

State Purchasing Director's Guide to Competitive Purchasing with ARPA and GEER II Funds



OKLAHOMA

State Purchasing Director's Guide to Competitive Purchasing with ARPA and GEER II Funds

Introduction to the guide

This packet is intended to be a proactive guide to help agencies streamline their ARPA/GEER II acquisitions while still ensuring agencies comply with state and federal law to purchase goods and services with those federal funds. Recognizing that state and federal law must be utilized, there are several procurement methods described that will meet competitive bidding requirements, but agencies can also utilize existing statewide contracts, NASPO Valuepoint contracts and GSA contracts without having to go through the competitive bidding process. If you do have to competitively bid you can use sealed bids or proposals to do so.

How to use the guide:

This guide is meant to be considered guidance and advisory and agencies should consult with their designated counsel for guidance on specific contracts. However, this guide is broken down by cost thresholds, so once you determine the estimated cost of your project, find the appropriate bid sheet and it will outline what state and federal requirements will apply.

The Bid Sheets are made according to the project spend. Additional guidance on how to evaluate is provided on page 9, and on how to contract on page 11.

Cost Thresholds	
Total cost of project: \$10,000.00 or less	Bid Sheet A
Total cost of project: \$10,000.01 to \$25,000.00	Bid Sheet B
Total cost of project: \$25,000.01 to \$50,000.00	Bid Sheet C
Total cost of project: \$50,000.01 to \$250,000.00	Bid Sheet D
Total cost of project: \$250,000.01 or more	Bid Sheet E

BID SHEET A

PURCHASES UNDER \$10,000.00

ARPA and Oklahoma law DO NOT require competitive bidding

ARPA COMPLIANCE:

Document that you have considered or were unable to consider small, minority-, women- and US-owned companies.

1. Small, minority- and women-owned business preferences.
2. Domestic preference for national companies within the United States.
3. No additional preference for Oklahoma companies.
4. System for award management (SAM), see 2 CFR 183.

OKLAHOMA LAW

No bidding is required provided the acquisition is “fair and reasonable.”

See Central Purchasing Act for more details. 74 O.S. § 85.1-85.44(e).

BID SHEET B

PURCHASES \$10,000.01 to \$25,000.00

ARPA COMPLIANCE:

Document that you have considered or were unable to consider small, minority-, women- and US-owned companies.

1. Small, minority- and women-owned business preferences.
2. Domestic preference for national companies within the United States.
3. No additional preference for Oklahoma companies.
4. Procurement of Recovered Materials must comply with Solid Waste Disposal Act and guidelines for the EPA at 40 CFR part 247.
5. System for award management (SAM), see 2 CFR 183.
6. To qualify as a micro purchase, agency can establish a micro purchase threshold up to \$50,000.00 but must create a self-certification that includes
 - a. A justification for the increase,
 - b. A clear identification of the higher threshold,
 - c. A qualification as a low-risk auditee, in accordance with 2 CFR §200.520,
 - d. An annual institutional risk assessment to identify, mitigate and manage risks, and
 - e. The higher threshold is consistent with state law.

OKLAHOMA LAW

No bidding is required provided the acquisition is “fair and reasonable.”

See Central Purchasing Act for more details. 74 O.S. § 85.1-85.44(e).

BID SHEET C

PURCHASES \$25,000.01 to \$50,000.00

ARPA COMPLIANCE:

Document that you have considered or were unable to consider small, minority-, women- and US-owned companies.

1. Small, minority- and women-owned business preferences.
2. Domestic preference for national companies within the United States.
3. No additional preference for Oklahoma companies.
4. Procurement of Recovered Materials must comply with Solid Waste Disposal Act and guidelines for the EPA at 40 CFR part 247.
5. System for award management (SAM), see 2 CFR 183.
6. To qualify as a micro purchase, agency can establish a micro purchase threshold up to \$50,000.00, but must create a self-certification that includes:
 - a. A justification for the increase.
 - b. A clear identification of the higher threshold.
 - c. A qualification as a low-risk auditee, in accordance with 2 CFR §200.520.
 - d. An annual institutional risk assessment to identify, mitigate and manage risks.
 - e. The higher threshold consistent with state law.

(SEE OKLAHOMA LAW FOR BID SHEET C ON NEXT PAGE)

OKLAHOMA LAW:

Exceeds Fair & Reasonable Amount for the state, so must also comply with the Central Purchasing Act.

Requirements:

- a. Non-collusion certification.
- b. Certifications of professional or non-professional services contract.
- c. Bonds and/or sureties.
- d. Verification of registration with the Secretary of State.

Agencies with CPO

Agencies with CPOs and state purchasing director compliant internal purchasing procedures may make acquisitions above the fair and reasonable amount up to their acquisition threshold amount.

1. Internal purchasing procedures: The state purchasing director will approve internal purchasing procedures or indicate revisions after agency submission.
2. Authorized signatures for state agency procurement form: Agencies should provide the state purchasing director a current authorized signature form that identifies the name, title and signature of those individuals designated to sign and approve requisitions and sole source certifications.

Agencies shall submit requisitions to Central Purchasing when:

1. The agency doesn't have a CPO or approved internal purchasing procedures.
2. An acquisition exceeds the agency's authority.
3. A change order for the acquisition would increase the total contract amount above the agency authority.

BID SHEET D

PURCHASES \$50,000.01 to \$250,000.00

ARPA COMPLIANCE:

Document that you have considered or were unable to consider small, minority-, women- or U.S.-owned companies.

1. Small, minority- and women-owned business preferences.
2. Domestic preference for national companies within the U.S.
3. No additional preference for Oklahoma companies.
4. Procurement of Recovered Materials must comply with Solid Waste Disposal Act and guidelines for the EPA at 40 CFR part 247.
5. System for award management (SAM), see 2 CFR 183.
6. Small purchases require agency to obtain price or rate quotes from an adequate number of qualified sources as determined by the agency.

OKLAHOMA LAW:

Exceeds Fair & Reasonable Amount for the state, so must also comply with the Central Purchasing Act.

Requirements:

- a. Non-collusion certification.
- b. Certifications of professional or non-professional services contract.
- c. Bonds and/or sureties.
- d. Verification of registration with the Secretary of State.

Agencies shall submit requisitions to Central Purchasing when:

1. The agency doesn't have a CPO or approved internal purchasing procedures.
2. An acquisition exceeds the agency's authority.
3. A change order for the acquisition would increase the total contract amount above the agency authority.

BID SHEET E

PURCHASES OVER \$250,000.00

ARPA COMPLIANCE:

Document that you have considered or were unable to consider small, minority-, women- or U.S.-owned companies.

1. Small, minority- and women-owned business preferences.
2. Domestic preference for national companies within the U.S.
3. No additional preference for Oklahoma companies.
4. Procurement of Recovered Materials must comply with Solid Waste Disposal Act and guidelines for the EPA at 40 CFR part 247.
5. System for award management (SAM), see 2 CFR 183.
6. Formal bidding procedures required for ARPA must use either Sealed Bids or Proposals.
 - a. Is the situation appropriate for Sealed Bids? PIPS is not available for Sealed Bids proposed.
7. If Sealed Bids cannot be used, Proposals is the only other method available under formal bidding.

Proposals are a procurement method that can be used where either the contract is for a fixed price or cost reimbursement. Proposals are generally used when conditions would not meet those required for Sealed Bids and can potentially be PIPS proposals.

OKLAHOMA LAW:

Exceeds Fair & Reasonable Amount for the state, so must also comply with the Central Purchasing Act.

Requirements:

- a. Non-collusion certification.
- b. Certifications of professional or non-professional services contract.
- c. Bonds and/or sureties.
- d. Verification of registration with the Secretary of State.

Agencies shall submit requisitions to Central Purchasing when:

1. The agency doesn't have a CPO or approved internal purchasing procedures.
2. An acquisition exceeds the agency's authority.
3. A change order for the acquisition would increase the total contract amount above the agency authority.

HOW TO EVALUATE

Procurement method:

1. Statewide link.
2. NASPO ValuePoint contract link.
3. Interagency agreement.
4. Direct contracting under \$10,000.
5. Direct contracting under \$25,000.
6. Small purchases.
7. GSA contract.
8. PIPS.
9. Sealed Bid.
10. Proposal.

If contracts are going to be based on a statewide contract or a NASPO ValuePoint contract, the agency needs to create a Participating Addendum. No evaluation is needed.

If the contract is based on an interagency agreement, the agency needs the interagency agreement and the Participating Addendum. No evaluation is needed.

Direct contracting, small purchases, PIPS, Sealed Bids and Proposals:

Sealed Bids:

1. Sealed Bids are a procurement method in which bids are publicly solicited and a firm, fixed contract price is awarded. There are many requirements for using this method and a more detailed summary is available upon request.
2. Sealed Bids are only feasible where:
 - a. A complete, adequate and realistic specification or purchase description is available.
 - b. Two or more responsible bidders are willing and able to compete effectively for the business.
 - c. The procurement can be a firm, fixed price contract and the successful bidder can be made principally based on price.ⁱ

Proposals:

1. Proposals are a procurement method that can be used where either the contract is for a fixed price or cost-reimbursement.
2. Proposals are generally used when conditions would not meet those required for sealed bidding. The following requirements must be met to award under a Proposal:
 - a. Requests for Proposals must be publicized and identify all evaluation factors and their weight in the overall evaluation. They must be solicited from an adequate number of qualified offerors and those responses must be considered to the maximum extent possible.
 - b. The agency must have a written method for conducting technical evaluations of the proposals, as well as for how they are received and selected.
 - c. Contracts must be awarded to the offeror whose proposal is most advantageous with price and other factors considered.
 - d. For architectural and engineering services only, the agency may use a competitive proposal procedure for qualification-based procurement, where price is not used as a selection factor.

Evaluation to include:

1. Minority- and women-owned business preferred?
2. No domestic preference given?
3. Recovered Materials were utilized according to 40 CFR 247 and the Solid Waste Disposal Act?
4. Conflicts of interest policy?
5. Identify the procedures and oversight method employed?
6. Self-Certification of Increased Threshold (when appropriate)?

Agencies must comply with the following general procurement standards:

7. Agencies must have and use documented procurement procedures consistent with state, local and tribal laws and regulations as well as these regulations.
8. Agencies must maintain oversight to ensure contractors perform in accordance with the terms, conditions and specifications of a contract.
9. The agency must maintain written standards of conduct covering conflicts of interest and governing the actions of employees engaged in the selection award and administration of solicitations.
10. Where appropriate, the agency must maintain written standards of conduct covering conflicts with additional entities like parent entities or sub-entities.
11. The agency's procedures must avoid acquisition of unnecessary or duplicative items.
12. Agencies are encouraged to enter into state and local intergovernmental agreements or inter-entity agreements to foster greater economy and efficiency. Competitive requirements can be met with documented procurement actions that use strategic sourcing, shared services and other similar product arrangements.
13. Agencies are encouraged to use Federal Surplus in lieu of purchasing new equipment.
14. In contracts for construction projects, agencies are encouraged to use value engineering clauses to offer reasonable opportunities for price reduction.
15. Agencies must only award contracts to responsible contractors possessing the ability to perform their obligations successfully.
16. The agency must maintain records sufficient to detail the history of procurement for each contract, with documentation as to the methods of procurement considered, contract type selection, rejected and selected contractors and the basis for contract price.ⁱⁱ
17. Finally, the agency alone must be responsible for the settlement of all contractual and administrative issues arising out of procurements, in accordance with the good administrative practice and sound business judgement.

HOW TO CONTRACT

Procurement method:

1. Statewide link.
2. NASPO ValuePoint contract link.
3. Interagency agreement.
4. Direct contracting under \$10,000.
5. Direct contracting under \$25,000.
6. Small purchases.
7. GSA contract.
8. PIPS proposal.
9. Sealed Bid.
10. Proposal.

If contracts are going to be based on a **statewide contract**, a NASPO ValuePoint contract or a GSA contract, the agency needs to create a **Participating Addendum**.

If the contract is based on an **interagency agreement**, the agency needs the **interagency agreement**.

For direct contracting, small purchases, Sealed Bids and Proposals:

Evaluation to include:

1. Minority- and women-owned business preferred?
2. No domestic preference given?
3. Recovered Materials were utilized according to 40 CFR 247 and the Solid Waste Disposal Act?
4. Conflicts of Interest policy?
5. Identify the procedures and oversight method employed?

MINORITY- AND WOMEN-OWNED BUSINESS ATTESTATION

I have consulted the list of minority- and women-owned businesses found on the [OMES website](#). I was able to find the following suppliers that met the agency's need.

Supplier 1

Supplier 2

Supplier 3

If the agency was unable to find a supplier that met the agency's need, please state what the need was:

I was further able to invite the above identified suppliers to bid on the solicitation presented by my agency.

AGENCY FOR THE STATE OF OKLAHOMA

Authorized signature

Printed name

Title

Date

- i. (id).
- ii. 2 CFR § 200.318, more specification is described in the statute.