



# Statewide Policy

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## State of Ohio Administrative Policy

### Purchasing Procedures

No:

Policy Name  
**PM-01**

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Issued By:

Kathleen C. Madden, Director

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#### 1.0 Purpose

The purpose of this policy is to provide general purchasing guidance to assist State agencies, boards, and commissions (“**State agencies**”) superintended by the Department of Administrative Services (DAS) with exercising appropriate purchasing authority.

This policy supersedes any previously issued directive or policy and will remain in effect until canceled or superseded.

A glossary of terms found in this policy is in Appendix A - Definitions. The first occurrence of a defined term is in ***bold italics***.

#### 2.0 Policy

It is the State of Ohio’s policy to conduct all procurements in a fair, open, and transparent manner. To comply with statutes, rules, policies, and procedures governing procurements, state agencies shall adhere to the requirements described in this section.

##### 2.1 Use of OhioBuys

State agencies are required to adopt and use the State of Ohio’s procurement solution, OhioBuys.

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

- Creating, submitting, and approving purchase requisition
- Managing purchase orders
- Making purchases with a State payment card (Pcard), whenever practical
- Managing order receipts and returns
- Creating, managing, and awarding solicitations (including Quick Quotes)
- Creating and managing contracts
- Managing suppliers (specifically, using the Exceptions Module to track supplier performance)

State agencies that have not yet been fully on-boarded to OhioBuys shall utilize 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 products, supplies, and/or services with an estimated total value of more than \$25,000.

2.2 State agencies are required to follow a decision-making process when conducting procurements. This process is described in sections 2.3 – 2.8 and illustrated in Appendix B – Procurement Decision Process.

2.3 **Requisite Procurement Programs**

[R.C. 125.035](#), [R.C. 125.05](#), and Ohio Administrative Code [\(OAC\) 123:5-1-17](#) require State agencies to ***purchase*** from requisite procurement programs prior to making purchases from another source.

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 as discussed in section 2.5 of this policy.

2.3.1 State agencies are required to determine if the products, supplies, and/or services are available from any of the following requisite procurement programs, in the order they are listed:

- ***Ohio Penal Industries (OPI)*** within the Department of Rehabilitation and Correction (DRC) as prescribed in [R.C. 5147.07](#).
- ***Community Rehabilitation Programs (CRP)*** administered by DAS under [R.C. 125.60](#) to [125.6012](#).
- ***Business Enterprise Program (BEP)*** at the Opportunities for Ohioans with Disabilities agency as prescribed in [R.C. 3304.28 – 3304.33](#).

- **Office of Information Technology (OIT)** at DAS as established in [R.C. 125.18](#).
- **Office of State Printing and Mail Services** at DAS as prescribed in [R.C. Chapter 125](#).
- **Ohio Pharmacy Services Center (OPSC)** at the Department of Mental Health and Addiction Services as prescribed in [R.C. 5119.44](#).
- **Ohio Facilities Construction Commission (OFCC)** established in [R.C. 123.20](#).

Projects involving construction, improvements, and alterations to public works estimated to cost \$250,000 or more, or projects involving professional design services as defined in [R.C. 153.65](#) estimated to cost more than \$50,000, must be reviewed by OFCC to determine whether [R.C. Chapter 153](#) applies to the purchase, requiring OFCC to administer the project. OFCC may authorize a State agency to locally administer a project with a total estimated project cost of less than \$3 million at the request of the agency. The project will not be eligible for **Minority Business Enterprise (MBE)** set aside; however, the **Encouraging Diversity, Growth, and Equity (EDGE)** program applies.

If OFCC determines that a project with a total estimated project cost of \$250,000 or more is not subject to [R.C. Chapter 153](#), the project must follow [R.C. 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”.)

- 2.3.2 If a requisite procurement program can fulfill a State agency’s procurement need, the agency is required to make the purchase from that program. However, if the requisite procurement programs cannot fulfill the procurement need, the agency can purchase from a non-requisite source upon receipt of a waiver granted by the requisite procurement program.
- 2.3.3 State agencies not yet fully utilizing OhioBuys must work directly with the applicable requisite program to procure products, supplies, and/or services. 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 needed products, supplies, and/or services are:
- Available on **State Contract** as described in section 2.4 of this policy; or
  - Covered by a **non-IT blanket release and permit**, which serves as a **non-IT release and permit** for all purchases of certain types of general products, supplies, and/or services that are categorized by Office of Budget and Management (OBM) expense account code.

2.3.4 For agencies using OhioBuys, all requisitions are systematically evaluated to determine if the product, supply, and/or service is available from one or more of the requisite programs. If so, regardless of an item's value, OhioBuys routes the requisition for review by the requisite programs offering the products, supplies, and/or services.

2.4 **State Contracts:** Prior to making a purchase, soliciting quotes, seeking Controlling Board approval, or working with DAS to establish a contract, State agencies shall check with DAS to determine if a **State Contract** already exists for the products, supplies, and/or services being sought. (Agencies can check with DAS by searching **Contracts > Browse Contracts** or **Shop > Browse Items** in OhioBuys or contacting the **Office of Procurement Services (OPS)** via email or phone.) Purchases made from and referencing a State Contract as the purchase authority are not counted against a State agency's cumulative annual Controlling Board threshold.

2.4.1 **Mandatory Contracts:** In some cases, a State Contract may be deemed as mandatory by DAS, meaning State agencies must use those contracts to procure the products, supplies, and/or services available on those contracts. State agencies should refer to the contract language or consult OPS to determine which contracts are mandatory.

If a contract supplier is unable to fulfill the needs of the State agency, DAS may grant a **waiver** to the agency to purchase the needed products, supplies, and/or services from another source. The State agency must not proceed with the purchase from another source until DAS has approved the waiver.

2.4.2 **Optional Contracts:** In addition to mandatory contracts, DAS also establishes State Contracts agencies may choose to use.

2.4.3 **Competitive Selection Two-Phase Contracts:** DAS may award contracts to more than one supplier for the same products, supplies, and/or services and they may be in the same geographic region. Before an order can be placed referencing these contracts, a secondary solicitation must be completed. There are two types of these contracts: Competitive Selection Two-Phase Quote and Competitive Selection Two-Phase Pre-Qualification.

2.4.3.1 **Competitive Selection Two-Phase Quote:** When purchasing from these contracts, the agency should solicit a quote in accordance with section 2.8.1 of this policy.

2.4.3.2 **Competitive Selection Two-Phase Pre-Qualification:** When requesting services from these contracts, the agency must submit an RTP to DAS to conduct a secondary solicitation.

2.4.4 **State Term Schedule Contracts**

2.4.4.1 **Quoting Requirements:** For purchases referencing State Term Schedule contracts (STS) as the purchase authority, State agencies shall obtain a minimum of three quotes or **proposals**. Agencies using OhioBuys can use

the “quick quote” functionality to obtain quotes. A “no response” or “no bid” does not constitute receipt of a valid quote or proposal. State agencies are encouraged to exhaust all STS supplier quote options before seeking quotes from other suppliers. However, the suppliers providing quotes or proposals do not have to be listed on an STS; that is, State agencies may fulfill this requirement by obtaining quotes or proposals from non-STS suppliers in addition to those who hold an STS.

If the supplier selected does not hold an STS, then the State agency shall not reference the STS as the purchase authority. The agency shall make the purchase directly, which and shall be subject to the Controlling Board requirements referenced in section 2.6 of this policy.

When the State agency does not award to the supplier offering the lowest price, the agency shall provide written justification for that selection. Written justification should include a description of 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., best-value).

If a State agency obtains fewer than three quotes or proposals, the agency must submit a request to the Controlling Board. State agencies shall not issue purchase orders prior to receiving Controlling Board approval. Purchases made with a State Payment Card (Pcard) or debit voucher transaction are not subject to this requirement. State agencies shall maintain written justification documenting:

- The efforts made to find other responsive STS contractors and a determination that none were found;
- 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.); and
- Any other facts supporting the selection process.

2.4.4.2 **Continuations of Previously Procured Products, Supplies, and/or Services:** If a State agency previously obtained three or more quotes or proposals when the original procurement occurred, then it is not necessary for the agency to repeat the process of obtaining 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 obtained Controlling Board approval for a “waiver of competitive selection,” no additional approval or solicitation is necessary.

A purchase will be considered a continuation of a previously procured supply or service if:

- There was an original stated term, and it is within the original stated term of the purchase (including renewals); or
- It is reasonably related to the original project, scope of work, task, job, or effort.

Purchases made with a Pcard are not subject to this requirement.

2.4.4.3 **Direct Purchases:** In accordance with section 2.5 of this policy, a State agency may also use direct purchase authority to make purchases from suppliers listed on an STS without referencing the STS as the purchase authority. Such purchases will count towards the State agency's Controlling Board threshold explained in section 2.6 of this policy.

2.4.5 **State Contract Pricing:** If prices are listed on State Contracts such as STS, **Master Maintenance Agreements (MMA)**, or competitive selection two-phase contracts, they may be considered as not-to-exceed prices. State agencies are encouraged to solicit quotes and negotiate pricing downward. If a State agency is not receiving favorable pricing, the State agency should contact DAS to seek assistance.

2.5 **Direct Purchase Thresholds:** Once a State agency has determined neither a requisite procurement program nor a State Contract can fulfill the procurement need, the agency may use its **direct purchase authority (DPA)** if the procurement will not exceed the thresholds explained in this section and section 2.6 of this policy. State agencies shall not split purchases of like items to avoid the threshold cited in [R.C. 125.05](#). When a purchase is for less than the thresholds listed in section 2.6 of this policy, State agencies may use their direct purchase authority and shall comply with all other provisions of this policy.

Regardless of what is being purchased, if a 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.

DAS awards contracts for non-IT and IT products, supplies, and/or services 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 \$50,000 threshold and DAS determines it is not possible or advantageous to make the purchase through DAS, the State agency will be granted a **release and permit** and delegated authority to make the purchase.

2.5.1 **Non-IT Products, Supplies, and/or Services:** State agencies shall submit an RTP to DAS for purchases of non-IT products, supplies, and/or services of \$50,000 or more.

OPS issues a biennial non-IT blanket release and permit, which serves as a release and permit for all purchases of certain types of products, supplies, and/or services, categorized by OBM expense account code.

State agencies making purchases of products, supplies, and/or services identified in an individual non-IT release and permit, or non-IT blanket release and permit,

are subject to the thresholds identified in section 2.6 of this policy. Agencies shall list either the individual non-IT release and permit or non-IT blanket release and permit numbers provided by OPS on the Controlling Board request (if applicable) and the requisition.

A list of current non-IT blanket release and permits can be found at [https://procure.ohio.gov/PDF/FY22%20and%20FY23%20Blanket%20Release\\_Permits.pdf](https://procure.ohio.gov/PDF/FY22%20and%20FY23%20Blanket%20Release_Permits.pdf).

- 2.5.2 **IT Products, Supplies, and/or Services:** Pursuant to [R.C. 125.18](#), purchases of IT products, supplies, and/or services by State agencies will be reviewed by OIT prior to receiving a release and permit. Agencies may submit an RTP to obtain a determination on the procurement approach for non-contract purchases greater than \$50,000.

For purchases of IT products, supplies, and/or services less than \$25,000 in OhioBuys, OIT will complete their review prior to the agency's **blanket IT release and permit** being applied to the requisition. For State agencies using the legacy IT Release and Permit System, OPS will issue a blanket IT release and permit for each 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:

- Deliverables-based IT Services (DBITS) projects.
- IT staff augmentation services.<sup>1</sup>

IT equipment and licensing from enterprise standards-based contracts (e.g., ERP, IT service management, document management, desktops, laptops, etc.), which includes the OIT Service Catalog found at <https://stateofohio.service-now.com>.

Telecommunications supplies or services with a per unit cost of \$1,000 or more.

- 3rd party hosting or cloud-based solutions (XaaS).
- Licenses associated with an enterprise consolidation initiative (e.g., Microsoft licenses).
- Infrastructure equipment (e.g., storage, servers, VoIP, routers, switches, etc.).
- Any other products, supplies, and/or services governed by an enterprise standard, policy, or initiative established by DAS OIT.

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<sup>1</sup> Agencies should also consult the Department of Administrative Services Administrative Policy "Guidelines for Contracted Resources" (HR-50).

Requests for purchases of telecommunication products, supplies, and/or services with a per unit cost of less than \$1,000 must be submitted through ServiceNow (<https://stateofohio.service-now.com>).

State agencies that have not yet been on-boarded to OhioBuys shall submit a request through the legacy IT Release and Permit System at <https://itrelease.ohio.gov/Default.aspx> for purchases of IT products, supplies, and/or services of \$25,000 or more. For agencies using OhioBuys, the system evaluates if any item being purchased requires an IT Release and Permit, based on its commodity code, account code, and/or the contract referenced. If so, the requisition is routed through the applicable system workflow and an IT release and permit is assigned upon the completion/approval of those steps.

State agencies using OhioBuys to purchase from **pre-governed contracts** will bypass the IT Release and Permit workflow and will automatically receive a release and permit. In addition, agencies are not required to obtain quotes if there is established contract pricing via a catalog unless it is an STS. However, if a pre-governed contract does not have a catalog, a quote from the supplier must be provided. In these cases, agencies shall use the OhioBuys solicitation module to obtain the quote.

- 2.6 **Controlling Board Threshold:** If a purchase of products, supplies, and/or services is not made through DAS and will cause the State agency's cumulative annual spend with one supplier to be \$50,000 or more, the agency must seek approval from the Controlling Board prior to making the purchase, unless the purchase is otherwise exempt from Controlling Board approval. Cumulative annual spend includes the total of all disbursements and outstanding encumbrances with the supplier in a fiscal year.

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 the funding source requires such approval (e.g., release of capital funds) or Controlling Board approval is otherwise required pursuant to law.

For more information about when Controlling Board approval is required, refer to the Controlling Board Manual, available at <https://ecb.ohio.gov/Public/Manual.aspx>.

- 2.7 **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. State agencies shall use OhioBuys to request DAS review and approval for these purchases. Review and approval will be completed in OhioBuys.

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.

- Information Technology – refer to section 2.5.2 of this policy or contact: [EITC\\_Policy@das.ohio.gov](mailto:EITC_Policy@das.ohio.gov).



- Printed Supplies and Multi-Functional Print Devices (e.g., copiers, printers) – DAS Office of State Printing and Mail Services: [James.Hoover@das.ohio.gov](mailto:James.Hoover@das.ohio.gov).
- Vehicles – DAS Office of Fleet Management: [DASFLEET@das.ohio.gov](mailto:DASFLEET@das.ohio.gov).

2.8 **Agency Solicitations and Awards**: When procuring needed products, supplies and/or services from a source other than a requisite procurement program or a State Contract, State agencies shall do so in a **competitive manner** when multiple suppliers exist in the market and the need is not specialized or unique (see section 2.8.4). State agencies should also establish processes which 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. The guidelines below are intended to ensure State agencies obtain the best value and encourage competition.

Additionally, State agencies should exercise due diligence when purchasing products, supplies, and/or services to ensure public funds are used appropriately. If State agencies find themselves frequently using direct purchase or Controlling Board authorities for routine, repeated purchases, the agency shall contact DAS, share spend data, and communicate the need to potentially establish a State Contract.

2.8.1 For purchases of common products, supplies, and/or services with a value of \$5,000 or less made using direct purchase authority or an optional non-STS State Contract, State agencies should solicit from multiple (i.e., two or more) suppliers. State agencies are encouraged to adopt their own written, PM-01 compliant policies and procedures for authorizing purchases of products, supplies and services costing \$5,000 or less when it is not cost-effective or practical to solicit multiple quotes.

For purchases of common products, supplies, and/or services made with direct purchase authority or an optional non-STS State Contract with a value of more than \$5,000, State agencies shall solicit from multiple (i.e., two or more) suppliers, unless the agency is making a purchase pursuant to section 2.8.4 of this policy.

2.8.2 State agencies are encouraged to award to the lowest **responsive** and **responsible bidder**, as defined in [R.C. 9.312](#).

However, when a State agency determines it is not possible or not advantageous to the State to award to the lowest responsive and responsible bidder, the agency may select a supplier using a request for proposal or similar process and award to the **offeror** whose proposal is determined to be the most advantageous to the State. In addition to the offered solution, agencies should consider multiple other items when evaluating suppliers' proposals, including, but not limited to, a supplier's past corporate experience, relevant project, and technical experience, performance, quality control, and pricing. For more guidance on creating written contracts, see OBM's State Accounting Fiscal Essentials (SAFE) Policy Manual at: [ohio.gov/SAFEManual/index.htm#welcome\\_to\\_the\\_safe\\_manual.htm](http://ohio.gov/SAFEManual/index.htm#welcome_to_the_safe_manual.htm).

2.8.3 State agencies are required to maintain records describing the competitive manner and the evaluation that was conducted. Usage of OhioBuys to conduct solicitations

and record the award justification enable agencies to meet this requirement. Such documentation shall contain the basis on which the award was made.

2.8.4 If a State agency determines it is not possible to fulfill a procurement need via a competitive manner, the agency may be able to conduct or request a **sole-source** or a **single-source procurement**. The State agency must maintain records to include written justification for the sole- or single-source procurement and document:

- The efforts made to find other responsive suppliers and a determination that none were found (suppliers are required to document via letter they are a sole-source provider);
- How a determination was made that the anticipated cost would be fair and reasonable;
- The agency's history with the supplier; and,
- Any other facts supporting the selection process.

2.8.4.1 If a sole- or single-source procurement causes a State agency to exceed purchasing thresholds:

- For non-IT procurements, all agencies submit an RTP through OhioBuys and clearly indicate it as sole- or single-source.
- For IT procurements, agencies using OhioBuys submit an RTP through OhioBuys, while other agencies use the IT Release and Permit system (<https://itrelease.ohio.gov/>).

2.8.4.2 Sole- and single-source procurements are subject to the thresholds and requirements of section 2.6 of this policy.

2.9 **MBE Set-Aside Purchases:** [R.C. 125.081](#) requires State agencies to set-aside 15-percent of **eligible purchases** made by competitive selection during a fiscal year for competition only by minority business enterprises certified by the Director of the Ohio Department of Development (Development) in accordance with [R.C. 122.921](#).

When conducting MBE set-aside solicitations, State agencies shall document the sheltered 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 agencies to meet this requirement by storing solicitation data.)

State agencies shall monitor their set-aside expenditures quarterly and, as necessary, adjust their projection plans submitted to the Department of Development's Minority Business Development Division (MBDD) to meet the 15-percent 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-percent requirement.

It is important for State agencies to evaluate the impact of their set-aside selections. For each contract to be an MBE set-aside, agencies should consider the following:

- 2.9.1 An entire category of products, supplies, and/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 products, supplies, and/or services and then alternate setting them aside.
- 2.9.2 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 in order to provide multiple suppliers with an opportunity to compete for opportunities to do business with the State.
- 2.9.3 Contracts or purchases may be able to be split into smaller contracts or multiple contracts to allow small businesses to compete. This section is not intended to supersede section 2.5 of this policy, which prohibits State agencies from splitting purchases to avoid the thresholds explained in that section.
- 2.9.4 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-percent requirement, meaning unplanned procurements or procurements planned for the open market may need to be set-aside.
- 2.9.5 All contracts or purchases must be procured using a United Nations Standard Products and Services commodity code (UNSPSC). 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.

Additional information about MBE can be found at <https://development.ohio.gov/business/minority-business/certifications/minority-business-enterprise-program>.

- 2.10 **EDGE Purchases:** [R.C. 122.922](#) requires State agencies to participate in EDGE and to award a percent (as annually determined by the Director of Development) of all contracts/purchases for information technology products, supplies, and/or services; construction, architecture and engineering; and professional services to EDGE participants.

State agencies are required to:

- 2.10.1 Take appropriate steps to foster, support, and encourage the participation of underutilized businesses and encourage such businesses to compete for construction contracts and the procurement of products, supplies, and/or services by including a participation goal for construction contracts and requests for proposals when subcontractors are used.

- 2.10.2 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 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 awarded to and products, supplies, and/or services purchased from EDGE business enterprises to meet the agency's overall EDGE goal, in accordance with [OAC 123:2-14-09](#).
- 2.10.3 Examine internal procurement policies, procedures, and practices and remove those elements adversely impacting economically and socially disadvantaged businesses, as described in [R.C. 122.922](#).
- 2.10.4 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.
- 2.10.5 Set a goal, which meets or exceeds the goal annually set by the Director of Development, of eligible direct expenditures in the areas of information technology products, supplies, and/or services; construction, architecture and engineering; and professional services that are awarded to EDGE program participants.
- 2.10.6 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.)

Additional information about EDGE can be found at <https://development.ohio.gov/business/minority-business/certifications/encouraging-diversity-growth-and-equity-program>.

- 2.11 **Women-Owned Business Enterprise (WBE) Purchases:** [R.C. 122.924](#) authorizes the WBE program, which assists women-owned businesses in obtaining contracts for goods and services, construction, architecture, engineering, information technology and professional services. The WBE program does not apply a procurement goal or set-aside target for State of Ohio contracts. This program was developed because it recognized the need to encourage, nurture and support the growth of women businesses to foster their development and increase the number of qualified competitors in the marketplace. The regulations governing the program are found in [OAC 123:2-14-02](#).

Additional information about WBE can be found at <https://development.ohio.gov/business/minority-business/certifications/women-business-enterprise-program>.

- 2.12 **Veteran-Friendly Business Enterprise Purchases:** [R.C. 122.925](#) authorizes the **Veteran-Friendly Business Enterprise (VBE)** program, which assists eligible veteran supporting businesses to become certified and compete for contracts for products, supplies, and/or services, including construction services. VBE does not apply a procurement goal or set-aside target for State Contracts. However, it does establish a procurement preference, which is described in section 2.13.

Additional information about VBE can be found at <https://development.ohio.gov/business/minority-business/certifications/veteran-friendly-business-enterprise-procurement-program>.

- 2.13 **Preferences:** Prior to July 4, 2022, application of the Buy American, Buy Ohio, and VBE preferences were governed by OAC [123:5-1-06](#) and [123:5-1-16](#). On July 4, 2022, a revision to OAC [123:5-1-06](#) became effective, consolidating the previous rules.

For solicitations issued prior to July 4, 2022, in which preferences are being considered, the preferences shall be applied in accordance with the previous versions of [123:5-1-06](#) and [123:5-1-16](#). However, for solicitations issued on or after July 4, 2022, preferences will be applied in the following manner, prior to contract award:

- 2.13.1 All **bids** and offers will be considered for preferences, with bidders and offerors being able to qualify for all three preferences (i.e., Buy American, Buy Ohio, and VBE).
- 2.13.2 Five-percent (5%) will be assigned to the first preference and 2% each for the second and third preferences. All the percentages will be summed and applied as a total percentage for purposes of evaluating a bid or offer, up to a maximum of 9%. For 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.
- 2.13.3 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.
- 2.13.4 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.
- 2.13.5 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 a border state regardless of the origin of any product offered.
- 2.13.6 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 123:5-1-07](#) and [OAC 123:5-1-08](#).

State agencies shall apply preferences using above rules, as applicable, and pursuant to these statutes:

- [R.C. 122.925\(B\)](#), which requires State agencies to give preference to bidders and offerors certified by Development as a VBE.
- [R.C. 125.05\(E\)](#), when purchasing personal protective equipment from source other than a requisite procurement program or a State Contract. (See section 2.20 for additional information concerning PPE purchases.)

For purchases not made through DAS, State agencies should apply the bid preferences explained in [R.C. 125.09\(C\)\(1\) – \(2\)](#), [R.C. 125.11\(B\)](#), and [OAC 123:5-1-06, 07, 09, and 14](#). State agencies should use criteria and procedures prescribed by DAS to give preference to supplies produced or manufactured in the United States and/or in Ohio or border state. 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.

- 2.14 **Methods of Procurement and Payment:** Unless otherwise noted, the requirements contained in this policy shall be followed regardless of the payment method.

If purchasing from a State Contract, State agencies shall check the contract prior to making the purchase to identify acceptable forms of payment. When purchasing with a Pcard, agencies shall reference the Pcard Program information located at: <https://obm.ohio.gov/agency-resources>.

- 2.15 **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 [R.C. 3.12](#) or [R.C. 127.16](#).

- 2.16 **Agency Purchasing Procedures:** In accordance with [R.C. 125.05\(A\)](#), State agencies shall adopt written procedures consistent with this policy to use when making direct purchases costing less than \$50,000. These procedures shall also be applied when the agency is making purchases through DAS, including purchases from State Contracts.

For purchases costing \$50,000 or more, and in accordance with [OAC 123:5-1-03\(B\)](#), State agencies must make the purchase in a competitive manner unless otherwise exempt from doing so (i.e., when making a sole or a single source procurement). State agencies shall adopt written procedures consistent with this policy to use when making purchases costing more than \$50,000.

- 2.17 **Debarments:** Respectively, [R.C. 125.25](#), [153.02](#), and [5513.06](#) give the authority to debar suppliers 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.

- 2.17.1 In accordance with [R.C. 9.242\(B\)](#) a debarred supplier cannot **participate** in any contracts issued by any State agency until the supplier's debarment period



expires. Additionally, [R.C. 9.242\(C\)](#) requires State agencies to exclude debarred vendors from participating in any other contracts during the debarment period.

- 2.17.2 When conducting procurements, State agencies are required to use the Statewide Debarment List available at [https://procure.ohio.gov/bidders-and-suppliers/resources/08\\_debarment-csv-list](https://procure.ohio.gov/bidders-and-suppliers/resources/08_debarment-csv-list) or reference a supplier's profile in OhioBuys to determine if the 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.

In addition, the Ohio Secretary of State's office maintains a list of businesses that have been debarred from conducting business in the State. The links to this list and to the federal System for Award Management (SAM) are also available at [https://procure.ohio.gov/about/04\\_policies/05\\_debarment-policy](https://procure.ohio.gov/about/04_policies/05_debarment-policy).

State agencies are prohibited from awarding a contract for products, supplies and/or services, funded in whole or in part with federal and/or state funds, to a person who appears on any debarment list.

For additional information on debarments, refer to the Vendor Debarment Guidance memo located at: [https://procure.ohio.gov/about/04\\_policies/05\\_debarment-policy](https://procure.ohio.gov/about/04_policies/05_debarment-policy) and the State of Ohio Procurement Manual at: [https://procure.ohio.gov/about/04\\_policies/03\\_state+procurement+manual](https://procure.ohio.gov/about/04_policies/03_state+procurement+manual).

- 2.18 **Findings for Recovery:** Pursuant to [R.C. 9.24](#), no State agency shall award a contract for goods, services, or construction, paid for in whole or in part with state funds, to a person against whom a finding for recovery has been issued by the Auditor of State, if the finding for recovery is unresolved.

When conducting procurements, State agencies are required to search the Auditor of State's unresolved findings for recovery database available at [Findings for Recovery \(ohioauditor.gov\)](#). Anyone who has unresolved findings for recovery is prohibited from receiving public contracts.

- 2.19 **Affirmative Action Program Verification:** State agencies are required to verify that an affirmative action plan is in place before making a contract award. Per the OBM [Written Contracts Policy](#), all suppliers are required to complete an affirmative action plan, or accept the State's plan and affirm that they are in compliance with the requirements of [R.C. 125.111](#), prior to being awarded a contract.

- 2.20 **Purchasing Personal Protective Equipment:** Purchases of *personal protective equipment (PPE)* must adhere to the requirements of [R.C. 125.05\(E\)](#), which are:

- 2.20.1 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.

2.20.2 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.

2.20.3 If a State Contract is not or will not be available, State agencies are required to apply the Buy American and Buy Ohio preferences mandated by [R.C. 125.09](#) and [OAC 123:5-1-06](#). Additionally, the direct purchase and Controlling Board thresholds described in sections 2.5 and 2.6 of this policy continue to apply.

2.21 **Invalid Terms and Conditions:** For all contracts State agencies enter into on or after September 30, 2021, the agencies shall assure that the invalid terms and conditions identified in [R.C. 9.27](#) have not been included.

### 3.0 Authority

R.C. 9.27; R.C. 9.242; R.C. 9.312; R.C. 125.01 – 125.11; R.C. 125.18; R.C. 125.25; R.C. 125.31 – 125.45; R.C. 125.60 – 125.6012; R.C. 125.76; R.C. 125.832; R.C. 127.16

OAC 123:5-1-01 – 123:5-1-17; OAC 123:6-1-09

### 4.0 Revision History

Date	Description of Change
09/01/2008	Original policy, published as GS-D-12.
02/01/2019	Reformatted, revised and republished.
01/17/2023	Revised and republished with these updates: <ul style="list-style-type: none"> <li>• Additions and revisions have been incorporated throughout to accommodate OhioBuys changes.</li> <li>• Section 2.1 was added to establish adoption and use of OhioBuys by State agencies.</li> <li>• Section 2.2 was added to establish the requirement that State agencies follow a DAS-prescribed procurement decision making process.</li> <li>• Section 2.3.1 was revised to reflect updated amounts for OFCC reviewing applicability of R.C. 153 and determining project administration.</li> <li>• Section 2.4 was updated to clarify how agencies can check with DAS to determine if a State Contract exists.</li> <li>• Section 2.5 was revised to include a reference to R.C. 125.05.</li> <li>• Section 2.5.2 was revised to include a footnote referencing DAS Administrative Policy “Guidelines for Contracted Resources” (HR-50).</li> <li>• Section 2.8.1 has been updated with revised solicitation requirements for purchasing common products, supplies, and/or services valued at either \$5,000 or less or valued at more than \$5,000.</li> </ul>



	<ul style="list-style-type: none"> <li>• Sections 2.9 – 2.12 was revised to incorporate statutory changes to MBE, EDGE, WBE, and VBE resulting from HB 110.</li> <li>• Section 2.13 was updated to incorporate changes to procurement preferences resulting from HB 110 and updates to preference rules.</li> <li>• Sections 2.17 – 2.18 have been updated to include changes to debarments and findings for recovery resulting from HB 166.</li> <li>• Section 2.19 was added to include requirements for affirmative action plan verification.</li> <li>• Section 2.20 was added to address PPE purchases by State agencies, which was included in HB 110.</li> <li>• Section 2.21 was added to include invalid contract terms and conditions, which were specified in HB 110.</li> <li>• Definitions for “Border State,” “Buy Ohio Supplier,” “Encouraging Diversity, Growth, and Equity,” “Invitation to Bid,” “Minority Business Enterprise,” “Personal Protective Equipment,” “Pre-Governed Contracts,” “Request for Proposal,” and “Significant Ohio Economic Presence” have been added to the Glossary.</li> <li>• Definitions for “Community Rehabilitation Program,” “Controlling Board,” “IT Blanket Release and Permit,” “Non-IT Blanket Release and Permit,” “Offeror,” “Ohio Penal Industries,” “Ohio Pharmacy Services,” “State Contract,” “State Term Schedule,” “Veteran-Friendly Business Enterprise,” and “Women-owned Business Enterprise” have been revised.</li> <li>• Appendix B – Procurement Decision Process has been added.</li> </ul>
01/17/2024	Scheduled annual review date.

**5.0 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](mailto: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>.

**Appendix A - Definitions**

- a. Bidder. A person or firm that submits a bid response to an invitation to bid.

- b. Bids. Responses submitted by bidders in response to an invitation to bid.
- c. Border State. Any State that is contiguous to Ohio and that does not impose a restriction greater than Ohio imposes pursuant to R.C. 125.09 and 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 State of Indiana, Michigan, and New York as border states.
- d. Business Enterprise Program. A program through the Opportunities for Ohioans with Disabilities – Bureau of Services for the Visually Impaired (BSVI) that assists people who are blind or have a visual impairment by creating employment in food service areas. This provides Ohioans with opportunities to operate cafeterias, snack bars, convenience stores, and vending locations.
- e. Buy Ohio Supplier: A supplier submitting a bid or offer offering Buy Ohio products or demonstrating significant economic presence in Ohio or a border state.
- f. Community Rehabilitation Program. The Community Rehabilitation Program (CRP) consists of non-profit organizations employing people with work-limiting disabilities. CRP suppliers are State Contract holders offering quality, on-time products, supplies, and/or services at a fair market price while providing much-needed job opportunities.
- g. Competitive Manner. An open and fair process that promotes competition among prospective bidders or offerors. The process should be tailored to the products, supplies, and/or services to be acquired. Depending on the needs of the agency, the process may be an informal or formal solicitation with the goal of achieving the lowest price for the products or services to be acquired or the most advantageous contract for the State of Ohio. Agencies may utilize similar processes for competitive selection as defined in [R.C. 125.01](#).
- h. Competitive Selection. Means any of the following procedures for making purchases: (1) competitive sealed bidding under [R.C. 125.07](#); (2) competitive sealed proposals under [R.C. 125.071](#); and (3) reverse auctions under [R.C. 125.072](#).
- i. Controlling Board. The Controlling Board is a mechanism for handling necessary adjustments to the State's budget. [R.C. 127.12](#) establishes the Controlling Board as a body consisting of seven members: the Director of the Office of Budget and Management or an employee of the Office of Budget and Management designated by the Director, the Chair or Vice Chair of the Senate and House Finance Committees, a majority member appointed from both the Senate and the House, and a minority member appointed from both the Senate and the House.
- j. Direct Purchase Authority. The authority by which State agencies may purchase products, supplies, and/or services under their own authority without using a contract established by the Ohio Department of Administrative Services, though still using a competitive process and sound evaluation practices and procedures. This authority is granted to agencies by [R.C. 125.02](#).
- k. Eligible Purchases. Refers to those purchases which are analyzed to determine whether or not a State agency has met its 15-percent MBE set-aside requirement. Factors considered to determine whether or not a purchase is included in this calculation are the OBM expense account code referenced by the voucher as well as whether or not the supplier was a sole source.

- l. Encouraging Diversity, Growth, & Equity (EDGE). A business owned and controlled by a United States citizen who is a resident of Ohio and qualifies for EDGE certification 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 percent 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.
- m. Invitation to Bid (ITB). A procurement method used to solicit competitive sealed bid responses, where determining the lowest responsive and responsible bidder is the basis for award.
- n. IT Blanket Release and Permit. Each fiscal year, OPS issues IT blanket release and permits to each State agency to facilitate the purchase of IT products, supplies, and/or services under \$25,000 per transaction. IT supplies and services are identified by OBM's expense account codes. The OBM expense account code will indicate when an IT release and permit is required. OPS may issue guidance limiting the use of the blanket for certain supplies and services.
- o. IT Release and Permit. A required type of prior approval issued by OPS for the purchase of IT supplies, and services when it is not possible or advantageous to make the purchase through OPS. OPS issues a unique IT release and permit per purchase request by fiscal year, typically provided for transactions that are \$25,000 or more. IT products, supplies, and/or services 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. 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 percent minority owned.
- r. Non-IT Blanket Release and Permit. Each biennium, OPS issues non-IT blanket release and permits for all purchases of certain types of general supplies, and services, categorized by OBM expense account code, which authorizes State agencies to make such purchases without the involvement of OPS.
- s. Non-IT Release and Permit. A required type of prior approval issued by OPS allowing State agencies to make purchases of general products, supplies, and/or services exceeding the

agency's direct purchase authority. A non-IT release and permit is issued when it is not possible or advantageous 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 proposal.
- u. Office of Information Technology (OIT). The DAS Office of Information Technology delivers statewide information technology and telecommunication services to State government agencies, boards, and commissions as well as policy and standards development, lifecycle investment planning and privacy and security management.
- v. Office of Procurement Services (OPS). The DAS Office of Procurement Services is responsible for procurement of general and IT products, supplies, and/or services.
- w. Office of State Printing and Mail Services. The DAS Office of State Printing and Mail Services offers a full range of commercial procurement services with contract printers throughout the State, records and forms management, mail services, mainframe printing, fulfillment services and a network of copy centers.
- x. Ohio Facilities Construction Commission. The Ohio Facilities Construction Commission (OFCC) is responsible for guiding capital projects for State agencies, State-supported universities and community colleges, including Ohio's comprehensive public K-12 school construction and renovation program, and managing the grants process for cultural facilities and school security programs.
- y. Ohio Penal Industries. A division of the Department of Rehabilitation and Correction (DRC) that provides valuable work opportunities to inmates and produces quality, cost-efficient products and services. [R.C. 5147.07](#) requires that State agencies purchase through Ohio Penal Industries if it can meet the State agency need.
- z. Ohio Pharmacy Services (OPSC). The Ohio Department of Mental Health and Addiction Services' Ohio's Pharmacy Service Center provides prescription and over-the counter medical, personal care, and pharmaceutical products and supplies to government and non-government organizations eligible under [R.C. 5119.44](#). Additionally, OPSC provider services include: responding to drug information requests; providing requested medical journal articles; distributing newsletters addressing issues of interest to health care professionals; assisting in the development of drug utilization evaluation criteria, and providing in-service training on medication issues.
- aa. Participate. As defined in [R.C. 9.242\(A\)\(3\)](#), means to respond to any solicitation or procurement issued by a State agency or be the recipient of an award of a State Contract, or to provide any goods or services to any State agency.
- bb. Personal Protective Equipment (PPE). As defined in [R.C. 125.05\(E\)](#), personal protective equipment means equipment worn to minimize exposure to hazards that cause workplace injuries and illnesses.
- cc. Pre-Governed Contracts. Contracts for IT products, supplies, and/or services not requiring OIT review/approval for a requisition to complete the approval workflow process within OhioBuys.

- dd. Products. Materials, manufacturer's supplies, merchandise, goods, wares, and foodstuffs.
- ee. Proposals. All documents, whether attached or incorporated by reference, supplied by an offeror in response to a request for proposal.
- ff. Purchase. To buy, rent, lease, lease purchase, or otherwise acquire supplies or services. "Purchase" also includes all functions that pertain to the obtaining of supplies 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 supplies and services and payment for them.
- gg. Release and Permit (R&P). A DAS Release and Permit is issued by DAS to State agencies when purchasing limits exceed the agency's direct purchase authority and when it has been determined that the product or service cannot be procured by DAS through the competitive selection process. An OIT R&P is issued to State agencies when purchasing goods falling under defined IT commodity codes.
- hh. Request for Proposal (RFP). All documents, whether attached or incorporated by reference, utilized for soliciting proposals from offerors.
- ii. Responsible. Criteria that State agencies may be required to evaluate bidders by when awarding contracts. Factors that shall be considered in order to determine responsibility include the experience of the bidder, the bidder's financial condition, conduct and performance on previous contracts, facilities, management skills, and ability to execute the contract properly.
- jj. Responsive. Criteria that State agencies may be required to evaluate bidders by when awarding contracts. 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 which would affect the amount of the bid or otherwise give the bidder a competitive advantage.
- kk. 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.
- ll. Significant Ohio Economic Presence: Business organizations that (1) pay required taxes to the State of Ohio or applicable border state; and (2) are registered and licensed to do business in the State of Ohio with the Office of Secretary of State or as required by applicable border state; and (3) have ten or more employees based in Ohio or the applicable border state, or seventy-five percent or more of their employees based in Ohio or the applicable border state. This authority is granted by [R.C. 125.09](#) and defined in [OAC 123:5-1-01](#).
- mm. Single-Source Procurement. A procurement from one selected supplier, even though there are other suppliers that may provide similar supplies or services. A single-source procurement decision must be justified based on strategic factors, such as continuity of services, standardization, specialized capabilities, warranty, etc., even though other competitive sources may be available.

- nn. Sole-Source Procurement. A procurement from one selected supplier 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, or secret processes) to provide the supply or service. A sole-source procurement differs from a single-source procurement because the supply or service is unique.
- oo. 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.
- pp. State Contract. A contract established by DAS for the purchase of products, supplies, and/or services. The contracts are established through competitive selection or made available in conjunction with spending authority granted by a waiver of competitive selection from the Controlling Board for a variety of supplies and services. The contract types in the waiver include: STS contracts, master maintenance agreements, master license agreements, master service agreements and master cloud service agreements.
- qq. 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 federal contract 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, dealers or resellers who will provide the products, supplies, and/or services to the State agencies on the manufacturer's or service provider's behalf.
- rr. Supplies. All property, including, but not limited to, equipment, materials, other tangible assets, and insurance, but excluding real property or an interest in real property.
- ss. Veteran-Friendly Business Enterprise. A sole proprietorship, association, partnership, corporation, limited liability company, or joint venture that meets veteran employment standards established by the director of development and the director of transportation.
- tt. Waiver. An exemption that permits a State agency to not purchase, products, supplies, and/or services from a requisite procurement program or an established mandatory state contract.
- uu. Women-owned Business Enterprise. A business owned and controlled by a woman who is a United States citizen and is a resident of either Ohio or a reciprocal state. In addition, the business must have been in business for at least one year prior to applying and be at least 51 percent women owned.

**Appendix B – Procurement Decision Process**

