

Ohio and Local Government Contracting 101



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Create a Competitive Advantage = Lobbying + Project Funding

David J. Robinson, Founder

Columbus, Ohio • Washington, DC

614.738.2109

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Each Fiscal Year (July 1 to June 30), state agencies purchase a wide variety of supplies and services required for the daily operation of their facilities. Exactly what types of supplies and services the state buys will vary. Institutional agencies, for example, will purchase large amounts of food, medicine, clothing and medical services. Other agencies may concentrate their purchases on technology, office supplies and consulting services. Still others, like law enforcement agencies, will purchase vehicles, uniform clothing and related equipment. In total, these procurements amount to billions of dollars each fiscal year. This presents a significant business opportunity for any vendor, large or small, to sell their respective supplies and services to the agencies of the state of Ohio.

State Procurement: Supplies, Services & Technology

The Office of Procurement Services/State Purchasing is responsible for purchases of all other types of supplies and services. In 2007, it was estimated one third of the state's expenditures are made from contracts let by these two divisions.

State Procurement Printing, Construction & Architect & Engineering Services

In addition to procurements of supplies, services and technology, the Department of Administrative Services also purchases printed goods, services, construction and architectural and engineering services.

Ethics & the State of Ohio and Local Governments

As vendors become involved with selling to the State or local governments, it is important to understand the ethics requirements imposed on government officials. State employees are custodians of the public trust and are bound by these laws to conduct our daily activities in a professional and responsible manner with complete impartiality and preferential treatment toward none. Likewise, these laws also apply to companies who are interested in or are doing business with the State and local governments. The following guidelines have been established for employees of the Office of State Purchasing when conducting business with any vendor who currently is or is seeking to do business with the State:

- No employee shall solicit anything of value for personal use.
- No employee shall use his/her position to secure or promise anything of value.
- All employees shall avoid business lunches or activities where the intent is to discuss a related procurement or bid evaluation.
- Acceptance of door prizes or gifts is discouraged
- Employees shall avoid any activity that could result in "perception of impropriety".

Who Buys for the State of Ohio

The State is comprised of nearly 200 boards, commissions, departments, agencies and institutions. These agencies are located throughout the state of Ohio and purchase just about any type of product or service that is offered for lower dollar threshold purchases.

However, the state agency must first determine if the items are available from state resources such as Ohio Penal Industries (OPI), Community Rehabilitation Program (CRP), Office of Support Services (OSS) or existing DAS term contracts. If items are not available from these sources, agencies may procure from the vendor of their choice. If within a fiscal year these direct purchases exceed a specific amount for institutional agencies (Depts. Of Rehabilitation



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& Corrections, Youth Services, Mental Health and Mental Retardation & Developmental Disabilities), the agency must seek approval from the state's Controlling Board to make the purchase. If the value of the purchase exceeds a specific amount, the agency must forward their need to DAS to make the purchase through formal competitive selection, competitive sealed bids or competitive sealed proposals.

Not all agencies are required, however, to forward their purchases to DAS. The following agencies are exempt from DAS:

- Capitol Square Review and Advisory Board
- Department of Rehabilitation & Correction, Ohio Penal Industries
- Bureau of Worker's Compensation
- General Assembly
- Attorney General
- Auditor of State
- Secretary of State
- Treasurer of State
- Institutions of Higher Education
- Judicial Branch
- Boards of Elections
- Adjutant General
- Emergency Management Agency (during declared disasters)

These agencies maintain separate authority to make purchases.

How the State Buys

To begin the procurement process, the end user agency must first determine what their need is, what quantities are required, how often the items will be needed and how soon the items will be needed. Making a purchase, however, is not as simple as picking up the telephone and calling known suppliers.

Examples of what a buyer must consider include, but are not limited to the following:

- Must the item be approved by DAS (e.g. computers)?
- Can the need be met through internal resources?
- Can the need be met from state resources (e.g. OPI, CRP)?
- Is the dollar value within direct purchase limits?
- Does DAS need to make the purchase due to dollar limits?
- Is this a sole source purchase?

As you can see, making a purchase within the state's system is somewhat complicated. The state welcomes ideas from vendors on new products and services, as well as, better ways to conduct the State's business. Vendors, however, will often need the help of professional service firms in navigating these complicated waters.

Methods of State and Local Government Procurement

Supplies Services and Technology

The agency must first determine if the product or service is available from Ohio Penal Industries, Community Rehabilitation Program (CRP). Central pharmacy/warehouse



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(pharmaceuticals or food) or DAS term contracts. Agencies are required by law to give first consideration to these sources.

Competitive Sealed Bid (CSB). The preferred procurement method utilized by DAS is through issuance of an Invitation to Bid to solicit Competitive Sealed Bids. Sealed bids are opened publicly and contracts awarded to the lowest responsive and responsible bidder. Price is the primary factor in awarding contracts for CSB's.

Competitive Sealed Proposal. If DAS determines that price should not be the primary consideration in awarding the contract, DAS may issue a Request for Proposal to solicit Competitive Sealed Proposals. The RFP permits other factors such as experience, performance, etc., to be scored directly and used to determine the award. Contracts are awarded to the vendor offering the best value to the State. Technology and professional services are areas where RFP's are frequently utilized.

Reverse Auction. When DAS determines that use of an ITB or RFP will not result in the best value for the State, DAS may solicit bids by reverse auction. This is a real time purchasing event that is conducted over the internet. Qualified bidders are invited to submit their offers electronically. Price is a determining factor for reverse auctions.

State Term Schedule (STS). When use of the ITB, RFP or Reverse Auction is not in the best interest of the State, DAS may establish a STS with the manufacturer. Pricing is either based upon a Federal GSA pricing or a manufacturer's most favorable customer pricing. The manufacturer may name any number of authorized distributors to provide products or services on their behalf. The true value of an STS is that it gives a vendor a contracting vehicle with local government, universities and all the state of Ohio agencies that avoids competitive bidding.

Direct Authority.

If DAS determines that it is not possible or not advantageous to make the purchase, the agency will be given a Release and Permit to make the purchase under their direct authority.

Controlling Board. When a direct purchase exceeds an agency's cumulative annual threshold (\$50,000 for non-institutional agencies and \$75,000 for institutional agencies), the agency must seek approval from the Controlling Board to enter into the contract. This process may take several weeks for completion.

Preference Programs

The state of Ohio maintains the following preference programs:

- Minority Set Aside for supplies and services
- EDGE Program for small & disadvantaged businesses
- In-state Preference (Buy Ohio)

Minority Set Aside. Section 125.081 of the Ohio Revised Code requires that state agencies select a number of purchases, the aggregate value of which equals approximately 15% of the value of all such purchases for competition by certified minority business enterprises only. Likewise, DAS will select procurements to be awarded by competitive selection, the value of



which is approximately 15% of the value of all contracts, for participation by certified minority business enterprises only.

E.D.G.E. Program. Section 123.152 of the Ohio Revised Code, enacted July 1, 2003, established the Encouraging Diversity Growth & Equity program applicable for all purchases of supplies, services, construction and Architect and Engineering services. Unlike the set aside program, is a goal based program. Agencies will attempt to make at least 5% of their purchases from EDGE certified companies.

In-state Preference aka Buy Ohio. DAS and state agencies are required to give “Ohio” bidders a 5% preference over other bidders. To qualify as an “Ohio” bidder, the bidder must be physically located within the state of Ohio or must be offering a product that is produced in the state of Ohio. Law also provides that bidders from states bordering Ohio qualify on an equal basis as an Ohio bidder provided the border state does not levy a preference against Ohio bidders. At this time, Ohio recognizes Kentucky, Michigan, Indiana, Pennsylvania and New York as border states. West Virginia is not considered a border state as they apply in-state preferences against Ohio bidders.

** This material was taken from the Department of Administrative Services, Vendor Handbook, 2007.



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