



No: PM-01

Office of Procurement Services

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Issued By:

Kathleen C. Madden, Director

State of Ohio Administrative Policy

Purchasing Goods and Services

I. Purpose

This policy establishes requirements for the **Purchase** of **Goods** and **Services** fairly, openly, and transparently. The first occurrence of a defined term in this policy is in bold, italic type and is hyperlinked to the definition in Section IV.

II. Scope

This policy applies to **State Agencies** superintended with purchasing authority by the Department of Administrative Services (DAS).

III. Policy

A. **Agency Purchasing Procedures:** State Agencies shall adopt written procedures consistent with this policy and all applicable laws, DAS rules, and DAS policies used for purchasing Supplies and Services. Additionally, State Agencies should establish processes that ensure clear lines of authority and promote a separation between the ability to request contract actions and those who have final authority to authorize and/or approve the requested contract actions.

B. **Use of OhioBuys:** State Agencies are required to adopt and use the State of Ohio's **Electronic Procurement** system, OhioBuys.

1. Agencies shall adopt OhioBuys based on a schedule established by DAS, designate one or more Agency administrators responsible for coordinating adoption and use of the system, and use OhioBuys to perform all of their procurement-related activities including, but not limited to:

- a) Creating, submitting, and approving Purchase requisitions;
- b) Managing Purchase orders;

- c) Making Purchases with a State payment card (Pcard), whenever practical;
 - d) Managing order receipts and returns;
 - e) Creating and managing solicitations (including Quick Quotes);
 - f) Creating, managing, and awarding contracts; and
 - g) Managing **Suppliers** (specifically, using the Exceptions Module to track supplier performance).
2. State Agencies that have not yet been fully on-boarded to OhioBuys shall use the system to the extent possible, as prescribed by DAS. This includes, but is not limited to, posting solicitations and awarded contracts, as applicable, for Purchases with an estimated total value of more than \$25,000.
- C. **Requisite Procurement Programs:** State Agencies are required by Ohio Revised Code (ORC) Section 125.035 and Ohio Administrative Code (OAC) Section 123:5-1-17 to Purchase from requisite procurement programs prior to making Purchases from another source.
1. State Agencies may Purchase from requisite procurement programs without dollar limitation. Purchases made from requisite procurement programs are not counted against a State Agency's cumulative annual **Controlling Board** threshold (see Section III.K.).
 2. State Agencies are required to determine if their procurement needs can be met by any of these requisite procurement programs, in the order listed:
 - a) Ohio Penal Industries (OPI);
 - b) Community Rehabilitation Program (CRP);
 - c) Ohio-Based **Personal Protective Equipment (PPE)** Manufacturers Program;
 - d) Opportunities for Ohioans with Disabilities' Business Enterprise Program (BEP);
 - e) Office of Information Technology (OIT);
 - f) Office of State Printing and Mail Services;
 - g) Department of Mental Health and Addiction Services' Ohio Pharmacy Services Center (OPSC); or
 - h) Ohio Facilities Construction Commission (OFCC).
 3. Projects involving construction of and improvements and alterations to public works estimated to cost \$250,000 or more or projects involving professional design Services as defined in ORC Section 153.65 estimated to cost more than \$50,000, must be reviewed by OFCC. This review will determine whether ORC Chapter 153 applies to the Purchase and, if so, OFCC will administer the project.
 - a) State Agencies may request OFCC to authorize local administration of projects with total estimated costs of less than \$3 million. Locally administered projects are not eligible for **Minority Business Enterprise (MBE)** set aside; however, the **Encouraging Diversity, Growth, and Equity (EDGE)** program applies.
 - b) If OFCC determines that a project with a total estimated project cost of \$250,000 or more is not subject to ORC Chapter 153, the project must follow ORC Chapter 125 and it will be eligible for MBE set-aside. (Note that projects under \$250,000 do not qualify for MBE set aside if the project involves construction.)
 4. If a requisite procurement program can fulfill a State Agency's procurement need, then the State Agency is required to make the Purchase from that program. However, if the requisite

procurement programs cannot, then the State Agency can Purchase from a non-requisite source upon receipt of a **Waiver** granted by the requisite procurement program.

5. State Agencies that have not been fully onboarded to OhioBuys in accordance with Section III.B. of this policy must work directly with the applicable requisite program to make Purchases. If a Purchase is potentially valued at \$25,000 or more, a Request to Purchase (RTP) must be submitted to DAS. However, an RTP is not required if the Purchase:
 - a) Can be made using a **State Contract**; or
 - b) Is covered by a **Non-IT Blanket Release and Permit**.

D. **State Contracts:** When the procurement need cannot be fulfilled by any of the requisite procurement programs, State Agencies shall determine if a State Contract exists prior to making Purchases, soliciting quotes, seeking Controlling Board approval, or working with DAS to establish a contract.

1. State Agencies can determine if a State Contract exists by searching OhioBuys or contacting the DAS **Office of Procurement Services (OPS)**.
2. Purchases made from and referencing a State Contract as the Purchase authority will not be counted against a State Agency's cumulative annual Controlling Board threshold.
3. State Agencies may be required to use certain State Contracts to make a Purchase.
 - a) State Agencies should refer to the contract language or consult DAS to determine which contracts are mandatory.
 - b) If a mandatory State Contract's supplier is unable to fulfill a State Agency's needs, DAS may grant a Waiver to the State Agency to make the Purchase from another source. The State Agency must not proceed with the Purchase from another source until DAS has granted the Waiver.
4. DAS may award contracts to more than one supplier within a geographic region. Before Purchases can be made referencing these contracts, secondary solicitations must be completed. There are two types of these contracts:
 - a) **Competitive Selection Two-Phase Quote:** When purchasing from these contracts, a State Agency must solicit a quote in accordance with Section III.M. of this policy.
 - b) **Competitive Selection Two-Phase Pre-Qualification:** When purchasing from these contracts, the State Agency must submit an RTP to DAS to conduct a secondary solicitation.

E. **State Term Schedule (STS) Contracts**

1. State Agencies that have adopted and are using OhioBuys in accordance with Section III.B. of this policy are not required to submit requests to the Controlling Board when purchasing from a State Term Schedule (STS) Contract.
2. State Agencies that have not adopted and are not using OhioBuys in accordance with Section III.B. of this policy are required to submit requests to the Controlling Board when a minimum of three quotes or **Proposals** are not obtained when purchasing from an STS contract.
 - a) Purchases made with Pcards or debit voucher transactions are excluded from this requirement.

- b) A “no response” or “no **Bid**” does not constitute receipt of a valid quote or Proposal.
 - c) State Agencies may obtain quotes or Proposals from non-STS Suppliers in addition to those holding an STS.
 - d) State Agencies shall not issue Purchase orders prior to the Controlling Board approving the request.
 - e) As part of the Controlling Board request, State Agencies shall describe:
 - i. The efforts made to find other **Responsive** STS contractors and a determination that none were found.
 - ii. How a determination was made that the anticipated cost would be fair and reasonable and a description of the basis on which the award was made (e.g., low price, best-value, etc.).
 - iii. Any other facts supporting the selection process.
 - f) If a State Agency previously obtained three or more quotes or Proposals when the original procurement occurred, the State Agency does not need to obtain three quotes or Proposals prior to creating a new purchase order. Similarly, when the State Agency obtained fewer than three quotes or Proposals during the original procurement but had obtained Controlling Board approval, no additional approval or solicitation is necessary. A Purchase will be considered a continuation when:
 - i. There was an original stated term, and it is within the original stated term of the Purchase (including renewals); or
 - ii. It is reasonably related to the original project, scope of work, task, job, or effort.
 - g) State Agencies shall not reference an STS contract as the purchasing authority if the selected supplier is not on the contract. In these cases, the Purchase shall be made using **Direct Purchase Authority (DPA)** and it shall be subject to the Controlling Board requirements described in Section III.K. of this policy.
 - h) DPA may be used to make Purchases from Suppliers listed on an STS without referencing the STS as the Purchase authority. Such Purchases count towards the State Agency’s Controlling Board threshold.
- F. **Master Maintenance Agreements (MMAs):** When referencing an MMA as the purchasing authority, the quoting requirements in Section III.M. of this policy apply, except when multiple Suppliers are not available across all MMA contracts.
- G. **State Contract Pricing:** If prices are listed in State Contracts, they may be considered as not-to-exceed prices.
- 1. State Agencies are encouraged to solicit quotes and negotiate pricing downward.
 - 2. State Agencies not receiving favorable pricing should contact DAS to seek assistance.
 - 3. For STS, MMA, and Competitive Selection Two-Phase contracts, purchase order change requests of 10% or more require State Agencies to conduct another sourcing event.
- H. **Direct Purchase Authority:** Once a State Agency has determined neither a requisite procurement program nor a State Contract can fulfill the procurement need, the State Agency may use its DPA if

the procurement will not exceed the thresholds explained in this section and Section III.M. of this policy.

1. State Agencies shall not split Purchases of like items to avoid the threshold cited in ORC Section 125.05 and 127.16.
 2. When using their DPA, State Agencies shall comply with all other provisions of this policy.
 3. Regardless of what is being purchased, if the \$50,000 threshold may be exceeded, State Agencies should involve DAS in the initial stages of preparing their Purchase request to allow sufficient time to determine if the Purchase can be made through DAS.
 4. DAS awards non-IT and IT contracts costing \$50,000 or more on behalf of State Agencies. State Agencies are required to make Purchases costing \$50,000 or more through DAS. When a Purchase equals or exceeds this threshold and DAS determines it is not possible or advantageous for it to make the Purchase, the State Agency will be granted a release and permit and delegated authority to make the Purchase.
- I. **Non-IT Purchases:** State Agencies shall submit an RTP to DAS for non-IT Purchases of \$50,000 or more.
1. Purchases of items by State Agencies that are identified in an individual **Non-IT Release and Permit** or Non-IT Blanket Release and Permit are subject to the thresholds identified in Section III.M. of this policy.
 2. State Agencies shall list either the individual Non-IT Release and Permit or Non-IT Blanket Release and Permit numbers provided by DAS on the requisition and any applicable Controlling Board request.
- J. **IT Purchases:** State Agencies' IT Purchases will be reviewed by OIT prior to receiving a Release and Permit. State Agencies will submit an RTP to obtain a determination on the procurement approach for non-contract Purchases greater than \$50,000.
1. For IT Purchases less than \$25,000 in OhioBuys, State Agencies shall not make the purchase until OIT has completed its review. OIT review must be complete prior to the State Agency's **IT Blanket Release and Permit** being applied to the requisition. For State Agencies using the legacy **IT Release and Permit** System, DAS will issue an IT Blanket Release and Permit for each State Agency; however, it may not be used to Purchase the items in the list below. An individual IT Release and Permit will be issued for the Purchase:
 - a) Deliverables-based IT Services (DBITS) projects;
 - b) IT staff augmentation Services;
 - c) IT equipment and licensing from enterprise standards-based contracts (e.g., ERP, IT service management, document management, desktops, laptops, remote location servers);
 - d) Telecommunications Goods or Services with a per unit cost of \$1,000 or more;
 - e) Third party hosting or cloud-based solutions (XaaS);
 - f) Microsoft licenses;
 - g) Infrastructure equipment (e.g., storage, servers, VoIP, routers, switches, etc.); and

- h) Any other standard, policy, or initiative established by DAS.
 - 2. Requests for telecommunication Purchases with a per unit cost of less than \$1,000 must be submitted through the OIT Service Catalog found at <https://stateofohio.service-now.com>.
 - 3. State Agencies using OhioBuys to Purchase from **Pre-governed Contracts** are not required to obtain quotes if there is established contract pricing via a catalog unless it is an STS Contract. However, if a Pre-governed Contract does not have a catalog, then a quote from the supplier must be provided. In these cases, State Agencies shall use the OhioBuys solicitation module to obtain the quote.
- K. **Controlling Board Threshold:** State Agencies shall follow the requirement of ORC Section 127.16(B)(1) that limits an individual State Agency's cumulative annual spend for Goods and Services Purchased from a particular supplier to \$50,000.
- 1. If a Purchase that is not being made through either a State Contract or Competitive Selection will cause the State Agency's cumulative annual spend with a particular supplier to be \$50,000 or more, the State Agency must seek approval from the Controlling Board prior to making the Purchase, unless:
 - a) The State Agency has met the requirements of Section III.M. of this policy; or
 - b) The Purchase is otherwise exempt from Controlling Board approval.
 - 2. If the Purchase, when combined with the cumulative annual spend, is less than \$50,000 for a particular supplier, the State Agency will not be required to seek approval from the Controlling Board unless Controlling Board approval is otherwise required (e.g., release of capital funds).
- L. **Required Approvals:** Information technology, printed supplies and multi-functional print devices, and vehicles require review and approval by DAS prior to the State Agency making the Purchase, unless exempted by OBM's expense account codes.
- 1. State Agencies shall use OhioBuys to request DAS review and approval for these Purchases. Review and approval will be completed in OhioBuys.
 - 2. When planning for these Purchases, the appropriate office listed below must be contacted before issuing a Purchase order and/or entering into any agreement with a supplier.
 - a) Information Technology – Refer to either Section III.K. of this policy or email EITC_Policy@das.ohio.gov.
 - b) Printed Supplies and Multi-Functional Print Devices (e.g., copiers, printers) – DAS Office of State Printing and Mail Services: Trisha.Stephens@das.ohio.gov.
 - c) Vehicles – DAS Office of Fleet Management: DASFLEET@das.ohio.gov.
- M. **Agency Solicitations and Awards:** State Agencies shall follow the procurement decision-making process illustrated in Section IX.A. State Agencies shall maintain records describing how this process was followed (e.g., the **Competitive Manner** in which Purchases were made, how responses to solicitations were evaluated, the basis on which an award was made, etc.).

1. State Agencies frequently using DPA or Controlling Board authorities to make routine, repeated Purchases shall contact DAS to determine if a State Contract should be established.
2. For Purchases with a value of \$5,000 or less made using DPA or an optional non-STS State Contract, State Agencies should solicit from multiple (i.e., two or more) Suppliers.
3. For Purchases with a value of more than \$5,000 made using DPA or an optional non-STS State Contract, State Agencies are required to solicit from multiple (i.e., two or more) Suppliers, unless the State Agency is making a **Sole-source Procurement** or a **Single-source Procurement** (see Section III.M.6., below).
4. State Agencies shall submit an RTP to DAS for Purchases of \$50,000 or more that are not being made using a Requisite Procurement Program, a State Contract, or a Non-IT Blanket Release and Permit.
5. State Agency Purchases and contract awards are not subject to Controlling Board review provided the State Agency:
 - a) Has adopted and is using OhioBuys in accordance with Section III.B. of this policy;
 - b) Has been given a release and permit by DAS to make the purchase(s); and
 - c) Conducts the purchase in a Competitive Manner by:
 - i. Publicly posting the opportunity for a sufficient amount of time, but for no less than 10 business days;
 - ii. Notifying all Suppliers registered under the commodity codes listed in the solicitation of the opportunity, including MBE Suppliers.
6. Sole-source Procurements and Single-source Procurements are not subject to Controlling Board review, provided the State Agency has met the requirements of Section III.M.5.
 - a) State Agencies must maintain records and written justification for Sole-source Procurements or Single-source Procurements that documents:
 - i. The efforts made to find other Responsive and **Responsible** Suppliers and a determination that none were found (Suppliers are required to document via letter they are a sole-source provider);
 - ii. How a determination was made that the Supplier was Sole-source or Single-source;
 - iii. How a determination was made that the anticipated cost would be fair and reasonable;
 - iv. The State Agency's history with the supplier; and
 - v. Any other facts supporting the selection process.
 - b) For Sole-source and Single-source IT procurements, a State Agency shall include its records and written justification as part of its Purchase requests.
 - c) If a Sole-source Procurement or a Single-source Procurement causes a State Agency to exceed purchasing thresholds, the State Agency is not required to submit an RTP to DAS or seek Controlling Board approval, provided the State Agency has met the requirements of Section III.M.5. If the requirements of Section III.M.5. have not been met:
 - i. Sole-source Procurements and Single-source Procurements are subject to the thresholds and requirements of Section III.K. of this policy.
 - ii. For non-IT procurements, all State Agencies shall submit an RTP through OhioBuys and clearly indicate it as a Sole-source Procurement or a Single-source Procurement.

- iii. For IT procurements, State Agencies that have adopted and are using OhioBuys submit a requisition through this system. State Agencies not fully on-boarded to OhioBuys use the IT Release and Permit system (<https://itrelease.ohio.gov/>).
 7. Amendments to State Agency contracts that have met the requirements of Section III.M.5. require a DAS release and permit if the amendment increases the value of the contract.
- N. **MBE Set-Aside Purchases:** State Agencies are required by ORC Section 125.081 to set-aside approximately 15% of Purchases made by Competitive Selection during a fiscal year for competition only by MBEs certified by the Director of the Ohio Department of Development in accordance with ORC Section 122.921.
1. When conducting MBE set-aside solicitations, State Agencies shall document the solicitation process, solicit quotes from only Ohio-certified MBEs, and mark vouchers in OAKS as MBE Set-Aside to receive set-aside credit. (It is important to note using OhioBuys enables State Agencies to meet this requirement by storing solicitation data.)
 2. Each State Agency shall monitor its set-aside expenditures quarterly and, as necessary, adjust its projection plans submitted to the Department of Development's Minority Business Development Division (MBDD) to meet the 15% set-aside requirement. State Agency Purchases from contracts that have been set-aside, partially set-aside, or contain an embedded MBE set-aside count towards the 15% requirement.
 3. State Agencies should regularly evaluate the impact of their set-aside selections. For each contract to be an MBE set-aside, State Agencies should consider the following:
 - a) An entire category of Goods or Services should not repeatedly be selected year after year for set-aside (e.g., all of the contracts for the Purchase of shoes, etc.). State Agencies should consider various categories of Goods or Services and then alternate setting them aside.
 - b) The length of time a contract has been set-aside and/or held by an incumbent supplier. Consider limiting the number of renewals on a contract to provide multiple Suppliers with an opportunity to compete for opportunities to do business with the State.
 - c) Contracts or Purchases may be able to be split into smaller contracts or multiple contracts to allow small businesses to compete. (This section does not supersede Section III.H. of this policy, which prohibits State Agencies from splitting Purchases to avoid the thresholds explained in that section.).
 - d) Prior to deciding whether a procurement will be set-aside, check the State Agency's progress against its MBE projection plan for the current fiscal year. Modifications to the projection plan may be necessary to meet the 15% requirement, meaning unplanned procurements or procurements planned for the open market may need to be set-aside.
 - e) All contracts or Purchases must be procured using a United Nations Standard **Products** and Services Commodity (UNSPSC) code. When considering a set-aside procurement, all certified MBE Suppliers must have the same approved UNSPSC code on their MBE certification letter to be considered for the solicitation. (MBE certification letters can be found at <https://eodreporting.oit.ohio.gov/mbe-certification>). If a certified MBE supplier does not have the correct UNSPSC code, then the supplier should be considered not Responsive.

- O. **EDGE Purchases:** State Agencies are required by ORC Section 122.922 to award a percent (as annually determined by the Director of Development) of all contracts and/or Purchases for IT, construction, architecture, engineering, and professional Services to EDGE participants. State Agencies are required to:
1. Take appropriate steps to foster, support, and encourage the participation of underutilized businesses and encourage such businesses to compete for contracts by including a participation goal for construction contracts and **Requests for Proposals (RFPs)** when subcontractors are used;
 2. Determine whether EDGE participation is feasible for the procurement based upon EDGE supplier availability. When it is feasible, an EDGE participation goal set in accordance with OAC Section 123:2-14-13 shall be included in the solicitation. Each Proposal evaluation process shall include evaluation of EDGE participation, and each contract shall specify the EDGE goal for subcontracts and Purchases from EDGE business enterprises to meet the State Agency's overall EDGE goal, in accordance with OAC Section 123:2-14-09;
 3. Examine internal procurement policies, procedures, and practices and remove those elements adversely impacting economically and socially disadvantaged businesses;
 4. Examine and eliminate all unnecessary barriers to equitable participation, including, but not limited to, bonding and licensing requirements, excessive experience requirements, massive procurements (unbundling contracts when practicable), use of proprietary specifications, and other non-essential procurement-related requirements;
 5. Set a goal, which meets or exceeds the annual goal set by the Director of Development, of eligible direct expenditures in the areas of IT, construction, architecture, engineering, and professional Services that are awarded to EDGE program participants; and
 6. Provide MBDD with quarterly reports and annual projection plans on EDGE utilization using templates provided annually by the division. (State Agencies should note that quarterly reports are generated by MBDD on their behalf.).
- P. **Women-Owned Business Enterprise (WBE) Purchases:** The WBE program assists women-owned business enterprises in obtaining contracts for Goods, Services, construction, architecture, engineering, information technology, and professional Services. State Agencies should consider purchasing from WBE Suppliers to foster their development and increase the number of qualified competitors in the marketplace.
- Q. **Veteran-Friendly Business Enterprise (VBE) Purchases:** The VBE program assists eligible veteran supporting businesses to become certified and compete for contracts, including construction Services. State Agencies should consider purchasing from VBE Suppliers to foster their development and increase the number of qualified competitors in the marketplace. Although there are no procurement goals or set-aside requirements for VBE, these Suppliers are eligible for a procurement preference, which is described in Section III.R..

- R. **Preferences:** All Bids and offers will be considered for preferences, with a **Bidder** or an **Offeror** being able to qualify for all three preferences (i.e., Buy American, **Buy Ohio**, and VBE) under OAC Section 123:5-1-06.
1. Five percent will be assigned to the first preference and two percent each for the second and third preferences. All the percentages will be summed up and applied as a total percentage for purposes of evaluating a Bid or offer, up to a maximum of nine percent. For **Invitations to Bid (ITBs)** and reverse auctions, preference percentages will be deducted from the Bidder's total cost. For RFPs, preference percentages will be added to the Offeror's total score.
 2. Preferences will be applied only when there is at least one Bidder or Offeror that does not qualify for that particular preference. For purposes of qualifying for a particular preference, Bidders and Offerors who do not complete the certification for each preference will be deemed as not having qualified for that preference.
 3. For Bids containing multiple line items or multiple **Products**, when considering Buy American or the Products portion of Buy Ohio, preferences will be applied per line item or only for that particular Product.
 - a) For RFPs, if an Offeror is claiming the Buy American and Buy Ohio preferences based on the Product(s) offered, the Offeror is only eligible to receive the preference if the cost of the Product(s) offered exceeds 50% of the total offered cost for Products and Services. A **Buy Ohio Supplier** is eligible to receive the Buy Ohio preference based solely on its **Significant Ohio Economic Presence** or designation as a **Border State** regardless of the origin of any Product offered.
 - b) After the preferences have been applied, the lowest Bid or highest scoring offer will be considered for award unless doing so is not in the best interest of the State. Additionally, the evaluation and final determination of the award will be made under OAC Sections 123:5-1-07 and 123:5-1-08.
 4. State Agencies shall apply preferences using the above rules, as applicable, and when:
 - a) A Bidder or Offeror is certified by Development as a VBE pursuant to ORC Section 122.925(B); or
 - b) Purchasing PPE from a source other than a requisite procurement program or a State Contract pursuant to ORC Section 125.05. (See Section III.X. of this policy for additional information concerning PPE Purchases.)
 5. For Purchases not made through DAS, State Agencies should apply the Bid preferences explained in ORC Section 125.09(C)(1) – (2), ORC Section 125.11(B), and OAC Section 123:5-1-06, and 13-14.
 - a) State Agencies should use criteria and procedures prescribed by DAS to give preference to Goods **Produced** or manufactured in the United States and/or in Ohio or a Border State.
 - b) If applying this preference, the State Agency must specify which preference(s) will be applied in the solicitation and should request information as to the point of manufacture and location of the supplier.
- S. **Methods of Procurement and Payment:** Unless otherwise noted, the requirements contained in this policy shall be followed regardless of the payment method.

1. If purchasing from a State Contract, State Agencies shall check the contract prior to making the Purchase to identify acceptable forms of payment.
 2. When purchasing with a Pcard, State Agencies shall reference Pcard Program information at: [http://finsource.ohio.gov/SAFEManual/index.htm#t=\(SAFE\) State of OhioPayment Card Program.htm](http://finsource.ohio.gov/SAFEManual/index.htm#t=(SAFE) State of OhioPayment Card Program.htm).
- T. **Authorization of Purchases:** If a State Agency proceeds with a Purchase prior to receiving the appropriate authorization, the person who authorized the Purchase may be held personally liable for the Purchase pursuant to ORC Sections 3.12 or 127.16.
- U. **Debarments:** Respectively, ORC Sections 125.25, 153.02, and 5513.06 give supplier debarment authority to DAS, OFCC, and the Ohio Department of Transportation (ODOT). These statutes also stipulate the reasons that could result in a supplier being debarred by one of these State Agencies.
1. In accordance with ORC Section 9.242(B), a debarred supplier cannot participate in any contracts issued by any State Agency until the supplier's debarment period expires. Additionally, ORC Section 9.242(C) requires State Agencies to exclude debarred vendors from participating in any other contracts during the debarment period.
 2. State Agencies are required to use the statewide debarment list (https://procure.ohio.gov/state-and-local-agencies/resources/08_debarment-csv-list) or reference a supplier's profile in OhioBuys to determine if a supplier has been debarred. OhioBuys has systematic controls in place preventing debarred vendors from doing business with State Agencies. These resources identify all Suppliers and businesses currently debarred by DAS, OFCC, and ODOT.
 3. State Agencies are also required to reference the Ohio Secretary of State's and the federal System for Award Management's (SAM) debarment lists. Links to these lists are available at https://procure.ohio.gov/state-and-local-agencies/resources/08_debarment-csv-list.
 4. State Agencies are prohibited from awarding contracts funded in whole or in part with federal and/or State funds to any supplier or business included on any debarment list.
- V. **Findings for Recovery:** State Agencies are prohibited by ORC Section 9.24 from awarding contracts to persons against whom findings for recovery have been issued by the Auditor of State if the findings for recovery are unresolved. When conducting procurements State Agencies are required to search the Auditor of State's Findings for Recovery database (https://ohioauditor.gov/findings.html#unresolved_findings).
- W. **Affirmative Action Program Verification:** State Agencies must verify that Suppliers have affirmative action plans in place before making contract awards per ORC Section 125.111 prior to being awarded a contract.
- X. **Purchasing Personal Protective Equipment:** Purchases of PPE must adhere to the requirements of ORC Sections 125.035 and 125.05.

1. For Purchases with a total cost of less than \$50,000, State Agencies must first determine if the PPE being Purchased is available from a requisite procurement program.
 2. If the Purchase cannot be fulfilled by a requisite procurement program, State Agencies and DAS must work together to determine if a State Contract is either available or can be established from which to purchase PPE.
 3. If a State Contract is not or will not be available, State Agencies must apply the Buy American and Buy Ohio preferences mandated by ORC Section 125.09 and OAC Section 123:5-1-06. Additionally, the DPA and Controlling Board thresholds described in Sections III.H. and III.K. of this policy apply.
 4. DAS may issue a release and permit for PPE Purchases from a foreign PPE manufacturer if purchasing from an Ohio-based PPE manufacturer would result in a State Agency paying a price that is 120% higher than the price available from the foreign manufacturer.
- Y. **Invalid Terms and Conditions:** For all contracts entered into on or after September 30, 2021, State Agencies shall assure that the invalid terms and conditions identified in ORC Section 9.27 have not been included.

IV. Definitions

- A. Bid. A response submitted by a Bidder to an Invitation to Bid.
- B. Bidder. A person or firm that submits a Bid in response to an Invitation to Bid.
- C. Border State. Any State that is contiguous to Ohio that does not impose a restriction greater than Ohio imposes pursuant to ORC Section 125.09 and ORC Section 125.11 on persons located in Ohio selling Products or Services to agencies of that state. DAS recognizes the Commonwealths of Kentucky and Pennsylvania and the States of Indiana, Michigan, and West Virginia as Border States.
- D. Buy Ohio. Procurement preference given to Products that are mined, excavated, Produced, manufactured, raised, or grown in the state or a state bordering Ohio where the input of Buy Ohio Products, labor, skill, or other Goods constitutes no less than twenty-five per cent of the manufactured cost. With respect to mined Products, such Products shall be mined or excavated in this state or a state bordering Ohio.
- E. Buy Ohio Supplier. A supplier submitting a Bid or offer offering Buy Ohio Products or demonstrating Significant Ohio Economic Presence.
- F. Competitive Manner. An open and fair process used to Purchase Goods and Services that promotes competition among prospective Bidders or Offerors.
- G. Competitive Selection. Any of the following procedures for making Purchases: (1) competitive sealed bidding under ORC Section 125.07, (2) competitive sealed Proposals under ORC Section 125.071, (3) reverse auctions under ORC Section 125.072, and (4) Electronic Procurement under ORC Section 125.073.
- H. Controlling Board. The Controlling Board is established by ORC 127.12 and has approval authority for types of Purchases as required by law.
- I. Direct Purchase Authority (DPA). The authority of a State Agency to make Purchases without Competitive Selection pursuant to ORC Section 125.05 and ORC Section 127.16.

- J. Electronic Procurement. The use of the DAS' _ electronic procurement system to Purchase Goods and Services in a manner prescribed by DAS.
- K. Encouraging Diversity, Growth, & Equity (EDGE). A business owned and controlled by a United States citizen who is a resident of Ohio if its owner is both socially and economically disadvantaged, or if the business is located in a qualified census tract and the owner is economically disadvantaged. In addition, the business must have been in business for at least one year prior to applying and be at least 51% owned by socially and economically disadvantaged individuals. Economic disadvantage is based primarily on the owner's personal net worth. Social disadvantages for the EDGE program are race or ethnic origin, female gender, chronic physical or mental disability, and/or the business owner's long-term residence in an environment isolated from the mainstream of American society.
- L. Goods. Refers to anything that can be purchased that is not a Service or real property, including Products and Supplies.
- M. Invitation to Bid (ITB). Refers to all documents, whether attached or incorporated by reference, utilized for soliciting competitive sealed Bids.
- N. IT Blanket Release and Permit. Each fiscal year, DAS issues IT blanket Release and Permits to each State Agency to facilitate IT Purchases under \$25,000 per transaction. IT commodities are identified by OBM's expense account codes. DAS may issue guidance limiting the use of the blanket for certain Goods and Services.
- O. IT Release and Permit. A required type of prior approval for IT Purchases that is issued by DAS when it is not possible or advantageous to make the Purchase through DAS. DAS issues a unique IT Release and Permit per Purchase request by fiscal year, typically provided for transactions that are \$25,000 or more. IT commodities are identified by OBM's expense account codes. The OBM expense account code indicates when an IT Release and Permit is required.
- P. Master Maintenance Agreement (MMA). Contracts negotiated directly between DAS and a manufacturer or Service provider based upon a General Services Administration agreement or a manufacturer's or service provider's most-favored-customer agreement for a similarly situated customer. The manufacturer or service provider may name any number of authorized distributors, dealers or resellers who will provide maintenance and service of equipment (e.g., hardware, software, copiers, and vending machines) no longer covered under a manufacturer's warranty. Services may include remedial maintenance calls and preventative maintenance inspections.
- Q. Minority Business Enterprise (MBE). A business owned and controlled by a United States citizen who is a resident of Ohio and a member of one or more of the following minority groups: Blacks or African Americans, American Indians, Hispanics or Latinos, and Asians. In addition, the business must have been in business for at least one year prior to applying and be at least 51% minority owned.
- R. Non-IT Blanket Release and Permit. Each biennium, DAS issues Non-IT Blanket Release and Permits for all Purchases of certain types of general Goods and Services, categorized by OBM expense account code, which authorizes State Agencies to make such Purchases without the involvement of DAS.
- S. Non-IT Release and Permit. A required type of prior approval issued by DAS allowing State Agencies to make Purchases exceeding the State Agency's DPA. A Non-IT Release and Permit is issued when it is not possible or advantageous for DAS to make the Purchase on behalf of the State Agency.

- T. Offeror. A person or firm who submits a proposal in response to a Request for Proposals.
- U. Office of Procurement Services (OPS). The office within DAS that is responsible for procurement of non-IT and IT Goods and Services.
- V. Personal Protective Equipment (PPE). As defined in ORC 125.05(E), personal protective equipment means equipment worn to minimize exposure to hazards that cause workplace injuries and illnesses.
- W. Pre-Governed Contracts. IT contracts not requiring OIT to review/approve requisitions to complete the approval workflow process within OhioBuys.
- X. Produced. The manufacturing, processing, mining, developing, and making of a thing into a new article with a distinct character in use through the application of input, within the state or a state bordering Ohio, of Buy Ohio Products, labor, skill, or other Goods. "Produced" does not include the mere assembling or putting together of Products or materials from outside of Ohio or a state bordering Ohio. crass
- Y. Products. Materials, Goods, merchandise, goods, wares, and foodstuffs.
- Z. Proposals. All documents, whether attached or incorporated by reference, supplied by an Offeror in response to an RFP.
- AA. Purchase. To buy, rent, lease, lease purchase, or otherwise acquire Goods or Services. Purchase also includes all functions that pertain to obtaining Goods or Services, including description of requirements, selection and solicitation of sources, preparation and award of contracts, all phases of contract administration, and receipt and acceptance of the Goods and Services and payment for them.
- BB. Request for Proposals (RFP). All documents, whether attached or incorporated by reference, utilized for soliciting competitive sealed Proposals from Offerors.
- CC. Responsible. Bidders shall be considered Responsible based on their experience, financial condition, conduct and performance on previous contracts, facilities, management skills, and ability to execute the contract properly.
- DD. Responsive. Bids shall be considered Responsive if the Bidder's proposal responds to Bid specifications in all material respects and contains no irregularities or deviations from the specifications that would affect the amount of the Bid or otherwise give the Bidder a competitive advantage.
- EE. Services. The furnishing of labor, time, or effort by a person, not involving the delivery of a specific end Product other than a report which, if provided, is merely incidental to the required performance. Services does not include services furnished pursuant to employment agreements or collective bargaining agreements.
- FF. Significant Ohio Economic Presence: Business organizations that: (1) pay required taxes to the State of Ohio or applicable Border State; (2) are registered and licensed to do business in the State by the Secretary of State's Office or as required by applicable Border State; and (3) have ten or more employees based in Ohio or the applicable Border State, or 75% percent or more of their employees based in Ohio or the applicable Border State.
- GG. Single-source Procurement. A procurement from one selected Supplier, even though there are other Suppliers in the market that are capable of providing the same or equivalent Goods or Services.
- HH. Sole-source Procurement. A procurement from one selected Supplier because there are no other Suppliers in the market that are capable of providing the same or equivalent Goods or Services.

State Agencies shall maintain documentation justifying their decision to make a Sole-source Procurement (e.g., the Supply or Service is unique A sole-source Procurement must b that can be substantiated because a requirement involves a Supply or Service provided by only one supplier or contractor having exclusive rights (e.g., rights to data, patent or copyrights, proprietary interests, intellectual property) to provide the Supply or Service. A Sole-source Procurement differs from a Single-source procurement because the Supply or Service is unique.

- II. State Agencies. Every organized body, office, or agency established by the laws of the State for the exercise of any function of State government. It does not include elected state officers, the general assembly or any legislative agency, a court or any judicial agency, or a state institution of higher education.
- JJ. State Contract. A contract established by DAS through Competitive Selection or made available in conjunction with authority granted to DAS by a Waiver of Competitive Selection from the Controlling Board.
- KK. State Term Schedule (STS). Contracts negotiated directly with a manufacturer or Service provider who must agree to terms and conditions prepared by DAS. Pricing is either based upon General Services Administration pricing schedules or a manufacturer's most favored customer pricing schedule for a similarly situated customer. The manufacturer or service provider may name any number of authorized distributors who will provide the Goods or Services to the State Agencies on their behalf.
- LL. Suppliers. A business or organization that is fully registered to do business with the State.
- MM. Supplies. All property, including, but not limited to equipment, materials, and other tangible assets, but excluding real property or an interest in real property.
- NN. Veteran-Friendly Business Enterprise (VBE). A sole proprietorship, association, partnership, corporation, limited liability company, or joint venture that meets veteran employment standards established by the Directors of the Ohio Department of Development and the Ohio Department of Transportation.
- OO. Waiver. An exemption that permits a State Agency to not Purchase from either a requisite procurement program or an established mandatory State Contract.
- PP. Women-owned Business Enterprise (WBE). A business owned and controlled by women who are United States citizens and are residents of either Ohio or a Border State. Additionally, the business must have been in business for at least one year prior to applying and be at least 51% women owned.

V. Authority

ORC Sections 125.09, 125.18, 125.25
OAC Sections 123:5-1-01-123:5-1-17, 123:6-1-09

VI. Resources

Document Name	Location
Current non-IT blanket Release and Permits	https://procure.ohio.gov/PDF/FY22%20and%20FY23%20Blanket%20Release Permit.pdf
Controlling Board Manual	https://obm.ohio.gov/areas-of-interest/controlling-

	board/resources/controlling-board-manual
State Accounting Fiscal Essentials (SAFE) Policy Manual	finsource.ohio.gov/SAFEManual/index.htm#welcome to the safe_manual.htm.
Information about the MBE, EDGE, WBE, and VBE programs	https://development.ohio.gov/business/minority-business

VII. Inquiries

Direct inquiries about this policy to:

Justin Lovett
Chief Procurement Officer/Deputy Chief Counsel
Office of Procurement Services
General Services Division
Ohio Department of Administrative Services
4200 Surface Road, Columbus, Ohio 43228

614-300-9220 | Justin.Lovett@das.ohio.gov

State of Ohio Administrative Policies may be found online at <https://das.ohio.gov/home/policy-finder/filter-policy-finder>.

VIII. Revision History

Date	Description of Change
09/01/2008	Original policy.
02/01/2019	Reformatted, revised and republished.
01/17/2023	Revised and republished to incorporate revised statutes, rules, and DAS Statewide Administrative Policies (i.e., HR-50); OhioBuys changes; requirements for solicitations valued at \$5,000 or less and more than \$5,000; and glossary definitions. The Procurement Process Decision workflow was also added.
10/12/2023	Revised and republished using the updated DAS Statewide Policy Template. Additionally, the Procurement Decision Process workflow has been revised, House Bill (HB) 33 changes have been incorporated, STS and MMA solicitation requirements have been updated, definitions have been added for “Buy Ohio Supplier,” “Electronic Procurement,” and “Produced,” and the definition of “Border State,” “Competitive Manner,” “Competitive Selection,” “Direct Purchase Authority,” and “Supplies” have been revised.
01/30/2024	The Procurement Decision Process workflow has been revised, policies have been added regarding amendments to State Agency contracts and for purchase order change requests, references to “Supplies and Services” have been revised to “Goods and Services,” a definition for “Goods” has been added to the Glossary, outdated STS quoting requirements have been deleted.

IX. Appendix

A. Procurement Decision Process

