



## Ohio Administrative Code

### Rule 123:5-1-06 Implementation of domestic, Ohio bid preference.

Effective: February 29, 2016

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#### (A) Procedure for applying bid preference for United States and Ohio products

(1) Bids will first be evaluated to determine whether a bid response is for a domestic source end product. Information furnished in the bid response by the bidder shall be relied upon but may be verified in making the determination. Any bid response that does not meet this requirement may be removed, except in those circumstances where the director of the department of administrative services or his designee determines compliance would result in the state paying an excessive price or acquiring an inferior product as described in paragraph (A)(3) of this rule.

(2) Following the determination at paragraph (A)(1) of this rule, the bids shall be evaluated so as to give preference to Ohio bids for products produced or mined in Ohio or a border state. If the Ohio bid preference is determined to be applied then the preferences under rules 123:5-1-14 and 123:5-1-16 of the Administrative Code shall not be applied. Where the preliminary analysis of bids identifies the apparent low bid as an Ohio bid or a border state bid, the director or the director's designee shall proceed with evaluation and award procedure provided for in rule 123:5-1-07 of the Administrative Code.

(3) Where the preliminary analysis identifies the apparent low bid as one other than an Ohio bid or border state bid, the director or the director's designee shall apply the following preferences:

(a) If the apparent low bid is one other than an Ohio bid or border state bid offering a domestic source end product, apply five per cent to the price. For purposes of the Ohio preference, "excessive price" shall be construed to mean a price that exceeds by more than five per cent the lowest price submitted on a non-Ohio bid.

(b) If the apparent low bidder offers a foreign product, apply six per cent to the price. For purposes of "Buy American," a price is excessive if the price on the lowest domestic or Ohio bid exceeds the lowest foreign price by more than six per cent.



(c) If sufficient competition does not exist or if it is determined that all prices are excessive, the department may cancel the bid in its entirety, may re-bid the intended purchase, or award the contract.

(4) After application of the preferences in paragraph (A)(3) of this rule, where the director or the director's designee determines that selection of the lowest Ohio bid will not result in an excessive price or a disproportionately inferior product or service, the director or the director's designee shall propose a contract award to the lowest responsible and responsive Ohio bid at the bid price quoted. Where, otherwise, the director determines it is advantageous to propose the award of contract to other than an Ohio bid or border state bid, the director shall propose same. The final contract award shall be made following further evaluation and award under rule 123:5-1-07 of the Administrative Code. The director or the director's designee shall at all times reserve the right to reject all bids, award partial bids and rebid if it is deemed in the best interest of the state to do so.

(B) "Buy American" product information

All invitations to bid shall require the bidder to complete and attest to the following statement:

"Buy American certificate

The bidder hereby certifies that each end product, except the end products listed below, is a domestic source end product as defined in the Buy American Act and by this rule; and that components of unknown origin have been considered to have been mined, produced, or manufactured outside the United States:

...

Excluded end products (show country of origin for each excluded end product):"

...

(C) Buy Ohio bidder and product information



All invitations to bid shall require the bidder to submit the following information:

- (1) Identify each product that is not an Ohio product.
  - (2) Represent that all other products for which prices are submitted are Ohio products.
  - (3) Identify whether the bidder claims to qualify as offering an Ohio product or as having significant Ohio economic presence.
- (D) Notice of bid preference

The department shall indicate in all its invitations to bid whether it will apply a bid preference as outlined herein in the evaluation and award of bids received. Any bidder who intentionally submits false or misleading information in an attempt to receive a bid preference will be immediately disqualified and may be subject to legal action up to and including debarment.