

STATE OF OKLAHOMA



OKLAHOMA
**Office of Management
& Enterprise Services**

**Oklahoma Construction Industries
Board
Procurement Audit**

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Central Purchasing Audit
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Table of Contents

AUDIT SUMMARY	3
Why we conducted this audit	3
Summary of acquisitions	3
Purchasing delegated to the agency	3
What we found.....	5
Agency accomplishments	5
AUDIT FINDING SUMMARY	5
DETAILED FINDINGS	5
APPENDIX	8
Methodology	8
Sampling	8
EXECUTIVE SUMMARY	10
Agency information.....	10
Board members.....	10
Key staff	10

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AUDIT SUMMARY

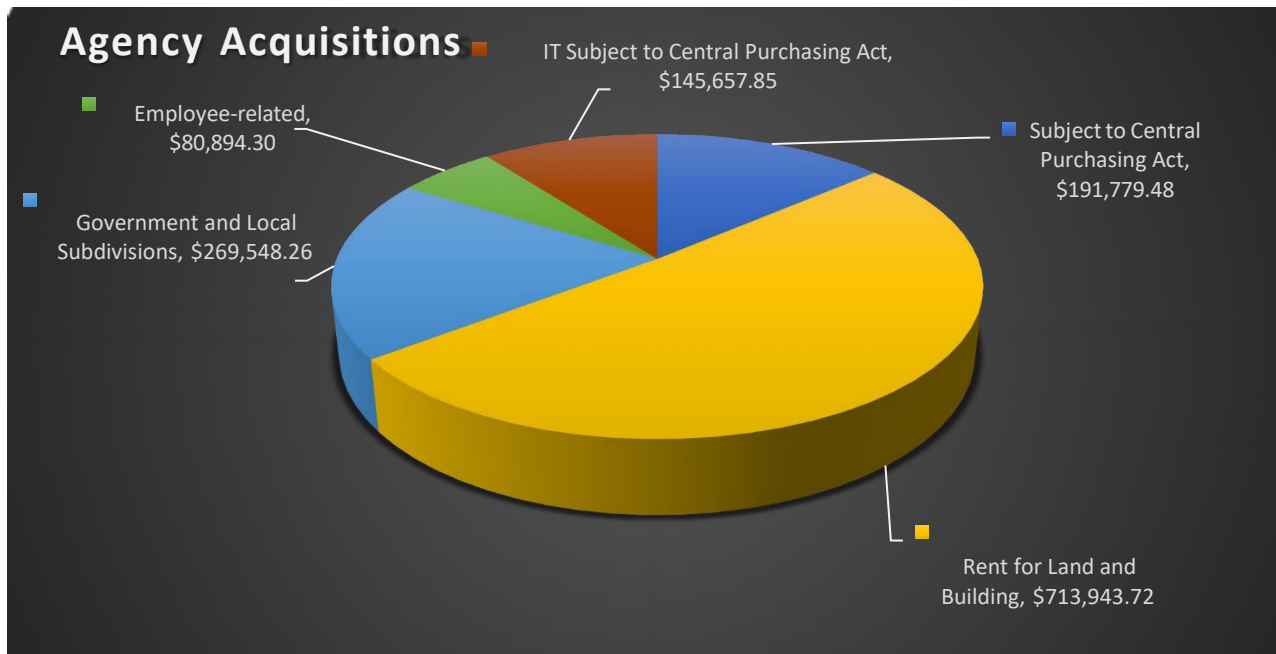
Oklahoma Construction Industries Board (CIB) – Procurement Audit

Why we conducted this audit

This report provides information on the agency’s compliance with the Central Purchasing Act (CPA), Oklahoma Administrative Code 260 § 115, the agency’s approved internal purchasing procedures and the strength and execution of the agency’s purchasing internal control structure.

Summary of acquisitions

In total, CIB processed 159 acquisitions during the audit period from Jan. 1, 2021, to Feb. 15, 2022. Acquisitions were obtained by compiling non-cancelled purchase orders, expenditures with no purchase order number, and audit period expenditures on prior-to-audit-period purchase orders totaling \$1,401,823.61. Acquisitions were then separated into the following categories: subject to Central Purchasing Act (CPA); rent for land and building; government and local subdivisions; and employee-related expenses. The agency’s acquisitions subject to the Central Purchasing Act totaled \$191,779.48. The remaining acquisition categories are not subject to the requirements of the CPA; therefore, they were not included in the audit. The chart below depicts agency acquisitions by category during the audit period.



Purchasing delegated to the agency

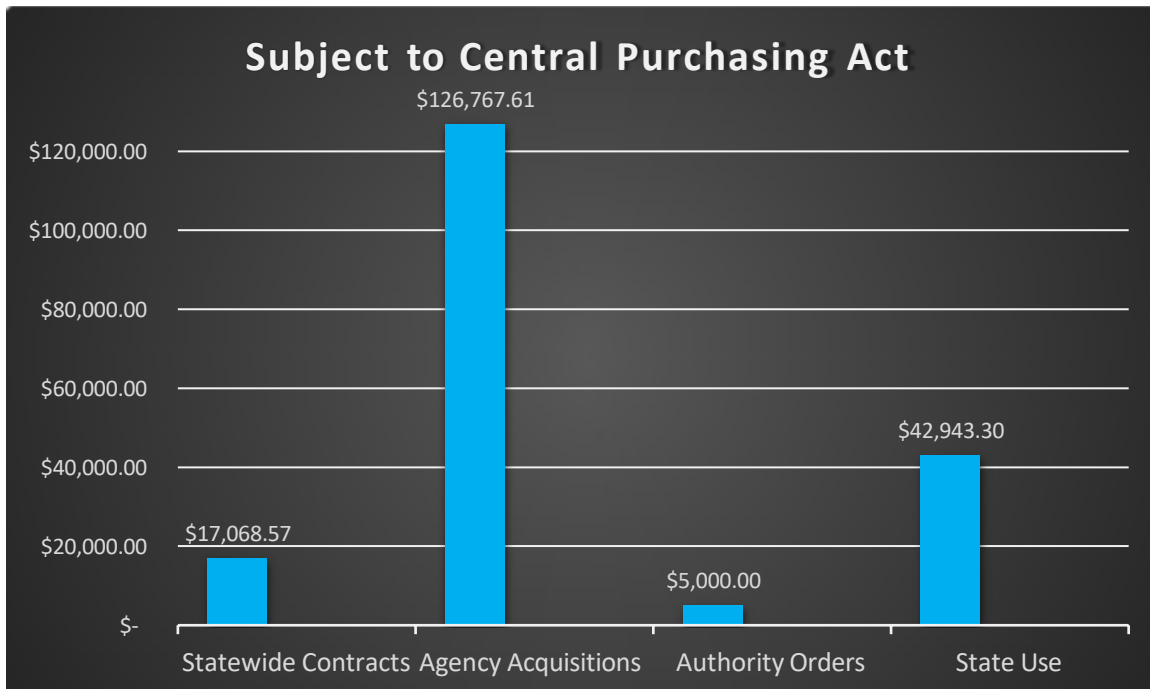
In Section 3 of the Oklahoma Construction Industries Board’s Internal Purchasing Procedures regarding their certified procurement officer (CPO) it states:

1. Through an interagency agreement between CIB and OMES Agency Business Services Division (OMES ABS), a primary CPO employed by OMES ABS will be designated for CIB to perform services in the procurement process of goods and services on behalf of

CIB per Appendix F of the Agreement for Shared Services Between Oklahoma Office of Management and Enterprise Services and Construction Industries Board. All designees shall attend the required training to maintain their certification as a certified procurement officer with the State of Oklahoma.

- The OMES ABS CPO shall process all requisitions from CIB on behalf of CIB. The agency's acquisitions subject to the Central Purchasing Act total \$191,779.48. The primary focus of our audit was the purchases delegated to the agency through the state purchasing director. The delegated purchases included agency open market acquisitions, service contracts (including Title 18 professional services contracts), and ratification agreements. The agency's acquisition responsibility for purchases processed in association with the audit period, in accordance with the Central Purchasing Act, was \$184,922.83. Agency IT acquisitions were material to the acquisition population and were tested totaling \$56,155.22. We tested 55% of agency open market acquisitions (95% of open market expenditures). We used the classic variable sampling method to extract a sample of acquisitions from the following threshold categories: \$0 to \$25,000; \$25,000.01 to \$50,000; greater than \$50,000; IT \$0 to \$25,000; and IT \$25,000.01 to \$50,000.

The acquisitions performed by the agency in relation to purchases subject to the Central Purchasing Act are categorized in the chart below:



What we found

Analytical testwork was performed during the planning stage, internal control walk-throughs were completed, and 26 acquisitions totaling \$175,007.15 were tested against compliance requirements. One formal finding was written, and we have determined that CIB **did significantly comply** with the Central Purchasing Act and the Oklahoma Administrative Code 260 § 115.

Agency accomplishments

We would like to commend CIB for their proactivity and willingness to improve their procurement program. The agency worked diligently with our team to address concerns and resolve them in an appropriate manner.

AUDIT FINDING SUMMARY

(Error rates are based on transactions reviewed.)

Finding 22-170-01: Contract Clauses

One open market information technology (IT) acquisition file reviewed did not contain an IT accessibility clause.

DETAILED FINDINGS

Finding 22-170-01: Contract Clauses

Condition: One open market information technology (IT) acquisition file was reviewed to verify that the solicitation/contract included the accessibility clause. The one acquisition reviewed (100% error rate) did not contain an IT accessibility clause.

#	PO NUMBER	PO DATE	VENDOR NAME	AMOUNT
1	1709001803	08/02/2021	GL SUITE INC	\$48,689.00
TOTAL				\$48,689.00

Cause: The agency believed the clauses they included met the intent of the IT accessibility clause.

Effect or potential effect: The IT accessibility clause is an essential part of the evaluation process in all IT acquisitions. Without the inclusion of this clause in the supplier's contract, there is no verification that the agency complied with the requirement(s) of the clause. There is an increased possibility for vendor protests that could result in awards being overturned. Without this IT Accessibility Clause in the supplier's contract, the selection method for the contract lacks support.

Criteria: The **Oklahoma Administrative Code Title 260 § 115-7-54 – Accessible information and communication technology (ICT) acquisitions** states in part:

(b) Contract clauses.

- (1) All solicitations and contracts for information technology shall include the accessibility clause adopted by the Information Services Division pursuant to 62 O.S. §34.28.
- (2) The ICT Accessibility Standards shall be published on the OMES website.

(3) A supplier shall provide a written certification, signed by an authorized officer of the supplier, describing the extent to which the product or service complies with applicable ICT Accessibility standards required by such contracts or solicitations prior to the expenditure of state funds. An agency may also utilize a VPAT published on a supplier's primary website. A VPAT obtained from a supplier website shall be good for a one-year period.

(c) Exceptions. Exceptions to compliance with ICT Accessibility Standards include:

(1) information technology operated by state departments or agencies, the function, operation or use of which involves intelligence activities, crypto logic activities related to public safety, command and control of law enforcement, equipment that is an integral part of a weapon or weapons system or systems which are critical to the direct fulfillment of public safety or intelligence missions. Systems which are critical to the direct fulfillment of public safety or intelligence missions do not include a system that is to be used for routine administrative and business applications (including payroll, finance, logistics and personnel management applications);

(2) information technology acquired by a contractor or grantee incidental to a contract or grant, provided the technology does not become State property upon the completion of the contract;

(3) information technology located in spaces frequented only by service personnel for maintenance, repair or occasional monitoring of equipment;

(4) information technology requiring a fundamental alteration in the nature of a product or its components to achieve accessibility;

(5) Except as required to comply with the ICT Accessibility Standards, state departments and agencies are not required to install specific accessibility-related software or attach an assistive technology device to information technology products unless required by other applicable State or Federal laws;

(6) When state agencies provide public access to information or data through information technology, agencies are not required to make products owned by the agency available for access and use by individuals with disabilities at a location other than where the information technology is provided to the public, or to purchase products for access and use by individuals with disabilities at a location other than where the information technology is provided to the public;

(7) information technology that would impose an undue burden on the agency.

Recommendation: The agency should develop and implement a process to ensure all documentation, including the IT Accessibility Clause, is handled appropriately and retained in the acquisition file. This can be achieved by properly identifying an open market acquisition and requiring an acquisition checklist in each acquisition file for each purchase type and purchasing threshold.

Management's Response

Date: 04/25/2023

Respondent: Director of Agency Business Services

Response: Concur – All IT purchases are routed through other departments for approval. Agency

Business Services (ABS) depended on these other departments not to approve requests for IT purchases that were missing required documentation.

Corrective Action Plan

Contact Person: Director of Agency Business Services

Anticipated Completion Date: April 25, 2023

Corrective Action Planned: All ABS staff engaged in procurement activities have been informed that the IT Accessibility clause is a required part of the acquisition file and shall be included with every IT purchase request beginning with eProcurement requisition in PeopleSoft:

State procurement of information technology is subject to certain federal and State laws, rules and regulations related to information technology accessibility, including but not limited to Oklahoma Information Technology Accessibility Standards (“Standards”) set forth at <https://omes.ok.gov/services/information-services/accessibility-standards>. Supplier shall provide a Voluntary Product Accessibility Template (“VPAT”) describing accessibility compliance via a URL linking to the VPAT and shall update the VPAT as necessary in order to allow a Customer to obtain current VPAT information as required by State law. If products require development or customization, additional requirements and documentation may be required and compliance shall be necessary by Supplier. Such requirements may be stated in appropriate documents including but not limited to a statement of work, riders, agreement, purchase order or Addendum. All representations contained in the VPAT provided will be relied upon by the State or a Customer, as applicable, for accessibility compliance purposes.

Management’s Response

Date: April 5, 2023

Respondent: Construction Industries Board (CIB) Administrator

Response: Non-Concur – The CIB appreciates the manner in which OMES/Central Purchasing Audit Division worked with the agency to help the agency continue to streamline its purchasing procedures. This contract is a fully approved sole source contract, reducing any risk of vendor protest and is not an "award" subject to being overturned. The vendor proprietary licensing software is not data with direct access to the public, but only limited agency staff members. The CIB's business-minded Board contracts with OMES for shared services in order to minimize costs to the agency. This contract includes services through OMES ISD for all IT related services as well as full CFO and CPO services through OMES ABS. The agency does not have a CPO on staff. CIB relies on ABS to properly handle, approve and retain all documentation related to acquisitions and to have and maintain an acquisition checklist on behalf of the agency. The OMES/CIB Contract Appendix F, section C states that ABS is responsible for ensuring "purchasing statutes, rules, and guidelines are followed". While CIB staff works diligently to ensure that all purchasing laws, rules and administrative codes are precisely followed, without the agency having a trained CPO, CIB relies heavily on ABS to make sure there is full compliance with all contracts. While CIB also maintains thorough backup documentation for each purchase that the agency makes, section C of Appendix F states that ABS is to "allow access to all records for State Auditor's office and OMES auditors" so the acquisition files and any checklists used that the auditors are to rely on should be made and maintained by ABS and not CIB.

Further, in addition to all purchases and contracts reviewed and approved by ABS, all CIB contracts pertaining to IT related services are required by the state to go through OMES IT for review and approval prior to the agency obtaining a purchase order. It is expected that if there is an insufficient clause, clause missing or any other issue with the IT related purchase that OMES IT would not approve the purchase order until the agency obtained the necessary documentation and that CIB would be notified of this by either OMES IT or ABS. Whether due to an exception(s) or the other clauses

referenced herein satisfying the requirement, the CIB was not informed by ISD that this clause was also required – even after the agency specifically requested assistance from OMES ISD in identifying contract issues, risks, needed wording, etc. for the most recent contract negotiations with this vendor.

Separate from these contracts for shared services, the agency believes it has substantially complied with the required IT accessibility clause. The contract clauses the agency believes covers the spirit and intent of the IT accessibility clauses are from pages 14 and 17 of the GL Solutions Contract. Page 14 item 10(c) states "In the event Software requires updating due to Federal, State statutory or regulatory requirements affected Licensee, the Company's Software development department shall give its highest priority to the implementation of such updates, but Company does not warrant that all such updates will be completed, or that any such updates will be completed by a certain time." Page 17 clause 11(b) states "Company shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to this Contract." Complying with all federal, state, and local laws would include 62 O.S. §34.28 and Oklahoma Administrative Code Title 260 § 115-7-54, therefore the CIB contends that these clauses meet the intent of the required IT accessibility clause. To require the contract to be re-negotiated to include the wording of this clause when the other existing clauses already cover the intent could place the ongoing, critical services in jeopardy unnecessarily, including increased cost or, at the worst, result in no contract for these critical services causing an undue burden on the agency and the business industry seeking licensure. When a new, future contract is negotiated, in addition to the existing clauses the agency will make sure the specific wording in Oklahoma Administrative Code Title 260 § 115-7-54 is put in place as an extra protection.

APPENDIX

Methodology

- Interviews were conducted with the agency's staff members.
- Internal controls over the procurement program were documented and evaluated.
- Procurement transactions were examined.
- A statistical sample of transactions from cardholders was examined.
- Overall program compliance with the rules related to the audit objectives was evaluated.

Sampling

We used IDEA data analysis software to categorize and sample units to be tested. Below is the table depicting the sampling size per stratified category for the standard procurement acquisitions. The total population for substantive testwork was 47 acquisitions totaling \$184,922.83. The total sampled population for substantive testwork was 26 acquisitions amounting to \$175,007.15. Amounts reported in the chart below are based on the initial classification within each acquisition threshold.



UNITS	SUB-POPULATION	# OF TRANSACTIONS IN SUB-POPULATION	# SAMPLED FOR TESTWORK	% SAMPLED FOR TESTWORK
	\$0 to \$25,000	38	17	45%
	\$25,000.01 to Agency's Purchase Limit	N/A	N/A	N/A
	Greater than Agency's Purchase Limit	1	1	100%
	I.T. \$0 to \$25,000	7	7	100%
	I.T. \$25,000.01 to Agency's Purchase Limit	1	1	100%
	Subtotal	47	26	55%
	Judgmental		0	
	Total	47	26	55%
DOLLARS	SUB-POPULATION	\$ AMOUNT IN SUB-POPULATION	\$ AMOUNT SAMPLED FOR TESTWORK	% DOLLARS SAMPLED FOR TESTWORK
	\$0 to \$25,000	\$79,767.61	\$69,851.93	88%
	\$25,000.01 to Agency's Purchase Limit	N/A	N/A	N/A
	Greater than Agency's Purchase Limit	\$47,000.00	\$47,000.00	100%
	I.T. \$0 to \$25,000	\$9,466.22	\$9,466.22	100%
	I.T. \$25,000.01 to Agency's Purchase Limit	\$48,689.00	\$48,689.00	100%
	Subtotal	\$184,922.83	\$175,007.15	95%
	Judgmental		\$0.00	
	Total	\$184,922.83	\$175,007.15	95%

EXECUTIVE SUMMARY

Organization: Oklahoma Construction Industries Board

Mission statement: To protect life and property by licensing and inspection of the related trades for the health, safety, and welfare of the public.

History and overview: Created in 2001 to consolidate and streamline the administration of the various construction licensing committees, formerly under the Department of Health, and increase transparency for the licensing and oversight of the construction industries trades, which include the Plumbing License Law of 1955, the Oklahoma Inspectors Act, the Electrical License Act, the Mechanical Licensing Act, the Home Inspection Licensing Act, and the Roofing Contractor Registration Act.



(Crops grown in Oklahoma)

Agency information

The agency is made up of 35 unclassified employees according to the Oklahoma Agencies, Boards and Commissions Book as of Autumn 2022.

Key staff

Janis Hubbard, Administrator;

Windy Nunnery, Office Manager;

Stephanie Brown, Board Secretary/Executive Assistant