files supporting or not supporting the monitoring process. To eradicate future issues, the current administration has developed a multi-party system to eliminate accidental or intentional data loss.

●Finding 07-405-05 relates to change orders. Upon taking office, Commissioner Fields immediately established and designated an authorized signatory for change orders whom is duly segregated to ensure checks and balances within the procurement system. Again, any findings rest with the prior administration or during the process of establishing the new system.

Since taking office on January 8, 2007, the Oklahoma Department of Labor, under the direction of Commissioner Lloyd L. Fields, has performed remarkably well and with little error for items questioned within the audit. Internal rules, compliance checklists and procedural training have been completed to ensure high levels of compliance are maintained.

Given an overwhelming majority of issues within the audit were from purchases made prior to the Field's administration or were included as a result of not applying outdated internal rules from the previous administration and instead followed state law under the Central Purchasing Act and Rules, we respectfully request no limits be applied to open market purchases as duly noted in the audit recommendation.

Sincerely,



Robert Everman
Chief Financial Officer



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DCS STATEMENT

The audit tested procurement actions taking place during both the former and current management tenure; however, the agency procurement procedures in place were developed by the former administration and have, with input from this audit, been revised to provide a more effective purchasing program for the agency.