



**OKLAHOMA**  
**Office of Management  
& Enterprise Services**

**Central Purchasing**

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**PROCUREMENT INFORMATION MEMORANDUM**

Subject: Authority to waive competitive bidding  
Effective Date: November 15, 2023  
Issued by: Amanda Otis, Esq., State Purchasing Director

I. Introduction

As a means of disseminating relevant state procurement information to state entities, the Central Purchasing division of the Office of Management and Enterprise Services 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.

II. Summary

This PIM outlines the statutory framework and criteria under which competitive bidding as required by the Central Purchasing Act may be waived. There are three distinct officials who may grant a waiver: the State Purchasing Director, the Chief Information Officer (“CIO”), and the Director of the Office of Management and Enterprise Services (“OMES”).

- A. State Purchasing Director’s authority is found in 74 O.S. § 85.7(A)(7). It states, “Notwithstanding any other provision of law, an acquisition may be exempted from requirements of this section by the State Purchasing Director when in the State Purchasing Director’s discretion unusual, time-sensitive or unique circumstances exist which make such exemption in the best and immediate interest of the state.” There are two criteria that must be met to utilize this waiver:
  - i. An unusual, time-sensitive, or unique circumstance exists; and
  - ii. It is in the best and immediate interest of the state to waive competitive bidding.
- B. Chief Information Officer’s authority is found in 74 O.S. § 85.5(G)(5) and states, “The Chief Information Officer . . . may negotiate consolidation contracts, enterprise agreements and high technology system contracts in lieu of or in conjunction with competitive bidding procedures to reduce acquisition cost.”
  - i. This means the CIO can waive competitive bidding for three types of agreements, which are defined in 62 O.S. § 34.11.1(O):

1. Consolidation contracts (“a contract for several state or public agencies for the purpose of purchasing information technology and telecommunication goods and service”);
  2. Enterprise agreements (“an agreement for information technology or telecommunication goods and services with a supplier who manufactures, develops and designs products and provides services that are used by one or more state agencies”); and
  3. High technology system contracts (“advanced technological equipment, software, communication lines, and services for the processing, storing, and retrieval of information by a state agency”).
- ii. The criterion that must be met to utilize this waiver is that it must reduce acquisition costs.
- C. Director of OMES authority is found in 62 O.S. § 34.62(3) and states, “The Director of the Office of Management and Enterprise Services shall have the power to authorize agencies of the state to make acquisitions without the submission of competitive bids or compliance with the state purchase card program as otherwise required by the Oklahoma Central Purchasing Act, for or on behalf of the state whenever the Director determines that it is in the best interests of the state.” The only criterion stated by this authority is that the Director determines waiving competitive bidding to be in the best interest of the state.

### III. Practitioner comments

The decision to waive competitive bidding should be guided directly by the statutory framework, which clearly indicates that such waivers are intended for exceptional circumstances—not routine procurement decisions. Furthermore, contracts awarded under a competitive bidding exemption should be limited in scope and duration. The conditions that necessitated the exemption—such as an emergency or urgent procurement need—are often temporary. As such, these contracts should be reviewed regularly to determine whether the justification for the exemption still applies. Generally, these agreements should include clear expiration dates and defined review intervals to ensure they continue to serve the public interest. Proactive monitoring ensures that waivers are not used inappropriately and that the state returns to a competitive procurement process as soon as circumstances allow.