



John S. Richard
Director

Brad Henry
Governor

STATE OF OKLAHOMA
DEPARTMENT OF CENTRAL SERVICES

MEMORANDUM

DATE: June 23, 2010

TO: State agency procurement officials

FROM: Scott Schlotthauer, State Purchasing Director

RE: Oklahoma Department of Central Services Administrative Rules Revision

With the assistance of experienced procurement professionals from several state agencies, the Oklahoma Department of Central Services Central Purchasing Administrative Rules, OAC 580:15, have been revised with an effective date of **June 25, 2010**. This rulemaking action represents the first phase of a DCS initiative to rewrite Chapter 15 in its entirety in order to better organize its information, which has been affected by required rule codification of revisions and additions adopted over the past eleven years.

The Central Purchasing Rules are organized into three (3) subchapters titled General (580:15-2), Supplier (580:15-4), and State Agency (580:15-6) with each serving a specific purpose of providing guidance to procurement staff in each state agency and suppliers who do business with the state. The intent of the revisions was to adopt permanent rules to replace the 2009 emergency rules adopted to implement amendments to the Oklahoma Central Purchasing Act enacted by House Bill No. 1132 (Effective August 26, 2009). Additionally, an effort has been made to identify current state agency procurement processes and align the rules with those processes for clarity and easier reference. In addition, many revisions provide simple clean-up of terminology and statute references to correct inconsistent use of terms and references.

A highlighted summary of the changes to the Administrative Rules may be viewed at the following address http://www.ok.gov/DCS/Central_Purchasing/index.html and going to the "Special Announcements" section located on the right side of the page.

The Central Purchasing Division would like to thank all of the procurement professionals who contributed to this project.

For further information contact Keith Gentry at 405-522-4878 or keith_gentry@dcs.state.ok.us.

A handwritten signature in black ink, appearing to read "Scott Schlotthauer".

Scott Schlotthauer
State Purchasing Director

"SERVICE, QUALITY, INTEGRITY"

TITLE 580. DEPARTMENT OF CENTRAL SERVICES
CHAPTER 15. CENTRAL PURCHASING
SUMMARY OF REVISIONS
Effective June 25, 2010

SUBCHAPTER 2. GENERAL PROVISIONS

- 580:15-2-1.** Redefines the purpose of the Chapter and adds statement to emphasize it is the responsibility of state agencies and suppliers to know the requirements of the Chapter to ensure fair and consistent purchasing processes.
- 580:15-2-2.** Clarifies that definitions established in this Chapter are in addition to the definitions established by the Central Purchasing Act; some definitions are modified for clarification, deleted, corrected or shortened; a significant definition revision is found for the "State Purchasing Director," which has been modified and expanded to include statutory language defining the position and its authority to delegate acquisition authority to state agency certified procurement officers and analysts; the revision clarifies that any time the term "State Purchasing Director" is used in the rules of this Chapter, it applies to a state agency in accordance with the agency's acquisition authority as delegated by the State Purchasing Director, unless the rule states otherwise.
- 580:15-2-3.** Adds explanation of the use of italics in rules and how statutes are referenced in the rules.
- 580:15-2-7.** Deletes, revises and adds language to this section related to the specific authority of the State Purchasing Director; majority of deleted language is relocated to other sections for clarity in delegated authority of agencies in procurement processes; (new contracting procedures, limited contact and disclosure, and negotiation) new language adds information about "official directives" issued by the State Purchasing Director, e.g. PIMs; "resolution of disputes between state agencies and suppliers", and "contract management fee" are requirements relocated from other sections because authority of both functions is limited to State Purchasing Director only.
- 580:15-2-12.** Adds new section, which is language previously located in 580:15-6-4, related to acquisition records retention; record retention period for acquisitions by a state agency is changed from three (3) years to seven (7) years retention period after all audits and legal actions, which mirrors the current General Records Disposition Schedule (GRDS), applicable to all agencies; and, is a standard retention period for contracts according to federal audit and tax laws; increase in records retention by agencies is critical due to increased acquisition authority; records retention by agencies for acquisitions processed by the Central Purchasing Division also mirrors GRDS and is because DCS is designated as the official office of record for these acquisition files.

SUBCHAPTER 4. SUPPLIER PROVISIONS

- 580:15-4-1.** Revoke the "Purpose" section due to revisions of 580:15-2-1 which states the purpose of the entire Chapter, rather than the subchapter.
- 580:15-4-2.** Clarifies information related to supplier registration process.
- 580:15-4-4.** Changes title of section to clarify subject of the rule section; modifies current language and adds statutory language related to procurement ethics, prohibited activities, one year limitation for certain contracts, supplier gratuities, and supplier debarment for clarification.
- 580:15-4-6.** Clarifies information related to tax exemptions by the State to assist suppliers in the bid process.
- 580:15-4-11.** Clarifies evaluation of bid requirements and related documentation including relocation of "limited disclosure" from 580:15-2-7(d) to (a)(1) of this section with name change to "prohibited disclosure".
 - 580:15-4-11.1** Relocates contract negotiation requirements from 580:15-2-7(e) to this new section of the Administrative Rules located adjacent to sections relating to the acquisition process; revision also eliminates restriction established by emergency rules whereby an agency was limited to ". . . negotiations for acquisitions exceeding \$10,000.00 only with the prior written approval of the State Purchasing Director." authorizes agencies to negotiate acquisitions within the agency's approved dollar threshold in accordance with the requirements of this section.
- 580:15-4-13.** Mirrors revisions adopted in 2009 emergency rules (effective October 1, 2009) related to Supplier protests.
- 580:15-4-14.** Removes requirement of a supplier requesting written approval of the State Purchasing Director for a contract assignment and clarifies that contract assignment may not happen unless otherwise specified by a solicitation.
- 580:15-4-15.** Adds language, "unless otherwise authorized by law," to section related to advance payment for acquisitions in order to reflect exceptions that exist in other statutes.
- 580:15-4-16.** Section revoked and moved to 580:15-2-7(c) relating to State Purchasing Director authority.
- 580:15-4-18.** Clarifies rules related to supplier suspension from the suppliers list, which is not a procurement action delegated to state agencies by the State Purchasing Director;

replaces supplier requirement to keep a bid firm for "60 days" with "the period specified in the solicitation."

- 580:15-4-19.** Clarifies rules related to supplier debarment, which is not a procurement action delegated to state agencies by the State Purchasing Director.

SUBCHAPTER 6. STATE AGENCY PROVISIONS

- 580:15-6-1.** Revoke "Purpose" section due to revisions of 580:15-2-1, which states the purpose of the entire Chapter, rather than the subchapter.
- 580:15-6-2.** Clarifies requirements related to certified procurement officers, including training and continuing education; replaces requirement of 18 hours of continuing education per calendar year to "as required by the CPO Procurement Training Program established by the State Purchasing Director."
- 580:15-6-3.** Adds statutory language from 74 O.S. §85.39 to provide additional information related to contents of state agency purchasing procedures.
- 580:15-6-4.** Revokes this section and moves acquisition records retention section to 580:15-2-12.
- 580:15-6-5.** Clarifies state agency acquisition process as it relates to the Oklahoma Correctional Industries; adds language to clarify that only agencies not using the State's financial and information system for acquisitions (currently PeopleSoft) must submit a monthly listing of all sole source and sole brand acquisitions exceeding \$5,000.00.
- 580:15-6-6.** Mirrors revisions adopted in 2009 emergency rules (effective October 1, 2009) with minor clean-up; section includes acquisition processes for increased dollar thresholds; consolidation of language in effort to eliminate duplicate language applicable to all acquisitions, e.g. non-collusion certification; relocation of subsection (e) titled "Additional information" to new section, 580:15-6-6.2.
- 580:15-6-6.1.** Specific statutory citation language added to this section from recently adopted 2009 emergency rules (effective October 1, 2009) related to exceptions to acquisitions exceeding a state agencies acquisition authority, .
- 580:15-6-6.2.** Additional language added relating to Change Orders in this section from recently adopted emergency rules (effective October 1, 2009), including requirements related to agency savings reporting mandated by House Bill 1132 (see 74 O.S. §85.5(S), and deletion of language relating to OneNet acquisitions.
- 580:15-6-10.** Mirrors language adopted in 2009 emergency rules (effective October 1, 2009), which added subsection (b) clarifying DCS' authority to provide procurement

services to state agencies upon an agency's request or whenever the State Purchasing Director determines the needs of the agency are such to require qualified procurement personnel.

580:15-6-14. Mirrors language adopted in 2009 emergency rules (effective October 1, 2009).

580:15-6-21. Mirrors language adopted in 2009 emergency rules (effective October 1, 2009) which increases dollar threshold related to documentation required to support purchases of accessible electronic information technology from \$2,500.00 to \$5,000.00. Adds new language in subsection (a) to clarify acquisition process of commercial, off-the-shelf products to comply with accessibility requirements; eliminates signature requirements related to support documentation of an agency's determination of an undue burden; clarifies requirements of documentation supporting a state agency's determination that an acquisition meets an exception as it relates to accessibility compliance.