



OKLAHOMA OFFICE OF STATE FINANCE
SHARED SERVICES PROCUREMENT AUDIT REPORT
FOR THE PERIOD May 01, 2008 through April 30, 2009

State of Oklahoma

Department of Central Services

Audit Unit

Report Released November 30, 2010

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AUDIT PERFORMED BY

JoRay McCoy, Chief Auditor
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AUDIT CONCLUSION

Based on our audit, we have determined the Oklahoma Office of State Finance (hereinafter referred to 'Agency') has significantly complied with the audit objectives. Our audit objectives for this audit were (a) ensure Agency is in compliance with provisions of the Oklahoma Central Purchasing Act, (b) ensure Agency is in compliance with purchasing rules promulgated by the Department of Central Services, and (c) ensure Agency has implemented internal controls and if Agency's controls are operating effectively in relation to the procurement program. We did note deficiencies during our audit. These deficiencies include (a) certification of notarized statement in accordance with §85.22, (b) purchase order created after receipt of goods and services, and (c) affidavit certifying persons who develop contract will not perform contract. Corrective action plans were not provided.

AUDIT OVERVIEW

One of the goals for the Oklahoma Office of State Finance is to deliver the highest quality service to its clients. To that end, the Office of State Finance has implemented a shared service initiative. As part of this initiative, the Office of State Finance provides general purchasing assistance to agencies.

The scope of our audit was expenditures made under authority orders and all purchase orders issued by Oklahoma Office of State Finance for the agencies contracted with for the period May 01, 2008 to April 30, 2009. For the period May 01, 2008 to April 30, 2009, there were 1,293 purchase orders with a total dollar value of \$8,888,319.26 issued and used. Intergovernmental acquisitions accounted for 29% of the total purchase order dollar total. Acquisitions exempt from the Central Purchasing Act accounted for 21% of the total purchase order dollars.



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The Department of Central Services, Auditing Unit has completed an audit of the shared services program of the Office of State Finance, referred to as the "Agency" in the audit report. Our audit was to determine if the shared services program for the period May 01, 2008 to April 30, 2009 complied with the audit objectives.



This publication is issued by the Department of Central Services, as authorized by John S. Richard, Director of the Department of Central Services. Copies have not been printed but are available through the agency website. Two printout copies have been deposited with the Publications Clearinghouse of the Oklahoma Department of Libraries.

Sample population

The total purchase order population for May 01, 2008 to April 30, 2009 was analyzed to derive a population from which to perform substantive testing. Purchase orders and authority expenditures excluded from the total purchase order population include

- Regulated utilities
- Statewide contracts
- State use contracts
- Non-applicable travel
- Account codes that were determined not to be open-market acquisitions

After data extraction, 419 purchase orders and authority order expenditures in a total dollar amount of \$841,953.64 were determined to be applicable to the audit objective. Resultant population by number of purchase orders and authority order expenditures and dollar threshold

<u>Dollar Threshold</u>	<u># of Units</u>	<u>Total Population Dollars</u>
\$0 to \$2,500	363	\$180,303.36
\$2,500.01 to \$10,000	38	\$176,344.65
\$10,000.01 to \$25,000	16	\$272,798.63
\$25,000.01 and greater	2	\$212,507.00
	<u>419</u>	<u>\$841,953.64</u>

From this population, a statistical random sample pulled through the use of IDEA Data Analysis software and judgmental sample were selected. Sample population by threshold reviewed

<u>Dollar Threshold</u>	<u>Sample Units</u>	<u>Total Sample Dollars</u>	<u>% of Population (in dollars)</u>
\$0 to \$2.5k	35	\$21,595.48	12%
\$2.5k to \$10k	11	\$54,067.06	31%
\$10k to \$25k	16	\$272,798.63	100%
\$25k+	2	\$212,507.00	100%
	<u>64</u>	<u>\$550,968.17</u>	

Summary of Results

There were no exceptions noted for 81% (\$461,348.02 total purchase order and authority order expenditure dollars) of the files reviewed.



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Significant Policy Change Subsequent to the Audit Period

Effective with the 2009 Legislative Session, the Central Purchasing Act and Central Purchasing Rules prohibit state agencies from making an acquisition for an amount exceeding \$50,000 or the limit determined by the State Purchasing Director without a requisition being submitted to the State Purchasing Director along with suppliers' competitive bids or proposals.

Views of Central Purchasing

Based on the response of the Office of State Finance regarding the Audit Unit's findings, Central Purchasing has worked to address concerns and acknowledges opportunities for continued improvement.

Agency CPO's are directed to the DCS website where supplier verification requirements are listed. Prior to contracting for acquisitions exceeding the fair and reasonable dollar amount the 4 verifications listed on the website are necessary. While it is true that debarred vendors will be suspended within PeopleSoft, this action occurs so infrequently that the process is not published. Central Purchasing will ensure that suspension and debarment guidance stated in rules is followed.

Central Purchasing also acknowledges the responsibility to manage the supplier base by visioning and managing the process of electronic verification. This process was kicked off in June of 2010 by mandating suppliers register with the State prior to receiving a contract award. The registration process, in the near future, will provide verification status with the Tax Commission, Secretary of State, and Federal suspension and debarment. Until the cycle runs a full year with the new process, manual verifications will continue to be necessary as outlined on the website. Central Purchasing has funded the development of this effort and will continue until a simplified, effective, and efficient system is operational.

This audit was performed pursuant to 74 O.S. § 85.5.E. in accordance with generally accepted Government Auditing Standards.



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DETAILED FINDINGS

FINDING 09-090-04: SETTLEMENT AGREEMENTS

Criteria: 74 O.S. § 85.7. Competitive Bid or Proposal Procedures 16. states:

The Commission on Marginally Producing Oil and Gas Wells shall be exempt from the competitive bid requirements of this section for contracts with local vendors for the purpose of holding special events and exhibitions throughout the state.

OAC 580:15-6-17. Ratification of an unauthorized commitment states:

If a state agency makes an unauthorized commitment on behalf of the state to a supplier, the state may, if in the best interest of the state, ratify the commitment.

State agency actions. The chief administrative officer of the state agency shall approve or disapprove a ratification request.

(A) Chief administrative officer approves request. If the chief administrative officer approves the request, the state agency shall perform steps as follows.

- (i) The state agency shall negotiate a proposal for a settlement agreement with the supplier.
- (ii) The chief administrative officer shall sign the proposed settlement agreement.
- (iii) The chief administrative officer shall document facts and circumstances of the unauthorized commitment.
- (iv) The chief administrative officer shall provide a copy of the settlement agreement and the supporting documents to the State Purchasing Director.

(B) Chief administrative officer disapproves request. If the chief administrative officer disapproves the request, the state agency shall retain documents from the supplier and the state agency.

(1) State Purchasing Director actions. The State Purchasing Director shall retain a copy of the settlement agreement.



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Office of State Finance Procedures Manual 7/01 **Chapter – 200 Encumbrance Procedures** states in part:

...

Except as otherwise provided, state statutes require that whenever any agency enters into an agreement for the purchase of goods, wares, merchandise, contractual services, or construction projects for which labor and material must be furnished by outside vendors, such agreement shall be evidenced by written contracts or purchase orders encumbered by the agency within a reasonable time as determined by the Director of State Finance against the proper agency funds and accounts. 62 O.S. § 41.16.A. Note: A reasonable time has been determined to be thirty (30) days...

It is further provided that the Director of State Finance shall never authorize payment of claims for such purchases unless the claim is supported by one of the following encumbrance documents.

- A. Contracts or purchase orders issued by the Department of Central Services.
- B. Institutional or departmental purchase orders or contracts (sometimes called “agency-issued orders”). These can be internal encumbrances such as with ‘Alternate System’ agencies or ones established through the DCS Purchasing System.
- C. Authorizations for purchases (sometimes called “AFPs” or “authority orders”).

Generally [emphasis added], any invoice or claim dated prior to the date of any of the above mentioned encumbrance documents shall be rejected by OSF...

Condition: A state agency that had contracted with the Office of State Finance (OSF) for procurement services acquired services for a trade expo. Requisitions were submitted to OSF for the creation of a purchase order to initiate payment for goods and services received. The state agency had already contracted for and received services at the time of requisition submittal.

Expenditures were related to the annual trade expo held at the Oklahoma State Fair. Contracts with local vendors for special events and exhibitions are exempt from the competitive bidding requirements of the Central Purchasing Act. Trade expo was held on October 8, 2008. Details for the acquisitions made by Marginally Producing Oil and Gas Wells are noted below.

<u>Purchase Order #</u>	<u>Purchase Order Date</u>	<u>Vendor</u>	<u>Amount</u>	<u>Requisition Date</u>
4469000085	12.10.2008	Oklahoma State Fair	\$8,269.25	12.10.2008
4469000076	10.22.2008	Ovations Food Service	\$10,574.55	10.21.2008
4469000079	10.28.2008	Conventions & More	<u>\$14,221.54</u>	10.23.2008
			<u>\$33,065.34</u>	

Cause: Office of State Finance was performing duties and responsibilities in accordance with contractual agreement.



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Effect: By processing the requesting agency's transactions for payment, OSF Shared Services division avoided the formal process to ratify an unauthorized commitment to the State and did not place responsibility on the submitting agency to ratify and report the unauthorized commitment.

Recommendation: For those agencies who have acquired goods and services prior to encumbrance, we recommend OSF return those acquisitions to the agency. The agency should then process the acquisition as a settlement agreement under Central Purchasing Rules OAC 580:15-6-17.

Management's Response: Non-Concur

OSF agrees with the concept of a settlement agreement and completion when funds are not pre-encumbered. However, in this particular case, OSF's management was not aware that the procurement person preparing the purchase orders was doing so without pre-encumbering the funds. We advise agencies that we cannot create purchase orders without encumbrance upon start up of their services.

The procurement person completing these three requisitions was new to OSF. He believed that the purchase type for this agency was exempt from the Central Purchasing Act. In fact the purchase was only exempt from Competitive Bidding. He performed these purchases without consulting management and without a clear understanding of the requirements.

Two of the three purchase orders noted in this finding were for the same annual event, and they show up in two of the four audit findings. OSF believes this to be a small percentage of the overall purchase orders generated on behalf of our service agencies.

During 2009, OSF sent an email to the agency regarding a purchase request asking for specific details on the purchase type and dates. This clearly demonstrates that OSF understands the need to obtain this information. The DCS auditors were provided with a copy of this email.

OSF received notification of a scheduled audit May 28, 2008, to begin the first quarter of fiscal year 2009. The audit began November 2008 some eight months later. Findings were provided October 8, 2010. During the course of this audit we received numerous phone calls from auditors repeatedly asking the same questions and getting the same answers from OSF's staff. When OSF's procurement manager finally questioned one of the auditors about the repeated questions, the auditor raised her voice and hung up on our procurement manager. A member of DCS' audit team called our manager back and apologized for the inappropriate behavior and promptly replaced her with other DCS staff.

OSF feels that the lengthy drawn out process was counter-productive, and it created numerous unwarranted interruptions over a one-year period. The audit appeared to be worked in sections of time; often being put on hold, then resurrected resulting in repeat questions and processes. On June 19, 2009, we had to formally request, in writing, that the audit be finalized and completed. For these reasons, OSF recommends that DCS review their audit processes and procedures.



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If DCS' audits of various agencies reveal similar findings, it might be appropriate to consider revising the training and preparation of CPOs to meet the requirements of the State of Oklahoma.

FINDING 09-090-03: \$25,000.01 & GREATER DOLLAR THRESHOLD

Criteria: Title 74 O.S. §85.7(A)1. Competitive Bid Or Proposal Procedures states in part:

Except as otherwise provided by the Oklahoma Central Purchasing Act, no state agency shall make an acquisition for an amount exceeding Twenty-five Thousand Dollars (\$25,000.00) without submission of a requisition to the State Purchasing Director and submission of suppliers' competitive bids or proposals to the State Purchasing Director.

Oklahoma Administrative Code 580:15-6-10. State agency acquisitions the Purchasing Director processes states in part, "...All acquisitions exceeding twenty-five thousand dollars (\$25,000.00) shall be submitted to the State Purchasing Director".

Condition: For the audit period reviewed (May 1, 2008 through April 30, 2009), there were a total of two contract files that exceeded \$25,000. We tested both contract files. The contract files totaled \$212,507. Based upon our testwork we noted the following:

- The acquisition for catering was not submitted to the State Purchasing Director. Acquisitions from local vendors in support of special events and exhibits are exempt from the competitive bidding requirements of the Central Purchasing Act.
- The contract file did not include a service requisition justification for nonprofessional or professional services signed by the CAO of the agency.

Details of the purchase are noted below.

<u>Agency</u>	<u>Purchase Order Number</u>	<u>Purchase Order Date</u>	<u>Vendor</u>	<u>Purchase Order Amount</u>
Marginally Producing Oil and Gas Wells	4469000075	10.22.2008	Head Country Catering	\$ 25,875.00

Cause:

- Because the acquisition is exempt from the competitive bidding requirements of Central Purchasing



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Act, the contract file was not submitted to the State Purchasing Director.

- Contract file did not contain a service requisition justification because the acquisition had been executed prior to submission to the Office of State Finance.

Effect/ Potential Effect: By not procuring goods and services in accordance with statute and rules, controls to ensure procured goods and services are the best value for the state are circumvented. Marginal Wells has since ended its contractual relationship with the Office of State Finance.

Recommendation: Effective June 25, 2010, the Central Purchasing Rules (OAC 580:15) were revised. Revisions to the Central Purchasing Rules included an increase in the dollar amount state agencies can make open market acquisitions. State agencies are now allowed to make acquisitions over \$50,000 and not exceeding \$100,000 provided the State Purchasing Director has granted approval and the state agency follows specific criteria.

We recommend the Office of State Finance receive approval from the State Purchasing Director to make open-market acquisitions on behalf of the state agencies that they are providing procurement services for. For those state agencies who have already procured goods and services exceeding \$50,000, the Office of State Finance should return those acquisitions to the agency that should then process the acquisition as a settlement agreement under Central Purchasing Rules OAC 580:15-6-17.

We further recommend the Office of State Finance create and implement a process that ensures all certifications and justifications are obtained prior to the procuring of goods and/or services. Process should also include a contract file review to ensure all contract files are complete.

Management's Response: Partially Concur

OSF understands that the purchase order exceeded the threshold for an agency's purchase. We do not believe that this one purchase, which was \$875.00 greater than the statutory threshold, demonstrates that we regularly circumvent this requirement. Processes are in place to ensure this does not happen. We have developed an internal checklist, and we perform random audits.

This purchase order was completed during the same time period as the purchase orders under audit finding 09-090-02. It was also completed by the same CPO who completed the purchase orders under audit finding 09-090-02. Furthermore, this purchase was done for the same event as the purchase orders under audit finding 09-090-02. The CPO believed that the purchases associated with this event were exempt from the Central Purchasing Act. In fact the purchases were exempt only from the competitive bidding requirements. The CPO performed these purchases without consulting management and without a clear understanding of the requirements. A simple checklist, even the one prepared by the Department of Central Services, could not have avoided this misinterpretation.



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This specific issue (exemptions from competitive bidding and Title 74) has not been clearly explained during the annual fall CPO course. If it had been, the CPO would have had a better understanding of the requirements and made the appropriate decision. DCS might want to consider ways to better clarify the differences between an exemption from the competitive bidding process and the requirements of the Central Purchasing Act a test question.

OSF received notification of a scheduled audit May 28, 2008, to begin the first quarter of fiscal year 2009. The audit began November 2008 some eight months later. Findings were provided October 8, 2010. During the course of this audit we received numerous phone calls from auditors repeatedly asking the same questions and getting the same answers from OSF's staff. When OSF's procurement manager finally questioned one of the auditors about the repeated questions, the auditor raised her voice and hung up on our procurement manager. A member of DCS' audit team called our manager back and apologized for the inappropriate behavior and promptly replaced her with other DCS staff.

OSF feels that the lengthy drawn out process was counter-productive, and it created numerous unwarranted interruptions over a one-year period. The audit appeared to be worked in sections of time; often being put on hold, then resurrected resulting in repeat questions and processes. On June 19, 2009, we had to formally request, in writing, that the audit be finalized and completed. For these reasons, OSF recommends that DCS review their audit processes and procedures.

FINDING 09-090-02: CERTIFICATIONS & AFFIDAVITS

Criteria: Central Purchasing Rules **OAC 580:15-6-6 State agency acquisitions (d) Acquisitions over \$10,000.00 and under \$25,000.00 (July 2008 Rules) (6) Contracts** states in part, "If the state agency and the supplier execute a contract for the acquisition, the contract must include the non-collusion certification, signed and submitted with the solicitation pursuant to 580:15-4-7(c) and 74 O.S., Section 85.22."

Central Purchasing Act **74 O.S. §85.22 Notarized Sworn Statement Attached to Competitive Bid** states in part, "Any competitive bid submitted to the State of Oklahoma or contract executed by the state for goods or services shall contain a certification..."

Central Purchasing Act **74 O.S. §85.42.B.- One year Limitation on Entering Contracts with Certain Persons – Exceptions** states in part:

Each contract entered into by any person or firm with the State of Oklahoma shall include an affidavit certifying that no person who has been involved in any manner in the development of that contract while employed by the State of Oklahoma shall be employed to fulfill any of the services provided for under said contract....



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Condition: For the audit period reviewed (May 1, 2008 through April 30, 2009), there were a total 16 contract files that were in the \$10,000.01 to \$25,000.00 dollar threshold. These contract files totaled \$272,798.63. There was one contract file cancelled and reissued. Total population tested was 15 contract files totaling \$258,577.09.

- 2 of 15 (13%) contract files did not include the non-collusion certification.

<u>Agency</u>	<u>Purchase Order #</u>	<u>Purchase Order Date</u>	<u>Vendor</u>	<u>Amount</u>
Marginally Producing Oil and Gas Wells	4469000076	10.22.2008	Ovations Food Service	\$10,574.55
Marginally Producing Oil and Gas Wells	4469000079	10.28.2008	Conventions & More	\$14,221.54
				<u>\$24,796.09</u>

- 2 of 15 (13%) acquisition files did not contain the required affidavit certifying persons who developed contract will not also perform contract (74 O.S. § 85.42.B).

<u>Agency</u>	<u>Purchase Order #</u>	<u>Purchase Order Date</u>	<u>Vendor</u>	<u>Amount</u>
Marginally Producing Oil and Gas Wells	4469000076	10.22.2008	Ovations Food Service	\$10,574.55
Marginally Producing Oil and Gas Wells	4469000079	10.28.2008	Conventions & More	\$14,221.54
				<u>\$24,796.09</u>

Cause: Files were not reviewed prior to completing the acquisition process to ensure appropriate documentation was completed and included in the contract file.

Effect/ Potential Effect: By not obtaining the required certifications and affidavits, there is no written attestation that there was no collusive activity in the contracting process.

Recommendation: We recommend in all conditions present that the Agency create a checklist or initiate independent review of agency acquisitions performed by OSF procurement staff to ensure that all agency procurement personnel obtain and include the required documentation in compliance with all statutes, rules and internal purchasing procedures.

Management's Response: Non-Concur

Point One

The procurement person completing these two requisitions was new to OSF at the time. He believed that the purchase type for this agency was exempt from the Central Purchasing Act. In fact the purchase was only exempt from Competitive Bidding. He performed these purchases without questioning them and without consulting OSF management.



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Point Two

OSF has created a procurement checklist for our procurement staff. This checklist is similar to the one created by DCS Central Purchasing, only with much more detail, clarity and direction. However, this type of misunderstanding would not have been prevented utilizing the Audit Checklist created by DCS, since this is a detailed issue related to the application of statutes and rules, not specifically mentioned on the checklist. In reference to the auditor's comment above regarding independent reviews, the Primary CPO reviews purchase orders randomly on a quarterly basis.

Point Three

The two purchase orders noted in this finding were both for the same annual agency event, and they appear in two of the four audit findings. OSF believes this to be a small percentage of the overall purchase orders generated on behalf of our service agencies. Therefore, we believe that the 20% and 13% mentioned in this finding do not accurately reflect a true representation of total purchases.

Point Four

While performing the audit, OSF provided one of the audit team members with a descriptive email from our Procurement Manager to the agency, explaining why this procurement is not exempt from the Central Purchasing Act. The email was sent the year following (2009) this audit finding, when the agency again submitted materials to OSF for the annual event. The audit findings should include the fact that OSF corrected this during the second year and prior to this audit report. OSF is no longer providing procurement to the agency.

Point Five

This specific issue (exemptions from competitive bidding and Title 74) has not been clearly explained during the annual fall CPO course. If it had been, the CPO would have had a better understanding of the requirements and made the appropriate decision. DCS might want to consider ways to better clarify the differences between an exemption from the competitive bidding process and the requirements of the Central Purchasing Act a test question.

Point Six

OSF received notification of a scheduled audit May 28, 2008, to begin the first quarter of fiscal year 2009. The audit began November 2008 some eight months later. Findings were provided October 8, 2010. During the course of this audit we received numerous phone calls from auditors repeatedly asking the same questions and getting the same answers from OSF's staff. When OSF's procurement manager finally questioned one of the auditors about the repeated questions, the auditor raised her voice and hung up on our procurement manager. A member of DCS' audit team called our manager back and apologized for the inappropriate behavior and promptly replaced her with other DCS staff.

OSF feels that the lengthy drawn out process was counter-productive, and it created numerous unwarranted interruptions over a one-year period. The audit appeared to be worked in sections of time; often being put on hold, then resurrected resulting in repeat questions and processes. On June 19, 2009, we had to formally request, in writing, that the audit be finalized and completed. For these reasons, OSF recommends that DCS



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review their audit processes and procedures.

FINDING 09-090-01: \$2,500.01 to \$10,000 DOLLAR THRESHOLD

Criteria: Central Purchasing Act 74 O.S. § 85.42(B) – One year Limitation on Entering Contracts with Certain Persons – Exceptions states in part:

Each contract entered into by any person or firm with the State of Oklahoma shall include an affidavit certifying that no person who has been involved in any manner in the development of that contract while employed by the State of Oklahoma shall be employed to fulfill any of the services provided for under said contract...

Central Purchasing Rules OAC 580:15-6-6(c) Acquisitions over \$2,500.00 and under \$10,000.00 (1) Solicitations states in part, “The state agency shall prepare and document the state agency’s specifications for the acquisition.”

Central Purchasing Rules OAC 580:15-6-6(c) Acquisitions over \$2,500.00 and under \$10,000.00 (4) Evaluation states, “The state agency shall make a written evaluation of criteria considered in selection of the supplier for the acquisition. The written evaluation shall be placed in the acquisition file.”

Central Purchasing Rules OAC 580:15-6-6(c) Acquisitions over \$2,500.00 and under \$10,000.00 (2) Supplier selection states in part, “The state agency shall solicit a price quote from a minimum of three suppliers...”

Central Purchasing Rules OAC 580:15-6-6(c) Acquisitions over \$2,500.00 and under \$10,000.00 (5) Contracts states in part, “If the state agency and the supplier execute a contract for the acquisition, the supplier shall provide a non-collusion certification pursuant to 74 O.S., section 85.22...”

Central Purchasing Act 74 O.S. §85.22 Notarized Sworn Statement Attached to Competitive Bid states in part, “Any competitive bid submitted to the State of Oklahoma or contract executed by the state for goods or services shall contain a certification,...”

Central Purchasing Rules OAC 580:15-6-6(c) Acquisitions over \$2,500.00 and under \$10,000.00 (2) Supplier selection states in part, “... Suppliers that have been suspended or debarred by the State Purchasing Director, the Oklahoma Tax Commission or the Federal government shall not be solicited.”

Condition: For the audit period reviewed (May 1, 2008 through April 30, 2009), there were a total 38 contract files that were in the \$2,500.01 to \$10,000.00 dollar threshold. These contract files totaled \$176,344.65. Through classical random and judgmental sampling, we tested 11 (29%) contract samples with a total dollar value of \$54,067.06 (31%).



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Not all attributes tested were applicable to each contract file. All exceptions noted are detailed below. Exceptions are reported based on applicable contract files.

- 4 of 8 (50%) contract files did not include documentation that the vendor status was verified prior to contracting with the vendor (OAC 580:15-6-6 (c)(2)).

Three contract files were excluded from review due to these acquisitions being sole source type acquisitions. Verification of vendor status is performed for solicited open-market acquisitions.

<u>Agency</u>	<u>Purchase Order #</u>	<u>Purchase Order Date</u>	<u>Vendor</u>	<u>Amount</u>
Construction Industries Board	1709000418	06.04.2008	Oklahoma Press Association	\$2,674.10
Indian Affairs Commission	3609000113	03.10.2009	Skirvin Hilton Hotel	\$2,649.90
Indian Affairs Commission	3609000095	06.19.2008	Skirvin Hilton Hotel	\$2,831.40
Oklahoma Tobacco Settlement Endowment Trust	0929000334	11.05.2008	Renaissance OKC Hotel	<u>\$5,357.41</u>
				<u>\$13,512.81</u>

- 8 of 11 (73%) contract files did not include certification of notarized sworn statement in accordance with 74 O.S. §85.22. All contract files tested were applicable to this attribute.

<u>Agency</u>	<u>Purchase Order #</u>	<u>Purchase Order Date</u>	<u>Vendor</u>	<u>Amount</u>
Secretary of State	6259000922	11.21.2008	Ascendant Technology LLC	\$3,417.00
Commission on Consumer Credit	6359000199	12.12.2008	FSM Group LLC	\$4,250.00
Interstate Oil Compact Commission	3079000126	04.07.2009	Hart Energy Publishing	\$4,500.00
Oklahoma Tobacco Settlement Endowment Trust	0929000359	03.30.2009	Oklahoma Public Health Assoc	\$5,000.00
Indian Affairs Commission	3609000113	03.10.2009	Skirvin Hilton Hotel	\$2,649.90
Indian Affairs Commission	3609000095	06.19.2008	Skirvin Hilton Hotel	\$2,831.40
Oklahoma Tobacco Settlement Endowment Trust	0929000334	11.05.2008	Renaissance OKC Hotel	\$5,357.41



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Marginally Producing Oil and Gas Wells	4469000085	12.10.2008	Oklahoma State Fair	<u>\$8,269.25</u>
				<u>\$36,274.96</u>

- 5 of 8 (63%) contract files did not include an affidavit certifying persons who develop contract will not perform contract in acquisition file presented for review (74 O.S. §85.42.B.). Three of the contract files did not apply to this attribute. One contract file was for the purchase of a product and two contract files were for membership dues. 74 O.S. §85.42.B. is applicable to service contracts.

<u>Agency</u>	<u>Purchase Order #</u>	<u>Purchase Order Date</u>	<u>Vendor</u>	<u>Amount</u>
Commission on Consumer Credit	6359000199	12.12.2008	FSM Group LLC	\$4,250.00
Indian Affairs Commission	3609000113	03.10.2009	Skirvin Hilton Hotel	\$2,649.90
Indian Affairs Commission	3609000095	06.19.2008	Skirvin Hilton Hotel	\$2,831.40
Oklahoma Tobacco Settlement Endowment Trust	0929000334	11.05.2008	Renaissance OKC Hotel	\$5,357.41
Marginally Producing Oil and Gas Wells	4469000085	12.10.2008	Oklahoma State Fair	<u>\$8,269.25</u>
				<u>\$23,357.96</u>

- 4 of 7 (57%) contract files did not include specifications for the acquisition inclusive of terms and conditions and evaluation criteria (OAC 580:15-6-6(c)(1)). Four of the contract files did not apply to this attribute. The four contract files were sole source acquisitions. Specifications are required for solicited open-market acquisitions.

<u>Agency</u>	<u>Purchase Order #</u>	<u>Purchase Order Date</u>	<u>Vendor</u>	<u>Amount</u>
Secretary of State	6259000922	11.21.2008	Ascendant Technology LLC	\$3,417.00
Indian Affairs Commission	3609000113	03.10.2009	Skirvin Hilton Hotel	\$2,649.90
Indian Affairs Commission	3609000095	06.19.2008	Skirvin Hilton Hotel	\$2,831.40
Oklahoma Tobacco Settlement Endowment Trust	0929000334	11.05.2008	Renaissance OKC Hotel	<u>\$5,357.41</u>
				<u>\$14,255.71</u>



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- 4 of 7 (57%) contract files did not include a written evaluation of criteria considered in selection of a vendor for contracted services (OAC 580:15-6-6(c)(4)). Four of the contract files did not apply to this attribute. The four contract files were sole source acquisitions. Written evaluation of criteria are required for solicited open-market acquisitions.

<u>Agency</u>	<u>Purchase Order #</u>	<u>Purchase Order Date</u>	<u>Vendor</u>	<u>Amount</u>
Secretary of State	6259000922	11.21.2008	Ascendant Technology LLC	\$3,417.00
Commission on Consumer Credit	6359000199	12.12.2008	FSM Group LLC	\$4,250.00
Indian Affairs Commission	3609000113	03.10.2009	Skirvin Hilton Hotel	\$2,649.90
Oklahoma Tobacco Settlement Endowment Trust	0929000334	11.05.2008	Renaissance OKC Hotel	<u>\$5,357.41</u>
				<u>\$15,674.31</u>

- 2 of 7 applicable files (29%) did not contain documentation of price quotes/delivery dates from minimum of three vendors (OAC 580:15-6-6(c)(2)). Four of the contract files did not apply to this attribute. The four contract files were sole source acquisitions. Documentation of price quotes/ delivery dates are required for solicited open-market acquisitions.

<u>Agency</u>	<u>Purchase Order #</u>	<u>Purchase Order Date</u>	<u>Vendor</u>	<u>Amount</u>
Indian Affairs Commission	3609000113	03.10.2009	Skirvin Hilton Hotel	\$2,649.90
Oklahoma Tobacco Settlement Endowment Trust	0929000334	11.05.2008	Renaissance OKC Hotel	<u>\$5,357.41</u>
				<u>\$8,007.31</u>

Cause: Files were not reviewed prior to completing the acquisition process to ensure appropriate documentation was completed and included in the contract file.

Effect/ Potential Effect: By not obtaining certifications, affidavits, and other documentation per rule and statute requirements:

- Contracts may be awarded to a vendor who is ineligible to do business with the State based on their status with the State Purchasing Director, Oklahoma Tax Commission or Federal government.
- There is no written attestation that there was no collusive activity in the contracting process.



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- There is no written description of the services or goods needed. As such, goods or services received may not meet the needs of the agency or disparate solicitations are received for needed goods or services.
- There is no written documentation of the criteria used to award contract.
- There is no written documentation of solicitations received or support of the awarding of the contract based on best and lowest or best value criteria.

Recommendation: We recommend in all conditions present that the Office of State Finance create a checklist or initiate independent review of agency acquisitions performed by OSF procurement staff to ensure that all agency procurement personnel obtain and include the required documentation in compliance with all statutes, rules and internal purchasing procedures.

Management's Response: Non-Concur

Point One

Award of contracts to vendors ineligible to do business with the State based on their status with the State Purchasing Director, OK Tax Commission, or Federal Government. State Purchasing Debarment - Rule 580:15-4-18 states that "the State Purchasing Director may suspend a supplier", and that "State Purchasing Director does not include personnel of state agencies". This Rule gives State Agencies no control regarding vendor suspension or debarment. An agency can only follow the system or processes the State Purchasing Director has put in place. As of this date the State Purchasing Director has not created this process. Until this occurs, OSF recommends this audit finding be suspended and any other audit report with similar findings, until rectified. We understand that CPOs in Central Purchasing are not following any process or method to confirm state debarment. When our procurement staff attempted to seek guidance on this issue, the former State Purchasing Director stated that the vendor would not be active in PeopleSoft if it was debarred. If DCS does not have a process that they are following themselves, we do not understand how it could be required of other agencies. OSF's current purchasing procedures state that if the State Purchasing Director suspends a vendor it will so state in PeopleSoft.

OK Tax Commission – DCS used to have a means of checking Tax Commission status through a link on their web site. It has been removed making it difficult to confirm tax status on vendors. Further, the Tax Commission will not assist agencies in verification. We understand that procurement officers at DCS are not verifying this data either. House Bill 1032 has new language that states the Director of the Department of Central Services has authority to promulgate rules for "The form and manner of verification by suppliers that the supplier is eligible to do business in the State of Oklahoma and has obtained all necessary permits and licenses, pursuant to applicable provisions of law". This appears to be an attempt by the legislature to craft a solution to difficulty in obtaining this information. Until DCS creates a solution to the issue of tax verification processes, OSF recommends they remove this requirement from agencies and stop creating audit findings in audit reports. Reference is made to Title 68, Section 1364 where groups of vendor types are referred to. Occasional use vendors are not required to have tax verification. OSF mentioned this to the



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auditors, however, we are unsure by this finding if recognition has been made to the potential relevance.

Federal Debarment – Since the State Purchasing Director is responsible for maintaining vendors in PeopleSoft, we would assume that Federally Debarred Vendors would be marked as suspended in PeopleSoft. However, OSF does have this requirement (verification on the federal debarment status) on their audit checklist, which enables us to check the status of a vendor prior to award. (State Purchasing Director should maintain this information as stated above.)

Contract files and Certification of Notarized sworn statement in accordance with Title 74, Section 85.22
The 2008 language in Title 74, Section 85.22, states that this form is required for any competitive bid. There is no definition of “competitive bid” in the statutes. However, one reference to competitive bidding in the statutes seems to indicate a competitive bid means a bid above \$25,000, which is sent to DCS for procuring. All of the purchase orders in question were below \$10,000. A logical interpretation of a competitive bid in this case would not include simple requests for quotes. The majority of the purchase orders mentioned in this audit finding are simply requests for quotes, not competitive bids. Additionally, the rules (580: 15-6-6) clearly indicate that the form was not required for purchases between \$2,500 and \$10,000. Based on the information above, two of OSF’s contracting officers made the determination that the form was not required during this time period. The rules and statutes, as written at the time, were very confusing and a lot of agency CPOs were unsure what the requirement was. DCS recognized the confusion and has since revised the rules to more clearly define the requirements. The rules were revised shortly after the dates of the purchase orders referenced in this audit report. The revised rules now clearly state that procurement between \$5,000 and \$10,000 must contain the form.

For the above stated reasons, OSF believes that DCS should not create audit findings for this issue during the stated time period. Also, DCS’ auditors were reminded in writing, on two occasions, that purchase order 0929000359 was exempt from Title 74 and should be removed from this document.

Contract Files and Affidavit certifying persons who develop the contract will not perform the contract. Title 74 Section 85.42. Language in Rules and Statutes. In 2008, the requirements of Title 74 Section 85.42-Section(A) referred to sole source documents and professional service contracts and Section (B) referred to each “Contract” entered into. None of the purchase orders in this finding were for sole source or professional services acquisitions. In addition, the procurement officers believed that if a contract (defined as a legal document with terms signed by both parties) was not signed by both parties, the affidavit was not a requirement. In other words, they believed that a purchase order was not a contract, and since the procurement was not for sole source or professional services, this requirement did not apply. Since this time, DCS has combined the requirement of Title 74 Section 85.42 with another form (DCS Form 004). This other form is, and always has been, generally understood as required on all purchases over the fair and reasonable threshold; therefore it is rarely overlooked. Since DCS made this form revision, DCS auditors have found fewer problems with agency compliance in this area.

For the reasons stated above, OSF believes that DCS should not be generating audit findings for this issue. Contract Files did not Include Specifications for the Acquisition inclusive of terms and conditions and evaluation criteria. OSF believed the purchases mentioned in this audit finding to be simple quotes and they



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did not have lengthy specifications. As far as the evaluation criteria, the purchase orders were evaluated based on price only. We acknowledge there was no separate document in the file stating "Price Only" for evaluation criteria. OSF's internal audit checklist has clear requirements for this redundancy. We are now creating a piece of paper that states "Evaluation Criteria" price only, and are utilizing DCS' bid tab sheet, even when the purchase is based on price only. OSF recommends that DCS revise their definition of a "Request for Quote" in their rules, since it is defined as a "Simplified written or oral solicitation". It seems an "Oral Solicitation" would imply it is acceptable not to have a set of specifications for a "Simplified Solicitation".

Contract files did not include a written evaluation of criteria considered in selection of a vendor for contracted services. The same comments above apply, the quote was considered to be a simplified process understood to be based on price, and no separate documentation was required to be included in the file at the time.

Applicable files did not contain documentation of price quotes/delivery dates from a minimum of three vendors. Two purchase orders fall under this category. The one for agency 092 was believed to be exempt at the time by the CPO. We confirm that the other one for agency 360 was missing from the file documentation.

OTHER

OSF received notification of a scheduled audit May 28, 2008, to begin the first quarter of fiscal year 2009. The audit began November 2008 some eight months later. Findings were provided October 8, 2010. During the course of this audit we received numerous phone calls from auditors repeatedly asking the same questions and getting the same answers from OSF's staff. When OSF's procurement manager finally questioned one of the auditors about the repeated questions, the auditor raised her voice and hung up on our procurement manager. A member of DCS' audit team called our manager back and apologized for the inappropriate behavior and promptly replaced her with other DCS staff.

OSF feels that the lengthy drawn out process was counter-productive, and it created numerous unwarranted interruptions over a one-year period. The audit appeared to be worked in sections of time; often being put on hold, then resurrected resulting in repeat questions and processes. On June 19, 2009, we had to formally request, in writing, that the audit be finalized and completed. For these reasons, OSF recommends that DCS review their audit processes and procedures.

Summary

DCS recommends that OSF create an audit checklist. OSF has already done this. We recommend that DCS review the points made above and take appropriate actions to clarify the relevant statutes and rules, DCS guidance and training and set an example to other agencies by following them.



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APPENDIX

DIRECTOR'S TRANSMITTAL LETTER

JOHN S. RICHARD
Director



BRAD HENRY
Governor

STATE OF OKLAHOMA
DEPARTMENT OF CENTRAL SERVICES

November 30, 2010

TO MR. MICHAEL CLINGMAN, DIRECTOR OF THE OFFICE OF STATE FINANCE

With this letter, we transmit the report for the Office of State Finance's Shared Services Program Audit for the audit period May 01, 2008 to April 30, 2009.

We performed our audit in accordance with professional auditing standards to ensure that programs and contracts administered by the Department of Central Services are conducted in accordance with laws and regulations and used in an ethical, effective and efficient manner while limiting exposure to fraud, waste, mismanagement, or abuse.

The accompanying report presents our findings and recommendations and management's responses. This report is available to the public on the Department of Central Services website, www.dcs.ok.gov.

Sincerely,

John S. Richard
Director of the Department of Central Services

"Committed to Quality"

Administration, Will Rogers Office Building (2401 N. Lincoln) Suite 206 / P.O. Box 53218 · Oklahoma City, OK 73152-3218
Telephone 405/521-2121, Fax 405/521-6403, www.dcs.state.ok.us



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METHODOLOGY

- Interviews were conducted with the Agency's Certified Procurement Officers.
- Internal controls over the procurement program were documented and evaluated. Procurement transactions were examined.
- Overall program compliance with the rules related to the audit objectives was evaluated.

EXECUTIVE SUMMARY

Agency Information

The Office of State Finance is part of the Executive Department and is under the administrative control of the director of State Finance who is appointed by the governor, with approval of the Oklahoma Senate. The Office of State Finance consists of four different divisions: Budget, Central Accounting and Reporting, Information Services, and Gaming Compliance. The Budget Division prepares the governor's budget, analyzes the effectiveness of state management, manages the state's budget system and makes appropriate allotments and transfers as authorized by law. The Division of Central Accounting and Reporting (DCAR) is responsible for establishing all accounting forms, systems, and procedures for the various state agencies and institutions; for recording and maintaining the legal appropriations, allotments, budgets, and the various funds and accounts of the state government; for establishing a pre-audit system of settling claims and payrolls to ensure material legal compliance and that a sufficient balance exists for the payment of same; and for certifying such claims or payrolls to the state treasurer for payment. DCAR also prepares and issues financial and accounting reports such as the comprehensive annual financial report (CAFR) and the schedule of expenditures of federal awards (SEFA); administers the canceled warrant fund and the centralized tax and withholding accounts for payrolls; maintains employee earnings records; and issues year end tax forms for employees and vendors (W-2, 1099 M, etc). The Information Services Division (ISD) is responsible for the state's data center and central communication system, implementing and processing the state's integrated financial and management information system (CORE), managing the state portal system, and monitors the security of the state's communication backbone. The Gaming Compliance Unit (GCU) is charged with monitoring the conduct of "covered games" to ensure compliance with the State of Oklahoma and Tribal Gaming Compacts. Compliance with the compact includes ensuring that valid and legal compacts are submitted and related fees are reported and collected. In addition, they monitor accounting, reporting, and auditing requirements as outlined in the compact as well as any additional procedures that are mutually agreed to by a tribe and the state.

Per the Oklahoma Agencies, Boards, and Commissions publication, the Office of State Finance had 64 classified, 94 unclassified, and five temporary, merit employees as of September 01, 2008.



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Oklahoma Office of State Finance

Key Staff

(During the Audit Period)

Michael Clingman, Director of State Finance (Appointed 12/31/2008)
Jim McGoodwin, Deputy Director
Brenda Bolander, State Comptroller
Joe Fleckinger, Information Services Division Director
Alana Owen, Procurement and Contract Manager (Position Hired Date - 11/10/2008)