



OKLAHOMA
Office of Management
& Enterprise Services

State of Oklahoma
Office of Management and Enterprise Services
Purchasing Division

PROCUREMENT INFORMATION MEMORANDUM

Affected Entities/Personnel: Executive State Agencies	Subject: Confidentiality of ARPA Documents
Effective Date of PIM: 11/23/2021	Point of Contact: PIM@omes.ok.gov
Prior PIM: N/A	Statutory and Rule Reference: 74 O.S. 85.5 J.(9) OAC:260-115-1-1 (c)
Approved: Dan Sivard, State Purchasing Director	Approval Date: 11/23/2021

As a means of disseminating relevant state procurement information to state entities, the Office of Management and Enterprise Services, Purchasing Division periodically issues Procurement Information Memoranda. To the extent any information in this Procurement Information Memorandum (“PIM”) conflicts with information in a previously issued memorandum, the information in this PIM controls. This PIM specifically addresses the confidentiality of documents submitted for projects/procurements potentially receiving ARPA funds.

Summary

Pursuant to 74 O.S. § 85.5 J.(9) the State Purchasing Director has determined that all documents received by the State of Oklahoma in regard to the use and distribution of ARPA funds are confidential information and not subject to open record requests.

1. **Legal Framework and Background**

The State Purchasing Director under supervisions of the Director of the Office of Management and Enterprise Services, has the sole and exclusive authority for all acquisitions used or consumed by State agencies [74 O.S. §85.5 A]. The State Purchasing Director also has the responsibility to promulgate rules pursuant to provisions of the Oklahoma Central Purchasing Act [74 O.S. §85.5 C)].

One such rule is OAC 260:115-1-1. (c): **Official directives.** The State Purchasing Director shall issue directives, instructions or written communications to state agencies regarding required procurement practices and procedure to ensure compliance with provisions of the Central Purchasing Act, procurement rules, and any other mater relating to state agency acquisitions.

As such, PIMS issued by the state Purchasing Director are official directives dealing with specific issue and procedures governing agency procurement, they are not advisory in nature. They are authoritative directives toward agencies and department on “best procedure” in regard to procurement related matters.

With that prior authority in mind, this PIM will serve as current authority for maintaining the confidentiality of those documents and records received in connection with the receipt and/or distribution of ARPA funds.

The authority for the State Purchasing Director to make this determination is found in Title 74 O.S. 85.5 J.9. to wit:

The State Purchasing Director shall undertake the following:

9. Determine whether and to what extent information included in a bid or similar offer is confidential and reject all requests to disclose the information so designated.

The State Purchasing Director has determined that information received in connection with the receipt and/or distribution of ARPA funds is an “offer” initiating the procurement process and therefore such information is determined to be confidential and not subject to release from an open record request.

2. Practitioner Comments/ Conclusions

Requests asking for any documents, including but not limited to, books, papers, photographs, microfilm, data files created by or used with computer software, computer tape, disk, record, sound recording, film recording, video record or other material regardless of physical form or characteristic, coming into the custody, control or possession of public officials, public bodies or their representatives in connection with the receipt or distribution of ARPA funds shall be maintained as confidential.