

Oklahoma Health Care Authority

It is very important that you provide your comments regarding the proposed rule change by the comment due date. Comments are directed to the [Oklahoma Health Care Authority \(OHCA\) Proposed Changes Blog](#).

OHCA COMMENT DUE DATE: January 15, 2017

The proposed policy is a Permanent Rule. The proposed policy was presented at the November 1, 2016 Tribal Consultation and is scheduled to be presented to the Medical Advisory Committee on January 19, 2017 and the OHCA Board of Directors on February 9, 2017.

Reference: APA WF 16-22

SUMMARY:

Purchasing Language Clean-up – The proposed Purchasing revisions amend outdated language that references the Oklahoma Department of Central Services as it was consolidated under the Office of Management and Enterprise Services in 2011.

LEGAL AUTHORITY

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; OAC Title 260, Chapter 115; OAC Title 580 (Revoked); O.S Title 74

RULE IMPACT STATEMENT:

STATE OF OKLAHOMA OKLAHOMA HEALTH CARE AUTHORITY

TO: Tywanda Cox
Federal and State Policy

FROM: Harvey Reynolds
Federal and State Authorities

SUBJECT: Rule Impact Statement
APA WF # 16-22

A. Brief description of the purpose of the rule:

Proposed revisions amend language in Chapter 10 to replace the Oklahoma Department of Central Services with the Office of Management and Enterprise Services. The Oklahoma Department of Central Services was consolidated under the

Office of Management and Enterprise Services in 2011. Additional revisions replace specific references to OAC Title 580 Oklahoma Department of Central Services which is now replaced with OAC Title 260 Office of Management and Enterprise Services. Revisions also clarify that supply and non-professional services acquisitions over \$5,000 must be approved by the Chief Executive Officer, Executive Staff, or designee.

- B. A description of the classes of persons who most likely will be affected by the proposed rule, including classes that will bear the cost of the proposed rule, and any information on cost impacts received by the agency from any private or public entities:

No classes of persons will be affected by the proposed rule. This rule should not place any cost burden on private or public entities. No information on any cost impacts were received from any entity.

- C. A description of the classes of persons who will benefit from the proposed rule:

No classes of person will benefit from this rule change as it is clean-up of outdated language.

- D. A description of the probable economic impact of the proposed rule upon the affected classes of persons or political subdivisions, including a listing of all fee changes and, whenever possible, a separate justification for each fee change:

There is no probable economic impact and there are no fee changes associated with the rule change for the above classes of persons or any political subdivision.

- E. The probable costs and benefits to the agency and to any other agency of the implementation and enforcement of the proposed rule, the source of revenue to be used for implementation and enforcement of the proposed rule, and any anticipated affect on state revenues, including a projected net loss or gain in such revenues if it can be projected by the agency:

Agency staff has determined that the proposed rule is budget neutral.

- F. A determination of whether implementation of the proposed rule will have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing the rule:

The proposed rule will not have an economic impact on any political subdivision or require their cooperation in implementing or enforcing the rule.

- G. A determination of whether implementation of the proposed rule will have an adverse effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act:

The agency does not anticipate that the proposed rule will have an adverse effect on small businesses.

- H. An explanation of the measures the agency has taken to minimize compliance costs and a determination of whether there are less costly or non-regulatory methods or less intrusive methods for achieving the purpose of the proposed rule:

The agency has taken measures to determine that there are no other legal methods to achieve the purpose of the proposed rule. Measures included a formal public comment period and tribal consultation.

- I. A determination of the effect of the proposed rule on the public health, safety and environment and, if the proposed rule is designed to reduce significant risks to the public health, safety and environment, an explanation of the nature of the risk and to what extent the proposed rule will reduce the risk:

The proposed rule should not have any effect on the public health, safety or environment. The proposed rule is not designed to reduce significant risks to the public health, safety or environment.

- J. A determination of any detrimental effect on the public health, safety and environment if the proposed rule is not implemented:

The agency does not anticipate any detrimental effect on the public health, safety or environment if the proposed rule is not implemented.

K. The date the rule impact statement was prepared and if modified, the date modified:
Prepared date: October 12, 2016

RULE TEXT:

**TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 10. PURCHASING**

317:10-1-1. Purpose

(a) The purpose of this Chapter is to describe the rules governing the contracting and purchasing requirements of the Oklahoma Health Care Authority (OHCA). The Contracts and Purchasing Divisions are internal divisions of the OHCA. These divisions provide the mechanism for the acquisition of goods, equipment, non-professional and professional services for the operation of the OHCA. These rules are superseded by the ~~Oklahoma Department of Central Services (DCS)~~ Office of Management and Enterprise Services (OMES) Purchasing rules ~~(OAC 580:16)~~ (OAC 260:115) whenever ~~DCS~~ OMES has final authority on an acquisition.

(b) Different rules apply depending on which of the above three entities is making the acquisition and whether the purchase is for professional services or non-professional services and products. When an acquisition is made by ~~DCS~~ OMES, the ~~DCS~~ OMES Purchasing rules at ~~OAC 580:16~~ OAC 260:115 apply. When an acquisition is made by OHCA, these rules must be read in conjunction with the ~~DCS~~ OMES rules.

317:10-1-3. General contracting and purchasing provisions

(a) All acquisitions made by the Oklahoma Health Care Authority shall be in accordance with the Oklahoma Central Purchasing Act, 74 Okla. Stat. §§ 85.1 et seq., other applicable statutory provisions, ~~Oklahoma Department of Central Services~~ Office of Management and Enterprise Services Central Purchasing Rules and the Authority's approved internal purchasing procedures.

(b) When these rules are silent on a relevant issue related to an acquisition made by the Authority, the appropriate ~~DCS~~ OMES rule applies, except that where "State Purchasing Director" is specified, this means "the Authority ~~CPO~~ Certified Procurement Officer making the acquisition and/or the CEO". Where "Purchasing Division" is specified, this means "the Authority".

317:10-1-4. Vendor registration

Any vendor wishing to do business with the Authority should register on the vendor bidder list maintained by the Central Purchasing Division of the ~~Oklahoma Department of Central Services~~ Office of Management and Enterprise Services. The

Authority may also send solicitations by request to vendors that are not on the vendor bidder list.

317:10-1-12. Protest of award

(a) Protests of awards made by the Authority under 74 Okla. Stat. § 85.5T are addressed at OAC 317:2-1-1 et seq.

(b) Bidders who wish to protest any other award shall follow the process outlined in the ~~Oklahoma Department of Central Services~~ Office of Management and Enterprise Services rules at ~~OAC 580:16-3-21~~ OAC 260:115-3-19.

317:10-1-16. Delegation of authority

The authority to procure needed products and services for the Authority has been delegated to the Authority from the ~~Oklahoma Department of Central Services~~ Office of Management and Enterprise Services, Central Purchasing Division. The Authority Board delegates authority for expenditure of funds to the CEO and other Authority officers and personnel according to the dollar limits and types of products stated in (1), (2) and (3) of this Section. Within this authority, the CEO may delegate in writing to other specific individuals the responsibility for the performance of the procurement duties.

(1) **Supply and non-professional services acquisitions.** Each division director or supervisor may initiate any supply or non-professional services acquisition which is within his or her authorized division budget and approved by the ~~CEO, associate director~~ CEO or designee. Any single acquisition of this kind over \$5,000 up to \$500,000 must be approved by the ~~CEO or a designated associate director~~ CEO, Executive Staff or designee. Any single acquisition of this kind over \$500,000 must be approved by the Authority Board. A contract amendment that would increase the total original contract acquisition cost to an amount that equals or exceeds \$500,000 for a supply or non-professional services contract must be prior approved by the ~~OHCA~~ Authority Board. Any amendment to a contract that would result in a 10 percent or greater increase in the total acquisition cost originally approved by the OHCA Board must be submitted to the OHCA Board for prior approval.

(2) **Professional service contracts.** Acquisitions of professional services must be approved by the CEO or designee. All professional service contracts over \$125,000 must be approved by the Authority Board. A contract amendment that would increase the total original contract acquisition cost to an amount that equals or exceeds \$125,000 for a professional service contract must be prior approved by the ~~OHCA~~ Authority Board. Any amendment to a contract that would result in a 25 percent or greater increase or a

\$250,000 or greater increase in the total acquisition cost originally approved by the ~~OHCA~~Authority Board must be submitted to the ~~OHCA~~Authority Board for prior approval. Board approval is not required if the increase in total contract acquisition cost results from the exercise of a price increase methodology, option for additional work, or option to renew that was contained in the previously approved contract.

(3) **Interagency/intergovernmental agreements.** All agreements with another state agency or public agency must be approved by the CEO or designee, but are exempt from the Authority Board approval.