

Acquisitions and Dispositions.....	2
I. Coordination of ODOC Purchasing Activities.....	2
A. Contracts and Acquisitions Unit Responsibilities .....	2
B. Certified Procurement Officer (CPO) .....	2
C. Needs Assessment.....	3
D. Funding.....	3
E. Routing and Review.....	3
II. Methods of Acquisitions/Purchasing.....	3
A. Oklahoma Correctional Industries (OCI) and Agri-Services.....	4
B. State Use .....	4
C. Statewide Contracts.....	4
D. Other Governmental Agencies.....	5
E. Title 18 - Professional Service Entity Act .....	5
F. Fixed and Uniform Rate Contracts.....	6
G. Sole Source or Sole Brand .....	6
H. Construction and Properties Division (CAP) (a Division of Capital Asset Management (DCAM) of OMES).....	6
I. Open Market Acquisitions .....	8
III. Exempt Acquisitions .....	10
A. Food Purchases.....	10
B. In-house Printing.....	10
C. Regulated Utility Services .....	11
D. Custom Harvesting .....	11
E. Private Prison Contracts .....	11
F. Federal General Services Administration (GSA).....	11
G. Canteen Operations.....	11
H. Raw Materials and Component Parts to Produce Goods for Resale (74 O.S. § 85.12.B.29) Certain Items Used By OCI and Agri-Services to Produce Goods or Services for Resale.....	11
I. Acquisition of Livestock, Livestock Semen or Embryos, Livestock Reproduction Needs (74 O.S. § 85.41.A41A) .....	14
J. Emergency Acquisitions (74 O.S. § 85.41A).....	14
IV. Additional Requirements for Certain Acquisitions.....	16
A. Postage.....	16
B. Food Items.....	16
V. Other General Requirements/Information .....	18
A. Prison Rape Elimination Act (PREA) (34 U.S. Code § 303, 28 C.F.R. § 115.17 and C.F.R. § 115.317) .....	18
B. Bid Evaluations .....	19
C. Multi-Year Contracts .....	20
D. Split Purchasing.....	20
E. State Agency and Supplier/Contractor Disputes.....	21
F. Record Retention.....	22
G. Audits.....	22
H. Monitoring (74 O.S. § 85.41.D) .....	22
I. Ratification of an Unauthorized Commitment (OAC 260:115-5-17) .....	23
J. Quality Assurance Inspections.....	23
K. Supplier/Contractor Protest.....	24
VI. Procedure for Real Estate and Leasing Services (REALS) .....	24
VII. Commercial Airline Travel .....	24
A. Restrictions .....	24
B. Itinerary Changes.....	24

<b>Section-12 Fiscal Management</b>	<b>OP-120103</b>	<b>Page: 2</b>	<b>Effective Date: 04/21/2022</b>
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VIII. Purchase Card (P-Card) .....25  
IX. References.....25  
X. Action.....26  
    Referenced Forms ..... 27  
    Attachments..... 27

<b>Section-12 Fiscal Management</b>	<b>OP-120103</b>	<b>Page: 2</b>	<b>Effective Date: 04/21/2022</b>
<b>Acquisitions and Dispositions</b>	<b>ACA Standards: 2-CO-1B-09, 2-CO-1B-10, 5-ACI-1B-14, 4-ACRS-7D-25</b>		
<b>Scott Crow, Director</b> <b>Oklahoma Department of Corrections</b>		<b>Signature on File</b>	

## **Acquisitions and Dispositions**

The Oklahoma Department of Corrections (ODOC) shall comply with all state statutes, Central Purchasing (CP) and Office of Management and Enterprise Services (OMES) rules and regulations related to acquisition and disposition of goods and services. This document is not all inclusive, but by reference, includes the Oklahoma Constitution Section X 23, the Oklahoma Central Purchasing Act 74 O.S. § 85.1 et seq., OMES Central Purchasing Administrative Code 260:115, OMES Construction and Properties Administrative Code 260:65, State of Oklahoma Policy and Procedures for Purchase Card, and Public Buildings and Public Works 61 O.S. § 101. through 61 O.S. § 138.

The purchasing processes specified in this procedure shall be effective upon approval by the state purchasing director, pursuant to 74 O.S. § 85.39.1 and 74 O.S. § 85.39.2., and shall govern all acquisitions made by ODOC. (2-CO-1B-09, 2-CO-1B-10, 5-ACI-1B-14, 4-ACRS-7D-25) An agency review of their procurement procedures should occur annually, with resubmission for review and approval to the Office of Management and Enterprise Services (OMES) Central Purchasing every two years.

### I. Coordination of ODOC Purchasing Activities

#### A. Contracts and Acquisitions Unit Responsibilities

1. ODOC has designated the Contracts and Acquisitions unit to coordinate all purchasing activities for the agency.
2. The Contracts and Acquisitions unit serves as the point of contact with Central Purchasing (CP), Construction and Properties (CAP), and OMES Information Services (IS) on all ODOC purchasing matters and is the office of record for agency issued purchase orders.

#### B. Certified Procurement Officer (CPO)

1. The state purchasing director is required to provide education to purchasing officials and other purchasing staff on matters related to state procurement practices through adequate and proper communication tools. The state purchasing director is also

responsible for the certification of state certified procurement officers (CPOs). (74 O.S. § 85.5. D.)

2. Only CPOs that are current employees of the Contracts and Acquisitions unit are authorized to make acquisitions or purchasing decisions that require CPO certification by the Oklahoma Central Purchasing Act, Central Purchasing Rules, or ODOC Purchasing Procedures. The Contracts and Acquisitions unit will employ at least one CPO II to facilitate purchases.
3. The “Authorized Signature” form ([OMES CP FORM 001](#)) shall be completed and forwarded to CP within 30 days of any change in the authorized signatures. (OAC 260:115-5-13)
4. CPOs shall maintain their certification in accordance with the requirements of the CPO Procurement Training Program established by the state purchasing director. (OAC 260:115-5-3(c))

C. Needs Assessment

Each division/facility/unit within ODOC is responsible for determining the quantity and general class and nature of items that are needed to perform their official function.

D. Funding

The Business Services unit within ODOC is responsible for identifying and providing the appropriate funding distribution information for all acquisitions.

E. Routing and Review

1. All purchase requests shall be entered into the agency electronic purchasing system. The request, along with all required documentation, shall be routed, reviewed and approved by the appropriate approvers. Approved requests shall be processed by Business Services staff or the Contracts and Acquisitions unit as determined by the purchasing method.
2. Change orders to established purchase orders shall be routed through the appropriate approvers and submitted to the Contracts and Acquisitions unit for processing.
3. The Contracts and Acquisitions unit shall submit the acquisition documents to CP, CAP, or IS as required for processing.

II. Methods of Acquisitions/Purchasing

This section describes all methods of acquisition as defined by state purchasing statutes and rules. Some methods of acquisitions are mandatory and have priority over other methods.

A. Oklahoma Correctional Industries (OCI) and Agri-Services

Pursuant to [OP-080104](#) entitled "Purchase of Products and Services from Correctional Industries", it is mandatory for ODOC divisions/facilities/units to acquire their products or services internally from OCI and Agri-Services unless the product or service is not available and a reasonable alternative cannot be developed. In instances where OCI or Agri-Services is unable to provide the service or product, the requesting ODOC division/facility/unit must obtain a written exception from the OCI or Agri-Services chief administrator or designee. If the exception is granted, then the acquisition shall be processed in accordance with the Central Purchasing Act and Central Purchasing Rules requirements. The acquisition of products and services from OCI and Agri-Services have priority over state use acquisitions.

B. State Use

ODOC is required to make acquisitions from a supplier/contractor(s) on the State Use Committee procurement schedule, when all three of the following are true:

1. The item is not available from OCI or Agri-Services;
2. A fair market price has been established through the State Use Committee process defined in 74 O.S. §3001 et seq.; and
3. The supplier's delivery date meets state agency requirements.

If a state use supplier is unable to meet delivery requirements, an exception may be requested from the state use administrator through Contracts and Acquisitions. State Use Committee statewide contracts are mandatory (74 O.S. § 85.5.E.3 and OAC 260:115-7-3) and have priority over mandatory statewide contracts.

To request an exception from a mandatory state use item with a fair market price established contract, the ODOC division/facility/unit shall submit a request using the applicable OMES form and proper supporting documentation to the chief administrator of Contracts and Acquisitions or designee for review and further processing.

C. Statewide Contracts

Statewide contracts awarded by CP, CAP, and IS are designated as either mandatory or non-mandatory.

If a product or service is on a mandatory statewide contract and it is not available from OCI/Agri-Services and it is not a state use item with a fair market price established, the mandatory statewide contract must be used by ODOC regardless of the purchase price, unless a written exception is requested and approved by the state purchasing director, IS or designee.

To request an exception from a mandatory statewide contract, the ODOC division/facility/unit shall submit a request using the applicable OMES form and proper supporting documentation to the Contracts and Acquisitions chief administrator or designee for further review and processing.

To request an exception from the Maintenance, Repair, and Operations (MRO) SW0817, the ODOC division/facility/unit shall submit a request using the applicable OMES form and proper supporting documentation directly to the chief administrator of Contracts and Acquisitions or designee for further review and processing.

Non-mandatory statewide contracts are optional and state agencies are encouraged to use them. They are established for convenience and allow ODOC to process an acquisition (regardless of the total dollar amount) directly without having to complete a competitive bid process. If an item is on a non-mandatory contract and ODOC decides not to utilize the contract, the acquisition must be processed in accordance with the Oklahoma Central Purchasing Act and Central Purchasing Administrative Rules, which may require a competitive bid process.

D. Other Governmental Agencies

ODOC may contract with any other governmental entity pursuant to 74 O.S. § 581. or 74 O.S. §1001. through 74 O.S. §1008., which includes political subdivisions of the state or another state, and any agency of this state or of the United States. An acquisition with other governmental entities shall not be made for the purpose of evading competitive bidding requirements, provisions of the Oklahoma Central Purchasing Act, the Central Purchasing Administrative Rules, or provisions related to the State Use Committee.

E. Title 18 - Professional Service Entity Act

The Oklahoma Central Purchasing Act exempts professional services specifically listed in 18 O.S. § 803 from a competitive bid process regardless of the total acquisition price. The services being provided in the contract must be pursuant to the individual's license in the discipline listed in Title 18. The division/facility/unit within ODOC requiring the services shall develop a scope of work detailing all of the responsibilities of the contractor and ODOC. The contract shall include the scope of work, the agreement period, the proper statutory citation and general terms and conditions required by state purchasing laws. A template that has been pre-approved by the general counsel can be obtained from the Contracts and Acquisitions unit. Title 18 contracts that do not utilize the pre-approved template shall

require review and approval by the general counsel prior to the agency signing. The contractor is required to sign the applicable CP forms.

A monitoring plan must be developed by using division/facility/unit to identify the agency personnel responsible for monitoring the contract and the activities they shall complete to document the contractor's compliance with contractual requirements.

F. Fixed and Uniform Rate Contracts

Pursuant to 74 O.S. § 85.7.A.6.f., fixed rate contracts are limited to contracts for those services furnished to persons directly benefiting from such services and cannot be used to employ consultants or to make other acquisitions. There is a multi-phase process that must be completed before a service can be qualified as a fixed rate service and a rate can be established for the service. A pre-approved template can be obtained from the Contracts and Acquisitions unit. Fixed rate contracts that do not utilize the pre-approved template shall require review and approval by the general counsel prior to the agency signing. A monitoring plan must be developed by the using division/facility/unit to identify the agency personnel responsible for monitoring the contract and the activities they shall complete to document the contractor's compliance with contractual requirements. A fully executed contract and all other required documents shall be routed to the Contracts and Acquisitions unit for issuance of a purchase order prior to the commencement of work. (OAC 260:115-7-40)

G. Sole Source or Sole Brand

Sole source or sole brand acquisitions shall comply with 74 O.S. § 85.45.j. All sole source or sole brand acquisitions require that the division/facility/unit within ODOC complete the appropriate OMES forms. The chief administrator of Contracts and Acquisitions shall review any sole source or sole brand requests, and if in agreement with the justification of the sole source or sole brand, shall forward to the agency director for review and approval. Verification that a supplier is registered with the state's system of record prior to award of contract is mandatory. Award of contract shall only be made to registered suppliers and posted online at the Contracts and Acquisitions web page. (OAC 260:115-3-3)

Sole brand acquisitions are subject to review for compliance with competitive bidding requirements.

H. Construction and Properties Division (CAP) (a Division of Capital Asset Management (DCAM) of OMES)

CAP is responsible for assisting and advising the using state agency in planning, programming, arranging and contracting for the services of professionals for the planning, design and construction of assigned projects and contracting for construction. The division is also responsible for

implementing the Public Competitive Bid Act, 61 O.S., § 101 through 61 O.S. § 138.

"Construction" means the process of planning, acquiring, designing, building, equipping, altering, repairing, improving, maintaining, or demolishing any structure or appurtenance thereto including facilities, utilities, or other improvements to any real property but not including highways, bridges, airports, railroads, tunnels, sewers not related to a structure or appurtenance thereto, or dams .(61 O.S. § 202.3)

1. CAP acquisitions not exceeding \$10,000 (61 O.S. § 103 D.)

Divisions/facilities/units are authorized to complete open market acquisitions utilizing a Purchase Card (P-Card), or requesting a purchase order through the Contracts and Acquisitions unit.

- a. The acquisition shall be conducted using a fair and reasonable method of acquisition and supplier/contractor selection.
- b. CAP-FORM-A105 (Std. Short Form of Agreement Between Agency and Contractor For Projects Under \$10,000.00) along with all required documentation according to that form must accompany the method of payment.

2. CAP acquisitions exceeding \$10,000 and not exceeding \$100,000 (61 O.S. § 103 C.)

Divisions/facilities/units are authorized to complete open market acquisitions that are initiated at the local level and completed by CAP.

- a. The division/facility/unit within ODOC shall provide the "Fee Schedule" form ([DCAM-FORM-CAP-M701](#)) and all required documentation according to that form to the Contracts and Acquisitions unit.
- b. The acquisition shall be conducted using the "Procedures for Obtaining Bids on Projects under Statutory Amount" form ([DCAM-FORM-CAP-M800](#)).

3. Acquisitions exceeding \$100,000 (61 O.S. § 103 A.)

Acquisitions shall be made utilizing a competitive formal solicitation process that is completed by CAP.

- a. The division/facility/unit shall provide the specifications/scope of work and evaluation criteria for the acquisition to the Contracts and Acquisitions unit.

I. Open Market Acquisitions

Acquisitions that do not fit into any other purchasing methods must be processed as open market acquisitions in accordance with the thresholds and requirements defined by the Oklahoma Central Purchasing Act and Central Purchasing Administrative Rules, including service contracts that must comply with the Prison Rape Elimination Act (PREA) requirements per Section V. item A. of this procedure. The thresholds for open market acquisitions for ODOC are as follows:

1. Open Market Acquisitions not exceeding \$25,000 (74 O.S. § 85.5)

Divisions/facilities/units are authorized to complete open market acquisitions utilizing a Purchase Card (P-Card), or requesting a purchase order through the Contracts and Acquisitions unit.

- a. The acquisition shall be conducted using a fair and reasonable method of acquisition and supplier/contractor selection. The selected supplier/contractor does not have to be registered with the state's system of record prior to an acquisition being made if using a P-Card.
- b. If the acquisition is for a service, the division/facility/unit shall obtain proof of workers' compensation insurance or proof of an alternative or exemption authorized by state law from the contractor prior to commencement of any work.
- c. If the supplier/contractor will be working on-site at an ODOC property or there is a risk of damage to ODOC assets, the division/facility/unit shall obtain proof of general liability coverage workers' compensation insurance (or acceptable alternative) and automobile insurance coverage, as necessary, from the contractor prior to commencement of any work.
- d. If applicable, the CPO shall review the document to ensure completeness and compliance with purchasing regulations. Upon approval, the CPO shall facilitate IS approval, if required, issue the purchase order, and forward to the supplier/contractor and the originating division/facility/unit.

2. Open Market Acquisitions over \$25,000 and not exceeding \$50,000 (5-ACI-1B-14, 4-ACRS-7D-25)

Acquisitions shall be made utilizing a competitive formal solicitation process that is conducted and awarded by an authorized CPO.



- a. The requesting division/facility/unit shall develop specifications (scope of work for services) that detail the requirements of the product or services required by ODOC. Specifications provide a thorough description of what is required and should include details of the quantity needed, special delivery or installation requirements, security issues or limitations, and any other pertinent information as well as any information required from the bidders. The method of evaluation shall also be determined by either lowest and best or best value. If best value criteria is used to determine award, a scoring tool must be developed prior to submission of the purchasing documents to the Contracts and Acquisitions unit.
- b. The division/facility/unit shall provide proper specifications/scope of work and evaluation criteria/scoring tool, if applicable, to the Contracts and Acquisitions unit.
  - (1) A CPO shall facilitate IS approval, if required, and then complete the solicitation utilizing a formal Invitation To Bid (ITB) or Request For Proposal (RFP) process.
  - (2) All bidders for the specified commodity classification from the CP registered suppliers list, along with any other bidders identified by ODOC, shall be solicited.
  - (3) Bidders that have been suspended or barred by the State Purchasing Director or the Federal Government shall not be awarded a contract.
- c. Specifications, terms and conditions, evaluation criteria, and a “Non-Collusion Certification” form ([OMES-CP-FORM-004](#)) shall be provided to each bidder solicited.
- d. Verification that the recommended bidder has obtained a current sales tax permit in accordance with Oklahoma law shall be completed using the CP link or the Oklahoma Tax Commission or has filled out the Oklahoma “Sales Tax Statement of Exemption” form.
- e. Verification that the recommended bidder is in good standing with the Oklahoma Secretary of State, if required to be registered or has filled out the Oklahoma Secretary of State “Statement of Exemption” form.
- f. Verification that the recommended bidder is in good standing with the U.S. Government using the System for Award Management (SAM).

- g. If the acquisition is for professional services, the “Supplier Contract Certification” form ([OMES-CP-FORM-021](#)) shall be signed by the bidder being recommended for contract award.
  - h. If the acquisition is for services, a monitoring plan must be developed by the division/facility/unit to identify the agency personnel responsible for monitoring the contract and the activities they shall complete to document the contractor’s compliance with contractual requirements.
  - i. A written evaluation of the criteria considered in the selection of the supplier/contractor shall be made and included as part of the acquisition file.
  - j. Verification that a selected bidder is registered with the state’s system of record prior to award of contract is mandatory. Award of contract shall only be made to registered suppliers.
  - k. A CPO shall review and assemble all documentation to ensure completeness and compliance with purchasing regulations. A purchase order shall be issued and provided to the supplier/contractor and the originating division/facility/unit.
3. Open Market Acquisitions over \$50,000 (5-ACI-1B-14, 4-ACRS-7D-25)
- Acquisitions shall be made utilizing a competitive formal solicitation process that is completed by either CP or IS.
- a. The division/facility/unit within ODOC shall provide the proper documents along with the specifications/scope of work and evaluation criteria for the acquisition to the Contracts and Acquisitions unit for further processing.

### III. Exempt Acquisitions

Pursuant to 74 O.S. § 85.12, there are certain acquisitions that are specifically exempt from the Oklahoma Central Purchasing Act. The following are some of the exemptions that ODOC may utilize:

#### A. Food Purchases

Food and other products produced by state institutions and agencies. (74 O.S. § 85.12.B.1.)

#### B. In-house Printing

Printing or duplication of publications or forms of any kind by ODOC, if the

work is performed with ODOC equipment by ODOC employees. (74 O.S. § 85.12.B.2.)

C. Regulated Utility Services

Utility services where rates are regulated by a state or federal regulatory commission, municipal ordinance or by an Indian Tribal Council for use by the ODOC. (74 O.S. § 85.12.B.4.)

D. Custom Harvesting

Contracts for custom harvesting by ODOC. (74 O.S. § 85.12.B.6.)

E. Private Prison Contracts

Subject to prior approval of the State Purchasing Director, acquisitions from private prison suppliers which are subject to the contracting procedures of 57 O.S. § 561. (74 O.S. § 85.12.B.7.)

F. Federal General Services Administration (GSA)

Acquisitions available through GSA contract or other federal contract, if the acquisition is on current statewide contract and the terms of the GSA or other federal contract, as determined by the State Purchasing Director, are more favorable to the agency than the terms of a statewide contract for the same products. (74 O.S. § 85.12.B.18.)

G. Canteen Operations

Acquisitions for items that are for resale in and through institutional canteens operated pursuant to 57 O.S. § 537. and 74 O.S. § 85.12.B.26. Purchases of items that are sold through the canteen are made directly by each canteen through their local canteen boards and are not covered by this procedure or processed through the Contracts and Acquisitions unit.

H. Raw Materials and Component Parts to Produce Goods for Resale (74 O.S. § 85.12.B.29) Certain Items Used By OCI and Agri-Services to Produce Goods or Services for Resale

1. Statutory Authority

- a. Pursuant to 74 O.S. § 85.12.B.29, acquisitions by OCI and the Agri-Services programs of raw materials, component parts and other products, any equipment excluding computer consultant services used to produce goods or services for resale and for the production of agricultural products are exempt from the provisions of the Oklahoma Central Purchasing Act.

- b. Within this section, the term “exempt items” will be used to refer to items that are raw materials, component parts, other products and equipment (other than computer consultant services) used to produce goods or services for resale and to produce agricultural products.
- c. Acquisitions of exempt items are subject to procedures established by the agency as approved by OMES Central Purchasing Division. These acquisitions must also comply with all other applicable State statutes and regulations.

## 2. Acquisitions of Exempt Items

- a. A list of suppliers who have completed a pre-qualification process shall be maintained by the Contracts and Acquisitions unit.
- b. Suppliers are added to the Pre-Qualified Supplier List once a Pre-Qualified Supplier Contract (PSC) is completed and is fully executed by both the Supplier and OCI, or Agri-Services, as applicable.
- c. OCI and Agri-Services will submit completed and signed PSCs to the Contracts and Acquisitions unit as needed to add suppliers to the Pre-Qualified Supplier list.
- d. All acquisitions of exempt items where the quantity required for the fiscal year exceeds \$25,000 will be made utilizing a supplier that is on the Pre-Qualified Supplier List.
  - (1) For purchases of exempt items where the quantity required for the fiscal year is  $\leq$  \$25,000, the purchase shall follow and comply with Section II. item I., “Open Market Acquisitions” of this procedure and with [OP-120502](#), entitled “Procedures for Purchase Cards” if the payment method is an agency authorized P-Card.
- e. OCI or Agri-Services, as required, shall submit a request to the Contracts and Acquisitions unit for issuance of a purchase order or shall place an order directly from a Pre-Qualified Supplier if a purchase order is already in place.
- f. Purchase Order:
  - (1) The Contracts and Acquisitions unit shall issue a purchase order and send it to OCI or Agri-Services. OCI or Agri-Services shall provide a copy of the issued purchase order to the supplier. OCI or Agri-Services, prior to and with the submission of a purchase request

for issuance of a purchase order, shall ensure the following:

- (a) the supplier being utilized has a valid PSC in place and is on the Pre-Qualified Supplier List;
  - (b) purchasing the item from the Pre-Qualified Supplier does not violate the requirements of State Use Statutes (74 O.S. § 3001 et seq.) which require certain products and services to be purchased from State Use Vendors;
  - (c) purchases of items that are Information Technology or Telecommunication are in compliance with the requirements of O.S. 62 §35.4, 62 O.S. § 35 4.1.4 and 62 O.S. § 35.4. 2. are routed through the proper ODOC IT approvals;
  - (d) justification is included in the request that supports the purchase and meets the criteria for acquisitions exempt from the Oklahoma Central Purchasing Act as defined in §74-85.12.B.29.;
  - (e) a valid supplier quote is included in the request and that it contains all of the information required by the PSC; and
  - (f) the request includes the approval of the appropriate chief administrator of OCI or Agri-Services or designee.
- g. Order against an existing purchase order:
- (1) OCI or Agri-Services, prior to placing an order directly with a Pre-Qualified Supplier when a purchase order with sufficient encumbrance is already in place, shall ensure the following:
    - (a) the supplier being utilized has a valid PSC in place and is on the Pre-Qualified Supplier List;
    - (b) purchasing the item from the Pre-Qualified Supplier does not violate the requirements of State Use Statutes (74 O.S. § 3001 et seq.) which require certain products and services to be purchased from State Use Vendors;

- (c) purchases of items that are Information Technology or Telecommunication are in compliance with the requirements of 62 O.S. § 35.4., 62 O.S. § 35.4.1., and 62 O.S. § 35.4.2. and are routed through the proper ODOC IT approvals;
- (d) sufficient documentation is maintained by OCI or Agri-Services that supports the purchase and meets the criteria for acquisitions exempt from the Oklahoma Central Purchasing Act as defined in §74-85.12.B.29.;
- (e) a valid supplier quote is maintained by OCI or Agri-Services that contains all of the information required in the PSC;
- (f) the request includes the approval of the appropriate chief administrator of OCI or Agri-Services or designee;
- (g) all documentation supporting the order is maintained as the agency's file of record in accordance with [OP-020202](#) entitled "Management of Office Records."

I. Acquisition of Livestock, Livestock Semen or Embryos, Livestock Reproduction Needs (74 O.S. § 85.41.A41A)

The following items do not require requisitions pursuant to the Central Purchasing Act:

1. Livestock through a market agency, dealer, commission house or livestock auction market bonded or licensed under federal or state law;
2. Purchase or collection of semen or embryos;
3. Placement of embryos into recipient livestock;
4. Registration of bidders and suppliers is not required. (74 O.S. § 85.7.A.6.)

J. Emergency Acquisitions (74 O.S. § 85.41A)

1. Central Purchasing Act Emergency acquisitions of \$100,000 or less.
  - a. Emergency Acquisitions are defined by (74 O.S. § 85.41A) OAC 260:115-1-2 as "An acquisition made by the State

Purchasing Director or a state agency without seeking competitive bids to relieve an unforeseen condition believed to place human life or safety in imminent danger or threaten significant property interests with imminent destruction; or is a condition certified by the governor as a serious environmental situation.”

- b. Emergencies shall be initiated by notification to the chief administrator of the Contracts and Acquisitions unit who will request the agency director to declare an emergency. The request for declaration of emergency must provide details, the circumstances surrounding the emergency, the danger/threat to persons or property, and the estimated costs.
- c. Upon declaration of an emergency by the agency director, the division/facility/unit within ODOC shall take the necessary steps to cure the emergency situation and then submit all supporting documentation required to the ODOC Contracts and Acquisitions unit.
- d. The Contracts and Acquisitions unit must notify the State Purchasing Director within ten days following the acquisition, together with a statement of the emergency (74 O.S. § 85.41A).

2. Construction Related Emergencies (61. O.S. § 130.)

Construction related emergencies do not fall under the purview of the Oklahoma Central Purchasing Act but are governed by Title 61 of the Oklahoma Statutes. Construction related emergencies shall be initiated by notification to the chief administrator of Contracts and Acquisitions who shall request an emergency be declared by the agency director. The request for declaration of emergency must provide details, the circumstances surrounding the emergency, the danger/threat to persons or property, and the estimated costs.

- a. Pursuant to authority granted in Title 61, the Oklahoma Board of Corrections (OBOC) has delegated the authority to declare construction related emergencies to the agency director (61 O.S. § 130.D.)
  - (1) Emergencies declared by the agency director are limited to the maximum amounts permitted in O.S. 61 §130.D.
  - (2) When a construction related emergency is declared, notification is required as follows:

- (a) Emergencies declared by the agency director require the OBOC and the director of CAP within OMES to be notified within ten days.
  - (b) Notification is to include a statement of the reasons for the declaration of emergency. The director shall provide the OBOC with the facts of the emergency, to include nature of emergency, method(s) for resolving the emergency, cost, and any other relevant information to be recorded in the minutes of the OBOC. Copies of the minutes shall be maintained in the purchase order file of record.
  - (c) Emergencies are limited to conditions resulting from a sudden unexpected happening or unforeseen occurrence or condition and situation wherein the public health or safety is endangered.
- b. Construction related emergencies in excess of the maximum amounts permitted by the agency director in O.S. 61 § 130 B. must be declared by 2/3 majority vote of the OBOC.

#### IV. Additional Requirements for Certain Acquisitions

##### A. Postage

Purchases of postage shall be made in compliance with the statute 74 O.S. § 90.1. and 74 O.S. § 90.2.

##### B. Food Items

1. Food items may only be purchased by the ODOC in limited situations. This section provides information regarding those situations whereby the agency is statutorily authorized to make acquisitions for food. All authorized acquisitions of food items must:
  - a. Comply with approvals as required below;
  - b. Be processed using the appropriate method of acquisition as defined in Section III of these procedures; and
  - c. Identify on the purchasing document(s) the specific authority for the acquisition.
2. Food purchases that are specifically authorized by OMES procedures or Oklahoma statute:



- a. Light refreshments (Statewide Accounting Manual, Chapter 8, Section 8.34.4)

Limited purchase of light refreshments is authorized in the following situations:

- (1) The following expenditures for food and drink are allowed, when determined by the agency director to be within a business purpose and beneficial to the agency. Documentation of the business purpose, signed by the agency director, must accompany the voucher. Light food and drink items (e.g., doughnuts, cake, coffee, tea, soft drinks, etc.) and related service items to provide refreshments for meetings or similar type activities held for and in the interest of the general public, including business guests of the agency. This does not include internal meetings that include only agency employees.
- (2) When an agency is holding a lengthy meeting (such as monthly board meetings) and it is in the best interest of the agency to bring in a meal, the agency director may make that determination.
- (3) A "public purpose" will mean activities or functions conducted/held in the interest of the general public at large. The general public at large may include business guests of the agency.

- b. Meals

The following list provides situations whereby Oklahoma statute specifically authorizes the agency to provide meals:

- (1) Food for consumption by inmates is authorized by 57 O.S. § 533.
- (2) Meals for employees in travel status in lieu of per diem; and meals for employees, regardless of travel status, who are attending an official course of instruction or training conducted or sponsored by any state agency is authorized by 74 O.S. § 500.2 (State Travel Reimbursement Act).
- (3) Employee Recognition Banquets are authorized by 74 O.S. § 4121. C.
- (4) Canteen operations and employee/inmate welfare fund expenditures as authorized by the Canteen System

Board of Directors and by [OP-120701](#) entitled "Employee and Inmate Welfare Fund" are authorized by 57 O.S. § 537 B.

3. Request to Purchase Food Items Not Authorized by Statute
  - a. In addition to the specific authorizations in Section IV. B. item 2. of this procedure, there are limited instances where agency approval may be given to expend appropriated funds for food purchases that are necessary and serve a public purpose that affects the inhabitants of the State as a whole. Consideration is given on a case-by-case basis and requires documentation, thorough analysis of the facts surrounding the situation and prior approval by the agency director or designee.
  - b. At least three weeks prior to the event, divisions/facilities/units within ODOC must seek prior approval by submitting a completed "Food Acquisition Approval Request" form ([Attachment A](#), attached) through their proper chain of command to the chief administrator of Contracts and Acquisitions for review. Upon confirmation that the basic criteria is met, the chief administrator of Contracts and Acquisitions shall forward the request through the chief of Staff, to the agency director, or designee, for final approval. Upon receiving the agency director's approval, the proper purchasing method in accordance with the Oklahoma Central Purchasing Act and Central Purchasing Rules must be followed to complete the acquisition.
4. Approvals granted through the processes outlined in this section do not waive the requirements of the Oklahoma Central Purchasing Act and, upon receipt of the approval to make the acquisition, the proper purchasing processes, method of acquisition, and documentation requirements must be followed.

V. Other General Requirements/Information

- A. Prison Rape Elimination Act (PREA) (34 U.S. Code § 303, 28 C.F.R. § 115.17 and C.F.R. § 115.317)
  1. The Prison Rape Elimination Act (34 U.S. Code § 303, 28 CFR §115.17. and 28 CFR §115.317.) prohibits ODOC from enlisting the services of any contractor (who may have contact with inmates) who has:
    - a. Engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S. Code. § 1997);

- b. Been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or
  - c. Been civilly or administratively adjudicated to have engaged in the activity described above.
2. ODOC shall consider any incidents of sexual harassment in determining whether to enlist the services of any contractor (who may have contact with inmates).
3. Any contractor found to violate PREA while providing services to ODOC must be reported to law enforcement agencies and to relevant licensing bodies, which may result in the filing of criminal charges, as warranted. ODOC may also terminate the contract immediately.

Language shall be included in all applicable solicitations, contracts and purchase orders to institute these requirements.

**B. Bid Evaluations**

1. Solicitation documents shall indicate what method of evaluation will be utilized to determine award (lowest and best or best value).
2. An authorized CPO within the Contracts and Acquisitions unit shall review the evaluation criteria submitted by the division/facility/unit within ODOC prior to the start of a formal bid process.
3. For best value evaluation processes, the technical evaluations are performed by an evaluation team that is established by the appropriate division/facility/unit. The CPO within the Contracts and Acquisitions unit shall participate and provide guidance throughout the evaluation process. The evaluation of pricing shall be completed by the Contracts and Acquisitions unit.
4. The recommendation for award is forwarded to the Contracts and Acquisitions unit CPO.
5. The CPO shall then review the recommendation for award and make the award or forward to the State Purchasing Director, as required. If not in agreement with the recommendation, the CPO shall discuss their concerns with the evaluation team and may request re-evaluation of the recommendation. If an agreement cannot be reached, the chief administrator of Contracts and Acquisitions unit shall consult with the agency director and make the final decision for contract award recommendation.

C. Multi-Year Contracts

Solicitations for multi-year contracts not exceeding the delegated purchasing authority limit annually may be conducted by ODOC in accordance with the Central Purchasing Procurement Information Memorandum (PIM) 2009-02.

D. Split Purchasing

The agency shall not make split purchases. (74 O.S. § 85.7.A.4.)

1. "Split purchase" means dividing a known quantity or failing to consolidate a known quantity of an acquisition for the purpose of evading a competitive bidding requirement or a single purchase card transaction limit. Split purchasing for the purpose of evading competitive bidding requirements is prohibited and shall result in imposition of progressive discipline, up to and including termination. A split purchase occurs when:
  - a. An acquisition (known requirement or quantity of items), is either divided into separate transactions for the purpose of evading the appropriate statutory threshold for competitive bids or the purchase card single transaction limit; or
  - b. The agency fails to consolidate a known quantity required for an acquisition and the purchases are conducted as separate transactions because the total costs would have exceeded the established statutory competitive bidding thresholds or the purchase card single transaction limit.
2. The following are examples of situations that are not considered split purchasing, because the acquisitions are not divided for the purpose of evading competitive bidding requirements:
  - a. Acquisition is divided due to insufficient agency funding for the total acquisition in a fiscal period;
  - b. Portions of the acquisition are available from established statewide or other appropriate contracts;
  - c. Specification requirements result in the need for specialized or different supplier;
  - d. Project expenditures are handled in separate transactions because the products or services required are only available from different commodity suppliers; or
  - e. Any situations in which total required quantities are unknown at the time a portion of the acquisition should be made.

3. Divisions/facilities/units within ODOC are responsible for documenting acquisitions in order to respond to any inquiries about split purchasing. Such responsibilities should include documentation supporting valid reasons for dividing or failing to consolidate any acquisitions that could appear to have been made in a single transaction.

E. State Agency and Supplier/Contractor Disputes

Whenever a supplier/contractor provides a division/facility/unit within ODOC with defective products or fails to perform in accordance with contract requirements, the division/facility/unit shall notify the supplier/contractor in writing of the deficiency and include information necessary for the supplier/contractor to resolve the problem. If the division/facility/unit and supplier/contractor are unable to resolve the dispute, the division/facility/unit shall submit a written request for dispute resolution to the chief administrator of Contracts and Acquisitions.

1. Agency Submission of Supplier Performance Evaluation Form

Pursuant to OAC 260:115-9-1(i), a division/facility/unit within ODOC shall request the State Purchasing Director seek dispute resolution by submitting a "Supplier Performance Evaluation" form ([OMES-CP-FORM-016](#)) to the chief administrator of Contracts and Acquisitions whenever a supplier/contractor:

- a. Fails to timely retrieve and replace an acquisition that does not meet or exceed contract specifications;
- b. Does not refund payment for an acquisition that does not meet or exceed contract specifications; or
- c. Fails to resolve any other problem that conflicts with the contract specifications in a timely manner.

2. The State Purchasing Director shall provide resolution to the dispute. If the State Purchasing Director resolves the dispute, the supplier/contractor and state agency shall be notified of the dispute resolution terms and conditions.

- a. Supplier/contractor fails to meet terms or conditions

If the supplier/contractor fails to meet terms or conditions of the dispute resolution, the State Purchasing Director shall terminate the contract between the supplier/contractor and the state agency, and may suspend the supplier/contractor.

- b. State agency fails to meet conditions

If the state agency fails to meet conditions of the dispute resolution, the State Purchasing Director may order an audit of the state agency's acquisitions.

F. Record Retention

1. All records shall be maintained in accordance with [OP-020202](#) entitled "Management of Office Records."
2. The Contracts and Acquisitions unit shall maintain all purchasing records for ODOC, exclusive of P-Card purchases which are maintained in the Finance and Accounting unit.
3. All records relative to acquisitions and contracts shall be maintained for the duration of the contract term and for a period of seven years following completion and/or termination of the acquisition. (OAC 260:115-5-9)
4. If an audit, litigation or other action involving such records is started before the end of the seven-year period, the records shall be maintained for two years from the date all issues arising from the action are resolved, or until the end of the seven year retention period, whichever is later. (OAC 260:115-5-9-1.1)
5. The records shall include justification for the acquisition, support documents and related information, acquisition contract, source selection documentation, performance evaluations and written reports, audits, encumbrance information/revisions, and any subsequent modifications for change orders.

G. Audits

All records pertaining to agency acquisitions shall be made available when the State Purchasing Director, the State Auditor and Inspector, and Office of Management and Enterprise Services, Audit Division performs an audit of agency acquisitions. (OAC 260:115-5-19)

H. Monitoring (74 O.S. § 85.41.D)

1. For service contracts, a monitoring plan must be developed by the using division/facility/unit to identify the agency personnel responsible for monitoring the contract and define the activities they shall complete to document the supplier compliance with contractual requirements.
2. Each division/facility/unit within ODOC is responsible for monitoring the requirements of their acquisitions to ensure compliance and performance by the contractor and the division.

3. Each division/facility/unit within ODOC, shall be required to submit a monitoring plan for all service acquisitions.
4. Professional service contractors shall be evaluated annually by the appropriate division/facility/unit within ODOC for contract performance. The "Supplier Performance Evaluation" form ([OMES-CP-FORM-016](#)) shall be completed by the using division/facility/unit and submitted to the Contracts and Acquisitions unit. When services performed do not meet the requirements of the contract, a copy of the evaluation will be forwarded to the State Purchasing Director with a copy being retained by the Contracts and Acquisitions unit in the agency file of record.

I. Ratification of an Unauthorized Commitment (OAC 260:115-5-17)

No products or services are to be ordered or received prior to the proper procurement process being completed and an encumbrance being established. An unauthorized commitment exists when the state has received goods or services prior to or without the proper purchasing document(s) in place. CP rules establish a ratification agreement process which state agencies are required to follow to ratify any unauthorized commitment that has been made on behalf of the agency. A ratification agreement is a legal document that represents an agreement between the agency and the supplier/contractor to ratify the obligation. Payment to the supplier/contractor through the ratification agreement process is made using current fiscal year funds.

If a division/facility/unit within ODOC makes an unauthorized commitment on behalf of the State, a "Request for Payment of Invoice When No Current Encumbrance Document Exists" form ([Attachment B](#), attached) must be submitted to the Contracts and Acquisitions unit documenting the circumstances surrounding the violation and stating the steps taken to prevent a reoccurrence in the future. The request shall be reviewed by the chief administrator of the Contracts and Acquisitions unit prior to forwarding to the supplier/provider for review and approval. Once approved by the supplier/provider, the office of the General Counsel will review and approve and forward to the agency director for approval. The Contracts and Acquisitions unit shall ensure the fully executed agreement is processed for payment and sent to the OMES Central Purchasing Division for their records.

J. Quality Assurance Inspections

The division/facility/unit shall make every effort to inspect acquisitions delivered in a reasonable amount of time. A listing of damages found during inspection shall be forwarded via email or fax to the responsible supplier/contractor and a duplicate copy submitted to the Contracts and Acquisitions unit within 48 hours of inspection.

K. Supplier/Contractor Protest

A supplier/contractor may protest a contract that has been awarded by ODOC or by the Central Purchasing Division on behalf of ODOC.

VI. Procedure for Real Estate and Leasing Services (REALS)

All contracts for the purchase or lease of real property must follow guidelines established by REALS and be authorized by REALS, regardless of size and dollar value. Real property is defined as office space, storage facilities, hangars and land. The agency shall not enter into a purchase order or lease agreement without prior written approval of the Real Estate Leasing and Asset Services Division. All requests for purchase or lease of real property shall be submitted through the proper chain of command to the ODOC Property and Lease manager.

VII. Commercial Airline Travel

Commercial airline travel will be secured through travel agents designated by the State Travel Office. The ODOC travel coordinator, within the Contracts and Acquisitions unit, holds the travel P-Card and is responsible for all commercial air travel arrangements for ODOC staff. Procedures for commercial airline travel will be conducted in accordance with the State of Oklahoma Policy and Procedures for Purchase Card.

The traveler will complete the current "Employee Travel Request Form" ([Attachment C](#), attached) and obtain approval from the appropriate designated executive staff, to include other required documentation as determined by the originating unit along with the agency director approval.

A. Restrictions

1. For reasons of economy, no agency employee will be allowed to fly any class other than coach. All reservations will be made using second class or tourist accommodations. Whenever possible, reservations should be made far enough in advance to take advantage of any discounts or economy type fares.
2. The travel coordinator will not make travel arrangements for personal travel of employees or for individuals, such as family and friends traveling with employees during agency approved travel.

B. Itinerary Changes

All changes in itinerary must be processed during normal business hours and follow the same processes identified above for booking the travel using the itinerary change memo form. Changes needed outside normal business hours will be handled by the traveler through the 24-hour "800" number for the travel agency and printed on their itinerary copy of their ticket.



VIII. Purchase Card (P-Card)

Acquisitions made using the agency P-Card shall be conducted in accordance with [OP-120502](#) entitled "Procedures for Purchase Cards" and the State of Oklahoma Policy and Procedures for P-Card and Online Booking Tool.

IX. References

Policy Statement P-120100 entitled "Management of State Funds and Assets"

OP-020202 entitled "Management of Office Records"

OP-080104 entitled "Purchase of Products and Services from Correctional Industries"

OP-120502 entitled "Procedures for Purchase Cards"

OP-120701 entitled "Employee and Inmate Welfare Fund"

18 O.S. § 803.

57 O.S. § 533.; 57 O.S. § 537.; 57 O.S. § 537.B. ; 57 O.S. § 561.

61 O.S. § 101. through 61 O.S § 138.; 61 O.S. § 103.A.; 61 O.S. § 103.B.; 61 O.S. § 130.; 61 O.S. § 130.B.; 61 O.S. § 130.D.; 61 O.S. § 202.3.

62 O.S. § 35.4.; 62 O.S. § 35.4.1.; 62 O.S. § 35.4.2.

74 O.S. § 85.1 et seq.; 74. O.S. § 85.5.D.; 74 O.S. § 85.5.E.3.; 74 O.S. § 85.7.A.1.a.; 74 O.S. § 85.7.A.4.; 74 O.S. § 85.7.A.6.; 74 O.S. § 85.7.A.6.f.; 74 O.S. § 85.12.; 74 O.S. § 85.12.B.1.; 74 O.S. § 85.12.B.2.; 74 O.S. § 85.12.B.4.; 74 O.S. § 85.12.B.6.; 74 O.S. § 85.12.B.7.; 74 O.S. § 85.12.B.20.; 74 O.S. § 85.12.B.29.; 74 O.S. § 85.12.B.32; 74 O.S. § 85.39.A.1.; 74 O.S. § 85.39.A.2.; 74 O.S. § 85.41.A.; 74 O.S. § 85.41.D.; 74 O.S. § 44D.1; 74 O.S. § 8545.j.2.; 74 O.S. § 90.1.; 74 O.S. § 90.2.; 74 O.S. § 90.3.; 74 O.S. § 90.4.; 74 O.S. § 500.2.; 74 O.S. § 581.; 74 O.S. § 1001. through 74 O.S. § 1008.; 74 O.S. § 3001. et seq.; 74 O.S. § 4121.C.

28 CFR § 115.17; 28 CFR § 115.317

42 U.S. Code § 1997

OAC 260:65; OAC 260:115; OAC 260:115-1-2; OAC 260:115-3-3; OAC 260:115-3-17; OAC 260:115-3-19; OAC 260:115-5-17; OAC 260:115-5-19; OAC 260:115-7-3.; OAC 260:115-9-7

Oklahoma Central Purchasing Act

Oklahoma Constitution Article X, Section 23

[http://www.lsb.state.ok.us/ok\\_constitution.html](http://www.lsb.state.ok.us/ok_constitution.html)

[http://www.ok.gov/DCS/Central\\_Purchasing](http://www.ok.gov/DCS/Central_Purchasing)

X. Action

The unit head and chief administrator of Contracts and Acquisitions is responsible for compliance with this procedure.

The chief Financial Officer is responsible for the annual review and revisions.

Any exceptions to this procedure will require prior written approval from the agency director.

This procedure is effective upon signature by the agency director and receipt of letter of approval from the Director of OMES (OAC 260:115-5-7).

Replaced: OP-120103 entitled "Acquisitions and Dispositions" dated May 28, 2020

Distribution: Policy and Operations Manuals  
Agency Website

<u>Referenced Forms</u>	<u>Title</u>	<u>Location</u>
<a href="#">DCAM-FORM-CAP-M701</a>	“Fee Schedule”	<a href="#">OMES</a>
<a href="#">DCAM-FORM-CAP-M800</a>	“Procedures for Obtaining Bids on Projects under Statutory Amount”	<a href="#">OMES</a>
<a href="#">OMES CP FORM 001</a>	“Authorized Signature”	<a href="#">OMES</a>
<a href="#">OMES-CP-FORM-004</a>	“Non-Collusion Certification”	<a href="#">OMES</a>
<a href="#">OMES-CP-FORM-016</a>	“Supplier Performance Evaluation”	<a href="#">OMES</a>
<a href="#">OMES-CP-FORM-021</a>	“Supplier Contract Certification”	<a href="#">OMES</a>

<u>Attachments</u>	<u>Title</u>	<u>Location</u>
<a href="#">Attachment A</a>	“Food Acquisition Approval Request”	Attached
<a href="#">Attachment B</a>	“Request for Payment of Invoice When No Current Encumbrance Document Exists”	Attached
<a href="#">Attachment C</a>	“Employee Travel Request Form”	Attached