



Ohio Revised Code

Section 306.43 Contracts - competitive bidding.

Effective: September 23, 2026

Legislation: House Bill 479 - 136th General Assembly

(A) The board of trustees of a regional transit authority or any officer or employee designated by such board may make any contract for the purchase of goods or services, the cost of which does not exceed one hundred thousand dollars. When an expenditure, other than for the acquisition of real estate, the discharge of claims, or the acquisition of goods or services under the circumstances described in division (H) of this section, is expected to exceed one hundred thousand dollars, such expenditure shall be made through full and open competition by the use of competitive procedures. The regional transit authority shall use the competitive procedure, as set forth in divisions (B), (C), (D), and (E) of this section, that is most appropriate under the circumstances of the procurement.

(B) Competitive sealed bidding is the preferred method of procurement and a regional transit authority shall use that method if all of the following conditions exist:

- (1) A clear, complete, and adequate description of the goods, services, or work is available;
- (2) Time permits the solicitation, submission, and evaluation of sealed bids;
- (3) The award will be made on the basis of price and other price-related factors;
- (4) It is not necessary to conduct discussions with responding offerors about their bids;
- (5) There is a reasonable expectation of receiving more than one sealed bid.

A regional transit authority shall publish a notice calling for bids once a week for no less than two consecutive weeks in a newspaper of general circulation within the territorial boundaries of the regional transit authority, or as provided in section 7.16 of the Revised Code. A regional transit authority may require that a bidder for any contract other than a construction contract provide a bid guaranty in the form, quality, and amount considered appropriate by the regional transit authority. The board may let the contract to the lowest responsive and responsible bidder. Where fewer than two responsive bids are received, a regional transit authority may negotiate price with the sole responsive bidder or may rescind the solicitation and procure under division (H)(2) of this section.

(C) A regional transit authority may use two-step competitive bidding, consisting of a technical proposal and a separate, subsequent sealed price bid from those submitting acceptable technical proposals, if both of the following conditions exist:



(1) A clear, complete, and adequate description of the goods, services, or work is not available, but definite criteria exist for the evaluation of technical proposals;

(2) It is necessary to conduct discussions with responding offerors.

A regional transit authority shall publish a notice calling for technical proposals once a week for no less than two consecutive weeks in a newspaper of general circulation within the territorial boundaries of the regional transit authority, or as provided in section 7.16 of the Revised Code. A regional transit authority may require a bid guaranty in the form, quality, and amount the regional transit authority considers appropriate. The board may let the contract to the lowest responsive and responsible bidder. Where fewer than two responsive and responsible bids are received, a regional transit authority may negotiate price with the sole responsive and responsible bidder or may rescind the solicitation and procure under division (H)(2) of this section.

(D) A regional transit authority shall make a procurement by competitive proposals if competitive sealed bidding or two-step competitive bidding is not appropriate.

A regional transit authority shall publish a notice calling for proposals once a week for no less than two consecutive weeks in a newspaper of general circulation within the territorial boundaries of the regional transit authority, or as provided in section 7.16 of the Revised Code. A regional transit authority may require a proposal guaranty in the form, quality, and amount considered appropriate by the regional transit authority. The board may let the contract to the proposer making the offer considered most advantageous to the authority. Where fewer than two competent proposals are received, a regional transit authority may negotiate price and terms with the sole proposer or may rescind the solicitation and procure under division (H)(2) of this section.

(E)(1) A regional transit authority shall procure the services of an architect or engineer in the manner prescribed by the "Federal Mass Transportation Act of 1987," Public Law No. 100-17, section 316, 101 Stat. 227, 232-234, 49 U.S.C.A. app. 1608 and the services of a construction manager in the manner prescribed by sections 9.33 to 9.332 of the Revised Code.

(2) A regional transit authority may procure revenue rolling stock in the manner prescribed by division (B), (C), or (D) of this section.

(3) All contracts for construction in excess of one hundred thousand dollars shall be made only after the regional transit authority has published a notice calling for bids once a week for two consecutive weeks in a newspaper of general circulation within the territorial boundaries of the regional transit authority, or as provided in section 7.16 of the Revised Code. The board may award a contract to the lowest responsive and responsible bidder. Where only one



responsive and responsible bid is received, the regional transit authority may negotiate price with the sole responsive bidder or may rescind the solicitation. The regional transit authority shall award construction contracts in accordance with sections 153.12 to 153.14 and 153.54 of the Revised Code. Divisions (B) and (C) of this section shall not apply to the award of contracts for construction.

(F)(1) As used in division (F)(2) of this section, "simplified acquisition threshold" means the amount set forth in 41 U.S.C. 134.

(2) The board may adopt a policy on whether board approval is required to enter into a contract involving expenditures below the simplified acquisition threshold. The board shall approve all contracts involving expenditures at or above the simplified acquisition threshold.

(3) All contracts involving expenditures in excess of the amount for which board approval is required shall be in writing and shall be accompanied by or shall refer to plans and specifications for the work to be done. The plans and specifications shall at all times be made and considered part of the contract. For all contracts other than construction contracts, a regional transit authority may require performance, payment, or maintenance guaranties or any combination of such guaranties in the form, quality, and amount it considers appropriate. The contract shall be approved by the board and signed on behalf of the regional transit authority and by the contractor.

(G) In making a contract, a regional transit authority may give preference to goods produced in the United States in accordance with the Buy America requirements in the "Surface Transportation Assistance Act of 1982," Public Law No. 97-424, section 165, 96 Stat. 2097, 23 U.S.C.A. 101 note, as amended, and the rules adopted thereunder. The regional transit authority also may give preference to providers of goods produced in and services provided in labor surplus areas as defined by the United States department of labor in 41 U.S.C.A. 401 note, Executive Order No. 12073, August 16, 1978, 43 Fed. Reg. 36873, as amended.

(H) Competitive procedures under this section are not required in any of the following circumstances:

(1) The board of trustees of a regional transit authority, by a two-thirds affirmative vote of its members, determines that a real and present emergency exists under any of the following conditions, and the board enters its determination and the reasons for it in its proceedings:

(a) Affecting safety, welfare, or the ability to deliver transportation services;

(b) Arising out of an interruption of contracts essential to the provision of daily transit services;

(c) Involving actual physical damage to structures, supplies, equipment, or property.



- (2) The purchase consists of goods or services, or any combination thereof, and after reasonable inquiry the board or any officer or employee the board designates finds that only one source of supply is reasonably available.
- (3) The expenditure is for a renewal or renegotiation of a lease or license for telecommunications or electronic data processing equipment, services, or systems, or for the upgrade of such equipment, services, or systems, or for the maintenance thereof as supplied by the original source or its successors or assigns.
- (4) The purchase of goods or services is made from another political subdivision, public agency, public transit system, regional transit authority, the state, or the federal government, or as a third-party beneficiary under a state or federal procurement contract, or as a participant in a department of administrative services contract under division (B) of section 125.04 of the Revised Code.
- (5) The sale and leaseback or lease and leaseback of transit facilities is made as provided in division (AA) of section 306.35 of the Revised Code.
- (6) The purchase substantially involves services of a personal, professional, highly technical, or scientific nature, including but not limited to the services of an attorney, physician, surveyor, appraiser, investigator, court reporter, adjuster, advertising consultant, or licensed broker, or involves the special skills or proprietary knowledge required for the servicing of specialized equipment owned by the regional transit authority.
- (7) Services or supplies are available from a qualified nonprofit agency pursuant to section 125.601 of the Revised Code.
- (8) The purchase consists of the product or services of a public utility.
- (9) The purchase is for the services of individuals with disabilities to work in the authority's commissaries or cafeterias, and those individuals are supplied by a nonprofit corporation or association whose purpose is to assist individuals with disabilities, whether or not that corporation or association is funded entirely or in part by the federal government, or the purchase is for services provided by a nonprofit corporation or association whose purpose is to assist individuals with disabilities, whether or not that corporation or association is funded entirely or in part by the federal government. For purposes of division (H)(9) of this section, "disability" has the same meaning as in section 4112.01 of the Revised Code.
- (I) A regional transit authority may enter into blanket purchase agreements for purchases of maintenance, operating, or repair goods or services where the item cost does not exceed five hundred dollars and the annual expenditure does not exceed one hundred thousand dollars.



(J) Nothing contained in this section prohibits a regional transit authority from participating in intergovernmental cooperative purchasing arrangements.

(K) Except as otherwise provided in this chapter, a regional transit authority shall make a sale or other disposition of property through full and open competition. Except as provided in division (L) of this section, all dispositions of personal property and all grants of real property for terms exceeding five years shall be made by public auction or competitive procedure.

(L) The competitive procedures required by division (K) of this section are not required in any of the following circumstances:

(1) The grant is a component of a joint development between public and private entities and is intended to enhance or benefit public transit.

(2) The grant of a limited use or of a license affecting land is made to an owner of abutting real property.

(3) The grant of a limited use is made to a public utility.

(4) The grant or disposition is to a department of the federal or state government, to a political subdivision of the state, or to any other governmental entity.

(5) Used equipment is traded on the purchase of equipment and the value of the used equipment is a price-related factor in the basis for award for the purchase.

(6) The value of the personal property is such that competitive procedures are not appropriate and the property either is sold at its fair market value or is disposed of by gift to a nonprofit entity having the general welfare or education of the public as one of its principal objects.

(M) The board of trustees of a regional transit authority, when making a contract funded exclusively by state or local moneys or any combination thereof, shall make a good faith effort to use disadvantaged business enterprise participation to the same extent required under Section 105(f) of the "Surface Transportation Assistance Act of 1982," Public Law No. 97-424, 96 Stat. 2100, and Section 106(c) of the "Surface Transportation and Uniform Relocation Assistance Act of 1987," Public Law No. 100-17, 101 Stat. 145, and the rules adopted thereunder.

(N) Except as otherwise required or permitted by state or federal law, a contract entered into by a regional transit authority for the procurement of goods or services shall not include any of the following:

(1) A provision that requires the regional transit authority to indemnify or hold harmless another person;



(2) A provision by which the regional transit authority agrees to binding arbitration or any other binding extra-judicial dispute resolution process;

(3) A provision that names a venue for any action or dispute against the state other than a court of proper jurisdiction in any county in which the regional transit authority is located;

(4) A provision that requires the regional transit authority to agree to limit the liability for any direct loss to the state for bodily injury, death, or damage to property of the state caused by negligence, intentional or willful misconduct, fraudulent act, recklessness, or other tortious conduct of a person or a person's employees or agents, or a provision that would otherwise impose an indemnification obligation on the regional transit authority;

(5) A provision that requires the regional transit authority to be bound by a term or condition that is unknown to the regional transit authority at the time of signing a contract, that is not specifically negotiated with the regional transit authority, that may be unilaterally changed by the other party, or that is electronically accepted by a regional transit authority employee;

(6) A provision that provides for a person other than the regional transit authority's general counsel to serve as legal counsel for the regional transit authority, unless allowed for by a regional transit authority's internal procedures;

(7) A provision that is inconsistent with the regional transit authority's obligations under section 149.43 of the Revised Code;

(8) A provision for automatic renewal of a regional transit authority's funds such that those funds are or would be obligated in subsequent fiscal years;

(9) A provision that limits the regional transit authority's ability to recover the cost of cover for a replacement contractor.

(O) If a contract contains a term or condition described in division (N) of this section, the term or condition is void ab initio, and the contract containing that term or condition otherwise is enforceable as if it did not contain such term or condition.

(P) A contract that contains a term or condition described in division (N) of this section shall be governed by and construed in accordance with Ohio law notwithstanding any term or condition to the contrary in the contract.

(Q) Divisions (N) to (P) of this section do not apply to a contract in effect before the effective date of this amendment or to the renewal or extension of a contract in effect before the effective date of this amendment.

(R) As used in this section:



(1) "Goods" means all things, including specially manufactured goods, that are movable at the time of identification to the contract for sale other than the money in which the price is to be paid, investment securities, and things in action. "Goods" also includes other identified things attached to realty as described in section 1302.03 of the Revised Code.

(2) "Services" means the furnishing of labor, time, or effort by a contractor, not involving the delivery of goods or reports other than goods or reports that are merely incidental to the required performance, including but not limited to insurance, bonding, or routine operation, routine repair, or routine maintenance of existing structures, buildings, real property, or equipment, but does not include employment agreements, collective bargaining agreements, or personal services.

(3) "Construction" means the process of building, altering, repairing, improving, painting, decorating, or demolishing any structure or building, or other improvements of any kind to any real property owned or leased by a regional transit authority.

(4) "Full and open competition" has the same meaning as in the "Office of Federal Procurement Policy Act," Public Law No. 98-369, section 2731, 98 Stat. 1195 (1984), 41 U.S.C.A. 403.

(5) A bidder is "responsive" if, applying the criteria of division (A) of section 9.312 of the Revised Code, the bidder is "responsive" as described in that section.

(6) A bidder is "responsible" if, applying the criteria of division (B) of section 9.312 of the Revised Code and of the "Office of Federal Procurement Policy Act," Public Law No. 98-369, section 2731, 98 Stat. 1195 (1984), 41 U.S.C.A. 403, the bidder is "responsible" as described in those sections.
