



Ohio Administrative Code Rule 123:5-1-10 Specification authority.

Effective: [March 9, 2020](#)

(A) The department of administrative services shall have authority to prepare specifications for procurement of products, supplies, and/or services.

(B) The department may delegate the authority to prepare specifications to a state agency.

(C) The department or state agency authorized to prepare said specifications may enter into a contract for preparation of specifications as long as there is no substantial conflict of interest and it is in the best interest of the state. Such contractor may not provide a response or proposal for which the contractor prepared specifications. The department retains authority to review, edit, and give final approval of the specifications to ensure that the specifications are not restrictive, reflect current industry trends and promote open competition.

(D) A specification is a description of the products, supplies, and/or services that is to be purchased and what the bidder or offeror must be responsive to in order to be considered for an award of a contract. A specification may fall under one of the following categories:

- (1) Design specification
- (2) Performance specification
- (3) Combination specification (design and performance)
- (4) Brand name or approved equal specification
- (5) Qualified products list

(E) A specification shall not include such items as the contract terms and conditions, a requirement for time or place of bid or proposal opening, time of delivery, payment, liquidated damages, or



qualification of bidders.

(F) A design specification may be used when it is necessary to define the need in very prescriptive terms. A design specification must include specific details of how the item is to be manufactured to meet the needs of the agency and may include engineering plans, drawings, or blueprints.

(G) A performance specification may be used to describe the general performance characteristics required to achieve an end result or desired outcome. A performance specification does not require the bidder or offeror to comply with specific design requirements.

(H) A combination specification may be used when it is necessary to incorporate, to the extent practicable, attributes of both design and performance specifications to meet the required need.

(I) Brand name or approved equal specifications may be used when it is not practicable or cost-effective to prepare a design, performance, or combination specification or when time is critical and does not permit creation of a design, performance or combination specification. A brand name or approved equal specification is used to establish the minimum requirements for the products, supplies, and/or services being purchased. Use of a brand name or approved equal specification requires a minimum of two manufacturers to be considered as competition. Any brand name or approved equal that is offered in response to the bid or proposal, and that meets or exceeds the minimum requirements, will qualify for award of a contract.

(J) A "Qualified Products List" (QPL) is a list of products, supplies, OR services that have been examined and tested and determined to have satisfied all applicable specifications and requirements of the agency. A QPL is used to restrict bidders and offerors to those products appearing on the list. A QPL may be used when time does not permit development of a specification or when it is determined to be in the best interest of the state to use a QPL. A minimum of two manufacturers of equivalent products, supplies, or services must be solicited for inclusion on a QPL. Examination and testing of the item or services may be completed by the state or by any independent testing facility as determined by the department. Use of a QPL requires prior approval from the department.

(K) Brand specific specification is restrictive in that only the listed brand will satisfy the need and may only be used when authorized by the department of administrative services. A brand specific



specification may be used only when;

- (1) The identified brand name is the only brand that is capable of satisfying the need; or
- (2) The identified brand name is a component of an existing item and it is not possible to use an item from another manufacturer to meet the need; or
- (3) A sufficient inventory of items of one manufacturer are maintained and it is not cost-effective to purchase and inventory equivalent items from different manufacturers; and
- (4) A minimum of two qualified authorized distributors are available to provide the required brand specific supply or service. If such are not available, purchases must be completed pursuant to section 127.16 of the Revised Code.