



County Sales Tax Best Practices Guide

(For non-county entities receiving county sales tax)

(Effective November 1, 2022)

Issued by the:

**Oklahoma State Auditor
& Inspector's Office**

(405) 521-3495

www.sai.ok.gov

Table of Contents

Introduction	1
County Sales Tax – Statutory Authority	1
Sales Tax Fund Structure	1
Expenditures	2
a. County Purchasing Act.....	2
i. Bids	2
ii. Exemptions to bidding.....	2
iii. Blanket Purchase Orders	2
b. Public Competitive Bidding Act of 1974 (PCBA)	3
Assets	4
a. Inventory	4
b. Vehicles and Equipment.....	4
c. Consumable Inventory	5
d. Land and Buildings	5
Disposal of Assets	5
a. Declaration of Surplus	5
a. Sale – Depositing Proceeds	5
b. Junk	5
c. Updating Inventory	5
Use Tax	5
Summary	6

County Sales Tax - Best Practices Guide

(For non-county entities that are the beneficiary of a county sales tax)

Introduction

The Oklahoma State Auditor and Inspector's Office is statutorily charged with the responsibility to prescribe accounting procedures and forms to be used by all Oklahoma counties. In accordance with 74 O.S. § 214, OSAI has prescribed forms to facilitate procurement of goods and services by county governments in Oklahoma. OSAI has also prescribed a uniform chart of accounts which accurately accounts for sales tax dedicated for particular purposes. The procedures in this guide are meant to ensure proper internal controls are in place to guard the sales tax proceeds against waste, fraud, and abuse.

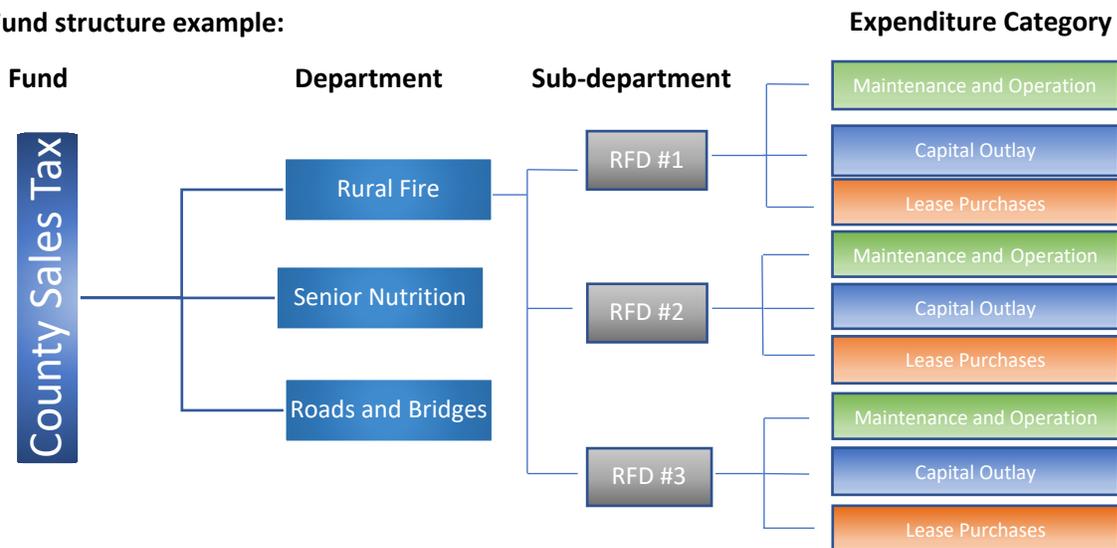
County Sales Tax – Statutory Authority (68 O.S. § 1370 et. seq.)

Counties are authorized to levy a sales tax as approved by a majority of the registered voters to support county government, rural fire departments, senior nutrition centers, public education, county hospitals, county jails, etc. The county sales tax statutes require the proceeds to be deposited into a special revenue fund of the county or the county general fund. County sales tax proceeds may only be used in the manner authorized by the language of the ballot approved by the voters. The Uniform Chart of Accounts allows for accounting for sales tax in either the general fund (restricted) or a special revenue fund.

Sales Tax Fund

Once a sales tax has been approved by the voters, the Oklahoma Tax Commission (OTC) will notify vendors of the sales tax rate change at least 60 days prior to the effective date. The sales tax will become effective on the first day of the calendar quarter following approval by the voters (unless otherwise stated in the sales tax ballot). OTC will collect and remit the sales tax to the county on a monthly basis. The county treasurer will deposit and apportion the proceeds into the appropriate fund. After the apportionment is made, the sales tax proceeds will be appropriated during a public meeting of the Board of County Commissioners (BOCC). The appropriation must then be approved by the county excise board (or county budget board) before it is available to be expended. The ending balance of the sales tax fund does not lapse, it must be carried forward to the next fiscal year.

Fund structure example:



County Sales Tax - Best Practices Guide

Expenditures

County sales tax is to be deposited into the county general fund or a special revenue fund. Since the sales tax proceeds are directed to a county fund, OSAI recommends the procedures for expenditures be the same as the procedures for other county funds. The procedures for procuring goods and services are found in the County Purchasing Act; 19 O.S. § 1501-1505.1.

The county may designate two requisitioning and receiving officers that are not county employees for fire protection districts, fire protection services, volunteer fire departments, and municipal fire departments. These entities shall provide evidence of a blanket bond coverage or employee dishonesty liability insurance for each designee. This designation is to be filed with the county clerk. Requisitioning and receiving duties may not be performed by the same individual. These duties are required to be separate in order to establish good internal controls over the procurement process.

The authorized requisitioning official shall be responsible for submitting all requisitions for purchase orders to the county purchasing agent. The purchasing agent will review the requisition and determine if bidding is necessary. The county clerk will determine if the fund has a sufficient unencumbered balance to make the purchase. Bids are required for purchases (including lease purchases and rental) of supplies, equipment and telecommunication goods and services in excess of \$25,000. There are a number of exemptions to soliciting sealed bids including the following:

- Purchases using the state bid list as provided by the Office of Management and Enterprise Services or General Services Administration list.
 - If the same exact item is available from a local vendor at or below the price listed on either of these bid lists, the item may be obtained from the local vendor in lieu of soliciting sealed bids.
- Purchases made pursuant to a blanket purchase order as provided in 62 O.S. § 310.8.
 - Blanket purchase orders are used for:
 - Repairs to machinery in excess of \$10,000.
 - Routine purchases of goods and services.
 - Blanket purchase orders must be approved by the BOCC prior to making the purchase or acquiring the services.
 - The maximum amount of a blanket purchase order may be increased to cover unforeseen expenses, but a written explanation shall be attached to the purchase order prior to processing it for payment.
- Purchases of fuel - if the purchasing agent obtains telephone quotes from at least three vendors prior to the purchase.
- Purchases of tools, apparatus, machinery, or equipment from a state agency or a political subdivision of the state as provided in 19 O.S. § 421.1.
- Items competitively bid by a nationwide purchasing program sponsored by the national association representing counties and local cooperative procurement agreements entered into by the counties or any other competitively bid nationwide purchasing program.
- When the governor declares an emergency in a county, the district attorney may waive competitive bidding procedures for purchases that expedite a response to the emergency situation.

County Sales Tax - Best Practices Guide

When sealed bids are required, the purchasing agent will publish in the newspaper legal notice section at least 10 days prior to the bid opening. The purchasing agent will also send the solicitation notice to vendors that have requested to be notified of such solicitations. Bids will be opened in a public meeting of the BOCC. Bids may be awarded at that time to the lowest and best bidder or the BOCC may table the award until the rural fire (or other) board reviews the bids and makes a recommendation to the BOCC.

Once bids have been opened and awarded, the county clerk or purchasing agent will encumber the appropriate amount of funds and then the purchase may be initiated. Purchases shall not be made without a properly approved requisition and encumbrance of funds (except for emergency situations as mentioned before).

Public Competitive Bidding Act

Expenditures for public construction contracts follow a different section of the law than purchases of supplies and equipment. The Public Competitive Bidding Act of 1974 (PCBA) is found in 61 O.S. § 101 et. seq. The bidding requirements are different for public construction contracts than they are for supplies and equipment.

Public construction contracts are defined in 61 O.S. § 102(5), (7), and (8) as follows:

5. "Construction management trade contract or subcontract" means any public construction contract exceeding Fifty Thousand Dollars (\$50,000.00) in amount that is awarded as a trade contract in an agency construction management contract or awarded as a subcontract in an at-risk construction management contract;

7. "Public construction contract" or "contract" means any contract, exceeding One Hundred Thousand Dollars (\$100,000.00) in amount, or any construction management trade contracts or subcontracts exceeding Fifty Thousand Dollars (\$50,000.00) in amount, awarded by any public agency for the purpose of making any public improvements or constructing any public building or making repairs to or performing maintenance on the same except where the improvements, construction of any building or repairs to the same are improvements or buildings leased to a person or other legal entity exclusively for private and not for public use and no public tax revenues shall be expended on or for the contract unless the public tax revenues used for the project are authorized by a majority of the voters of the applicable public agency voting at an election held for that purpose and the public tax revenues do not exceed twenty-five percent (25%) of the total project cost. The amount of public tax dollars committed to the project will not exceed a fixed amount established by resolution of the governing body prior to or concurrent with approval of the project;

8. "Public improvement" means any beneficial or valuable change or addition, betterment, enhancement or amelioration of or upon any real property, or interest therein, belonging to a public agency, intended to enhance its value, beauty or utility or to adapt it to new or further purposes. The term does not include the direct purchase of materials, equipment or supplies by a public agency, or any personal property, including property as defined in paragraphs 1 and 4 of subsection B of Section 430.1 of Title 62 of the Oklahoma Statutes;

County Sales Tax - Best Practices Guide

Under the PCBA, bidding is required in the follow circumstances:

- Standard public construction contracts in excess of \$100,0000 - must be let by sealed bids.
 - Sealed bids must be advertised in the legal notice section of the newspaper for two consecutive weekly issues 21 days prior to bid opening date.
 - Notice shall also be sent to one in-state trade or construction publication.
 - Contracts over \$10,000 but less than \$100,000 - must solicit written bids or quotes.
 - Contracts under \$10,000 may be negotiated with a qualified contractor.
- *All contracts must be approved in an open meeting of the BOCC.

For standard public construction contracts in excess of \$100,000 the vendor must submit the following with the bid:

- Certified check, cashier's check, or bid bond equal to 5% of the bid or an irrevocable letter of credit.
- A bond equal to the contract price to ensure the proper and prompt completion of work.
- Public liability and workers' compensation insurance.

Construction management trade contract or subcontracts as defined by the PCBA have lower bid limits:

- *Contracts \$50,0000 or more must be let by sealed bids.*
- *Contracts over \$10,000 but less than \$50,000 must solicit written bids or quotes.*
- *Contracts under \$10,000 may be negotiated with a qualified contractor.*

Construction management trade contracts or subcontracts greater than \$50,000 must be accompanied by:

- *Certified check, cashier's check, or bid bond equal to 5% of the bid or an irrevocable letter of credit.*
- *A bond equal to the contract price to ensure the proper and prompt completion of work.*
- *Public liability and workers' compensation insurance.*

A PCBA quick reference guide is available on our [website](#) for more information regarding the requirements for public construction contracts.

Assets

Counties are required to keep an inventory of fixed assets costing \$2,500 or more and file this inventory with the county clerk. Some departments also add assets costing less than \$2,500 to their fixed asset inventory for added accountability and transparency.

- Fixed assets purchased partially with county funds and partially with other funds not managed by the county –must also be accounted for on the county inventory of fixed assets. The inventory record should reflect the portion paid with county funds and note the source and amount paid with other funds.
 - The reason we advise filing the inventory of fixed assets (purchased with county sales tax funds) with the county is because the BOCC must be accountable to the taxpayers that sales tax funds are used in accordance with the sales tax ballot approved by voters.

County Sales Tax - Best Practices Guide

- Filing the inventory of fixed assets with the county does not preclude the non-county entity from holding title to the fixed asset. Since the sales tax was passed for the benefit of the non-county entity, it is permissible to have the title in the name of the non-county entity.

Consumable items purchased in lots of \$2,500 or more are also required to be tracked (OSAI form 9003 and 9004). Consumables are items that can be used up, an example of this might be a case of oil for vehicles. The inventory of consumable items is not required to be filed in the county clerk's office but should be kept up to date by each department.

Land and Buildings – when using county sales tax money to purchase real property for the beneficiary of county sales tax proceeds, the statutes do not give direction as to how to account for the real property. Therefore, if the purpose of the sales tax ballot is permissive to purchase land and/or buildings or make improvements to buildings, it is our recommendation to reach a written agreement with the county as to who holds title to real property purchased with county sales tax proceeds and who is responsible for maintenance and insuring the assets. The agreement should also address which entity/fund would be the beneficiary of proceeds if the real property is subsequently sold. We strongly encourage consulting the county's legal advisor in such situations.

Disposal of Assets

The statutes have specific guidelines and procedures for the disposal of assets purchased with county funds. The procedures are as follows:

- a. Declaration of Surplus – the department must first declare the asset is no longer needed for the purpose of the department. This declaration is achieved by a BOCC resolution voted on in an open meeting.
- b. The surplus property may be sold by sealed bid, public auction, or used as a trade-in according to 19 O.S. § 421.1.
 - i. Selling to another governmental entity – assets may be sold to another county or political subdivision of the state without soliciting bids. This should be achieved by an interlocal agreement signed by both governing boards.
 - ii. Depositing Proceeds – we recommend proceeds be deposited into the fund used to purchase the asset. We strongly encourage seeking legal advice if proceeds are to be deposited elsewhere.
- c. Junk – for assets that truly have no value, the governing board may declare the item to be junk via a board resolution. These items may be recycled when applicable upon obtaining phone quotes for the recyclable materials.
- d. Update Inventory - when assets are taken out of service, you must update the department's inventory records, as well as the inventory records on file at the county clerk's office.

Use Tax

Counties that have a sales tax established may also levy a use tax in accordance with 68 O.S. § 1411. The board of county commissioners may levy a use tax at a rate equal to the sales tax rate. Use tax is essentially a sales tax collected on mail, telephone, and internet purchases. The purpose for the use tax must be designated by the board of county commissioners in an open meeting. Use tax is not required to be allocated in the same manner as sales tax.

County Sales Tax - Best Practices Guide

Summary

The purpose of this guide is to promote good internal controls and transparency related to county sales tax funds. This is not meant to be a legal interpretation of the county sales tax or county procurement laws. When the taxpayers of the county approve a county sales tax for a specific purpose; and officials entrusted with those funds must ensure that the funds are protected from waste, fraud, and abuse.