

Owen County Fiscal Court  
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**Casey Ellis**  
County Judge/Executive

**Magistrates**  
Todd Spurgeon, District 1  
Stuart Bowling, District 2  
Wayne Harris, District 3  
Chad Rose, District 4

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**AN ORDINANCE RELATING TO THE OWEN COUNTY  
ADMINISTRATIVE CODE**

**ORDINANCE # \_\_\_\_\_**

**AN ORDINANCE AMENDING SECTION 1.10 OF ORDINANCE #219 THE  
OWEN COUNTY ADMINISTRATIVE CODE**

**“BE IT ORDAINED BY THE FISCAL COURT OF OWEN COUNTY,  
COMMONWEALTH OF KENTUCKY”**

The attached pages reflect amendments to the Owen County Administrative Code (OCAC), Ordinance 219, adopted on December 11, 2018. The language pertains only to the new statutory language to Kentucky Revised Statute (KRS) *Chapter 45A, Kentucky Model Procurement Code* which to effect on June 27, 2019.

OAC-*Section 1.10 Procurement and Surplus* located on page 20-25 were extracted and revised to reflect updated statutory requirements from the following section of Chapter 45A.

1. 45A.030 Definitions
2. 45A.080 Competitive sealed bidding
3. 45A.085 Competitive negotiation
4. 45A.425 Surplus or excess property

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1 1.10 Procurement and Surplus

2 Procurement" means the purchasing, buying, renting, leasing, or otherwise obtaining of any  
 3 supplies, services, or construction. It includes all functions that pertain to the procurement of any  
 4 supply, service, or construction item, including description of requirements, selection and  
 5 solicitation of sources, preparation and award of contract, and all phases of contract  
 6 administration.

7  
 8 1. *Authorization of Government Contracts:*

9  
 10 ~~1-a.~~ Every contract, change or amendment thereto, shall be authorized or approved by the  
 11 OCFC before being executed by the Judge/Executive, except for small purchases not  
 12 requiring competitive bidding or a Request for Proposal (RFP). The County Attorney  
 13 shall review every contract of OCG, as to form and legality, except for contracts for  
 14 small purchases.

15  
 16 2. *Small Purchase:*

17  
 18 a. All expenditures identified by KRS Chapter 45A.385 shall be considered a "small  
 19 purchase" so long as said expenditure is provided for in the budget, the  
 20 Judge/Executive determines the need for any item requested or unless the OCFC shall  
 21 direct otherwise.

22  
 23 ~~2-3.~~ *Selection of Vendors and Contractors:*

24  
 25 ~~1-a.~~ The agency, department or person requiring supplies, services or construction shall  
 26 submit to the Judge/Executive a request containing specifications and quantities  
 27 desired.

28 ~~2-b.~~ The Judge/Executive shall determine the need for each item requested, the  
 29 approximate cost and appropriate purchase model to follow in accordance with KRS  
 30 Chapter 45A and whether the expenditure is provided for in the budget.

31 ~~3.~~ Any expenditure or contract for materials, supplies (except perishable meat, fish, and  
 32 vegetables), equipment, or for contractual services other than professional, involving  
 33 an expenditure of more than Twenty Thousand Dollars (\$20,000) shall be subject to  
 34 RFP procurement.

35 ~~4-c.~~ The Judge/Executive shall place an advertisement for submission of Request for  
 36 Proposals (RFP) when the purchase exceeds KRS 45A.385 Small Purchase  
 37 requirements, in the . The RFP Shall be advertised within the OCG website and  
 38 newspaper of the largest circulation in the county, -at least once; and not less than  
 39 seven (7) days and -not more than twenty-one (21) days before bid-RFP opening(s). The  
 40 advertisement shall include the time and place where the-RFP proposal may be  
 41 obtained.

42 ~~5-d.~~ The Judge/Executive shall open all bids publicly at the time and place stated in the  
 43 advertisements and shall select the lowest and/or best bid by qualified bidder.

44 ~~6.e.~~ The Judge/Executive shall submit the bid selected to OCFC for approval with  
 45 justification.

46 ~~7.f.~~ The Judge/Executive shall sign all contracts, when ratified by the OCFC.

47 ~~8.g.~~ ~~The Owen-OCFC has adopted-~~ shall follow the Kentucky Procurement Code as stated in  
 48 chapter 45A, Kentucky Model Procurement Code.

49 ~~9.h.~~ The Owen OCFC has also adopted the guidelines for procurement involving  
 50 USDOT/Federal transit Administration projects including 49 CFR part 18-Uniform  
 51 Administration requirements for Grants and Cooperative Agreement to State and Local  
 52 Governments and to FTA Circular 4220. F-third Party Contracting Guidelines for Federal  
 53 Transit projects. (Said policy adopted by attached order of 10- 9-2012)

54  
 55 ~~10.4.~~ Procedures for Determination of Qualification of Bidders:

56  
 57 ~~a.~~ All RFP proposal shall outline specific requirements for all bidders to successfully be  
 58 considered as a qualified bidder.

59 ~~1.b.~~ Each RFP shall have specific qualifications to the project.

60  
 61 ~~11.5.~~ Prerequisite to Use of Negotiated Process/Small Purchases:

62  
 63 ~~1.a.~~ The ~~negotiated small purchase process~~ may be used instead of advertisement for bids  
 64 purchases in if the amount amount is less than as stated in KRS 45A.385 or exceeds  
 65 \$20,000 in the following circumstances:

66 ~~1.i.~~ An emergency exists.

67 ~~2.ii.~~ Bids exceed available funds.

68 ~~3.iii.~~ Professional Service contracts.

69 ~~2.b.~~ ~~Before an emergency is declared, the Judge/Executive shall determine whether the~~  
 70 ~~delay in obtaining bids will result in danger to health, safety or property.~~

71 ~~3.c.~~ The Judge/Executive shall certify the existence of any emergency and file a copy of such  
 72 certificate with the chief financial officer of OCG (the Treasurer).

73 ~~4.d.~~ In the event all bids submitted are more than funds available, the Judge/Executive  
 74 shall prepare a written determination that there are no additional funds available as to  
 75 permit an award to the selected bidder and delay in advertising for additional bids is  
 76 not in the best interest OCG.

77 ~~5.e.~~ The OCFC shall approve all circumstances in which the Negotiation Process is used.

78  
 79 6. Procedures for Negotiated Process:

80  
 81 ~~1.a.~~ When the prerequisites have been met for use of the negotiated process, the  
 82 Judge/Executive shall proceed to negotiate with one or more suppliers to obtain the  
 83 most advantageous terms for OCG.

84 ~~2.b.~~ The Judge/Executive shall prepare a record of all negotiated contracts, showing the  
 85 items and quantities acquired, name of suppliers, cost and date of contract.

86 ~~3.c.~~ Professional services shall be negotiated with such persons as are properly licensed to  
 87 perform such services.

- 88 4.d. Where more than one (1) bid was received and all were more than the amount
- 89 available, the lowest three (3) bidders shall be notified that OCG desires to negotiate a
- 90 contract for a lesser amount based on revised quantities or specifications and fix a time
- 91 limit for submission of proposals.
- 92 5.e. The Judge/Executive shall examine the proposals received and shall negotiate with the
- 93 suppliers for the terms most advantageous to OCG.
- 94 6.f. The best negotiated proposal shall be submitted to the OCFC for approval and award.

95  
96 ~~7. Small Purchase Procedures:~~

- 97
- 98 ~~1. All expenditures of less than \$20,000 shall be considered a "small purchase", which under~~
- 99 ~~ordinary circumstances should not be subject to competitive bidding so long as said~~
- 100 ~~expenditure is provided for in the budget unless the OCFC shall direct otherwise.~~
- 101 ~~2. The Judge/Executive determines the need for any item requested and whether the~~
- 102 ~~contract is for less than \$20,000 and the expenditure is provided for in the budget.~~

103  
104 ~~3.7. Hold Harmless Clause:~~

- 105
- 106 ~~1.a. All contracts executed on behalf of the OCG concerning the purchase of services or~~
- 107 ~~products shall contain a "hold harmless clause", whereby the vendor, provider of~~
- 108 ~~services, or seller agrees to hold the OCG harmless from any liability concerning the~~
- 109 ~~use of their product or the receipt of their service.~~

110  
111 ~~4.8. Asset Control Management:~~

- 112
- 113 ~~1.a. Please refer to the Capitalization & Asset Control Policy for specific policy &~~
- 114 ~~procedures.~~

115  
116 ~~5.9. Disposition of County Surplus Property:~~

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- 118 ~~a. Real Property:~~
- 119 ~~The Judge/Executive shall determine that OCG retains surplus real property and that~~
- 120 ~~it will be in the best interest of OCG to dispose of said real property, the~~
- 121 ~~Judge/Executive shall make a written statement inclusive of the following:~~
- 122 ~~i. The real or personal property;~~
- 123 ~~ii. Its intended use at the time of acquisition;~~
- 124 ~~iii. The reasons why it is in the public interest to dispose of it; and v. The method of~~
- 125 ~~disposition to be used.~~
- 126
- 127 ~~b. The property may be transferred via the following method:~~
- 128 ~~i. Transferred, with or without compensation, to another governmental agency;~~
- 129 ~~ii. Sold at public auction following publication of the auction in accordance with KRS~~
- 130 ~~424.130(1) (b);~~

- 131 ~~i. Sold by electronic auction following publication of the auction, including the~~
- 132 ~~uniform resource link (URL) for the site of the electronic auction, in accordance~~
- 133 ~~with KRS 424.130(1)(b); or~~
- 134 ~~ii. Sold by sealed bids.~~

135

136 ~~e. In the event there are no bids for the property, the property shall be sold by the~~

137 ~~Judge/Executive in the best interests of the County.~~

138

139 ~~d. No OCG real property shall be sold on a negotiated basis for less than the appraised~~

140 ~~value.~~

141

142 ~~10. Tangible Property:~~

143

144 ~~a. OCG office, agency, or person to which responsibility has been assigned by the~~

145 ~~Judge/Executive to use and take care of a tangible property or items will notify the~~

146 ~~Judge/Executive that a property is no longer needed or serviceable.~~

147 ~~b. The Judge/Executive shall inquire of other OCG offices to determine if they have need~~

148 ~~of, or want to use, the item.~~

149 ~~c.a. If no use for the property can be found, the property shall be disposed of in the same~~

150 ~~manner as Real Property except that no appraisal is required.~~

151

152 Surplus property is any personal property owned by OCG that is no longer needed for the

153 provision of government services. Only property having a monetary value need be declared

154 surplus. Property that is obsolete or broken and has no useful value may be disposed of

155 without notice.

156

157 OCG references the Commonwealth of Kentucky Finance and Administration Cabinet,

158 Department for Facilities and Support Services October 2017 USER'S GUIDE: SURPLUS

159 PROPERTY DISPOSAL in determining the appropriate disposition of government property.

160

161 **45A.425 Surplus or excess property.**

162 (1) OCG may sell or otherwise dispose of any personal property which is not needed or has

163 become unsuitable for public use, or which would be suitable, consistent with the public

164 interest, for some other use.

165 (2) A written determination as to need of suitability of any personal property of OCG shall

166 be made; and such determination shall fully describe the personal property; its intended

167 use at the time of acquisition; the reasons why it is in the public interest to dispose of the

168 item; and the method of disposition to be used.

169 (3) Surplus or excess personal property as described in this section may be transferred, with

170 or without compensation, to another governmental agency; or it may be sold at public

171 auction or by sealed bids in accordance with KRS 45A.365.

172 (4) In the event that OCG receives no bids for surplus or excess personal property, either at

173 public auction or by sealed bid, such property may be disposed of, consistent with the  
174 public interest, in any manner deemed appropriate by the local public agency. In such  
175 instances, a written description of the property, the method of disposal, and the amount  
176 of compensation, if any, shall be made. Any compensation resulting from the disposal of  
177 surplus or excess personal property shall be transferred to the general fund of OCG.  
178