

123:5-1-01

Definitions.

As used in this division of the Administrative Code:

~~(A)~~ “Active service” means ~~any person who has not completed service in the armed forces, including the national guard of any state, or a reserve component of the armed forces, who at present is in the employment of the armed forces or is on call for activation at any time.~~

~~(B)~~(A) “Agency” means a department created under section 121.02 of the Revised Code.

~~(C)~~ “Armed forces” means ~~the armed forces of the United States, including the army, navy, air force, marine corps, coast guard, or any reserve component of those forces; the national guard of any state; the commissioned corps of the United States public health service; the merchant marine service during wartime; such other service as may be designated by congress; and the Ohio organized militia when engaged in full time national guard duty for a period of more than thirty days.~~

~~(D)~~(B) “Auction event” means a competitive process conducted in which prequalified responsive and responsible bidders compete to submit the lowest price.

~~(E)~~(C) “Bid response” means all documents, whether attached or incorporated by reference, supplied by the bidder in response to an invitation to bid. In a reverse auction, this also includes a qualifications summary and the lowest price submitted by the bidder during the auction event.

~~(F)~~(D) “Bidder” means the person or firm that submits a bid response to an invitation to bid.

~~(G)~~(E) “Biobased Content” shall be determined based on the amount of biobased carbon in the material or product as a percentage of weight (mass) of the total organic carbon in the material or product.

~~(H)~~(F) “Border state” means any state that is contiguous to Ohio and that does not impose a restriction greater than Ohio imposes pursuant to sections 125.09 and 125.11 of the Revised Code on persons located in Ohio selling products or services to agencies of that state.

~~(I)~~(G) “Chief executive” means the president of the United States, the governor of this state, the board of county commissioners of any county, the board of township trustees of any township, or the mayor or city manager of any municipal corporation within this state.

~~(J)~~(H) “Competitive manner” means an open and fair process that promotes competition among prospective bidders or offerors. The process should be tailored to the products and services to be acquired. Depending on the needs of the agency, the process may

be an informal or formal solicitation of bids or offers 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 section 125.01 of the Revised Code.

~~(K)~~(I) "Competitive sealed proposal" means offering of proposals in response to a request for proposal by a state agency for the purchase of supplies and/or services.

~~(L)~~ "Discharged under honorable conditions" has the same meaning as "honorably discharged."

~~(M)~~(J) "Domestic Source End Product" means

- (1) An unmanufactured end product mined or produced in the United States, or
- (2) An end product manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States, exceeds fifty per cent of the cost of all its components of foreign origin of the same class or kind as those that the department determines are not mined, produced, or manufactured in sufficient and reasonably available commercial quantities of a satisfactory quality are treated as domestic. Scrap generated, collected, and prepared for processing in the United States is considered domestic.

~~(N)~~(K) "Emergency" means any period during which the congress of the United States or a chief executive has declared or proclaimed that an emergency exists.

~~(O)~~ "Employee" means a an employee of a veteran friendly business enterprise who has received a salary or wage from the same veteran friendly business enterprise for at least one year, working an average of at least a twenty hour week during the most recent twelve-month period.

~~(P)~~(L) "eProcurement" or "eProcurement solution" means the department's electronic, cloud-based solution used to purchase products, supplies and services.

~~(Q)~~ "Evidence of satisfactory service" means a record verifying veteran status or documentation that a person on active service with the armed forces is likely to be honorably discharged from the armed forces.

~~(R)~~ "Honorably discharged" means a person has served the armed forces well by meeting or exceeding the required standards of duty performance and personal conduct during their commitment to the armed forces.

~~(S)~~(M) "Invitation to bid" or "ITB" means all documents, whether attached or incorporated by reference, utilized for soliciting bids.

~~(F)~~(N) "Offeree" means the state department, office, institution, board, or commission who is seeking to purchase supplies and/or services through a request for proposal.

~~(U)~~(O) "Offeror" means the person or firm which submits a proposal in response to a request for proposal.

~~(V)~~(P) "Buy Ohio supplier bid" means a supplier submitting a bid or offer received from a bidder offering Buy Ohio products or a bidder demonstrating significant Ohio economic presence in Ohio or a border state.

~~(W)~~(Q) "Buy Ohio products" means products that are mined, excavated, produced, manufactured, raised, or grown in ~~the Ohio or a border~~ state by a person where the input of ~~Ohio~~ such products, labor, skill, or other services constitutes no less than twenty-five per cent of the manufactured cost. With respect to mined products, such products shall be mined or excavated in this state or a border state.

~~(X)~~(R) "Post-consumer materials" means recovered materials that were generated by a business or consumer, have served their intended end uses, and have been separated or diverted from solid wastes for the purposes of collection, recycling and disposition.

~~(Y)~~(S) "Pre-consumer materials" means recovered materials that were production finished materials, products, or by products which did not reach the consumer for whose use they were intended, and have been diverted from solid wastes for the purposes of collection, recycling and disposition.

~~(Z)~~(T) "Produced" has the same meaning as defined in section 125.01 of the Revised Code means the manufacturing, processing, mining, developing, and making of a thing into a new article with a distinct character in use through the application of input, within the state, of Ohio products, labor, skill, or other services. "Produced" does not include the mere assembling or putting together of non-Ohio products or materials.

~~(AA)~~(U) "Products" has the same meaning as defined in section 125.01 of the Revised Code means materials, manufacturer's supplies, merchandise, goods, wares, and foodstuffs.

~~(BB)~~(V) "Proposal" means all documents, whether attached or incorporated by reference, supplied by the offeror in response to a request for proposal.

~~(CC)~~(W) "Purchase" has the same meaning as defined in section 125.01 of the Revised Code means to buy, rent, lease, lease purchase, or otherwise acquire supplies or services and 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.

~~(DD)~~(X) "Qualifications summary" means information required to be submitted by a bidder or offeror as part of a solicitation, which is used to determine the bidder's or offeror's responsibility and responsiveness.

~~(EE)~~ "Record verifying veteran status" means those forms of official documentation proving a service member is currently active or a veteran has been honorably discharged from the armed forces, including United States department of defense form 214 (DD-214), United States department of defense form 215 (DD-215), United States uniformed identification card (DD Form 2), United States department of veterans affairs identification card, United States department of defense military identification, Ohio driver's license with armed forces logo, national guard bureau form 22 (NGB-22), or any other official documentation verifying status.

~~(FF)~~(Y) "Recovered materials" means waste materials and by products that have been recovered or diverted from solid waste.

~~(GG)~~(Z) "Recycled content product" means a product made from pre-consumer or post-consumer recovered materials whose portion of weight or volume of recovered materials meets or exceeds the minimum content percentage standard guidelines established by the department of administrative services.

~~(HH)~~(AA) "Request for proposal" or "RFP" means all documents, whether attached or incorporated by reference, utilized for soliciting proposals from offerors.

~~(II)~~(BB) "Significant Ohio economic presence" means 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 the 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 per cent or more of their employees based in Ohio or the applicable border state.

~~(JJ)~~(CC) "State agency" has the same meaning as in section 1.60 of the Revised Code, but does not include the elected state officers, the general assembly or any legislative agency, a court or any judicial agency, or a state institution of higher education.

~~(KK)~~(DD) "Specification" means any description of the physical or functional characteristics or of the nature of supplies or service to be purchased. It may include a description of any requirements for inspecting, testing, or preparing supplies or services for delivery.

~~(LL)~~(EE) "Supplies" has the same meaning as defined in section 125.01 of the Revised Code~~means all property, including, but not limited to, equipment, materials, other tangible assets, and insurance, but excluding real property or an interest in real property.~~

~~(MM)~~ "Veteran" ~~means any person who has completed service in the armed forces, including the national guard of any state, or a reserve component of the armed forces, who has been honorably discharged or discharged under honorable conditions from the armed forces or that has been transferred to the reserve with evidence of satisfactory service.~~

~~(NN)~~ "Veteran employment standard" ~~means that a business applying for veteran-friendly business enterprise certification satisfies one of the following criteria:~~

~~(1) At least ten per cent of the employees of the sole proprietorship, association, partnership, corporation, limited liability company, or joint venture are veterans or on active service;~~

~~(2) At least fifty-one per cent of the sole proprietorship, association, partnership, corporation, limited liability company, or joint venture is owned by veterans or persons on active service; or~~

~~(3) If the business is a corporation, at least fifty-one per cent of the board of directors are veterans or people on active service.~~

~~(4) The business is certified by the United States department of veterans affairs as a service-disabled veteran-owned small business or a veteran-owned small business and the owner(s) of the business meets the definition of veteran as defined in paragraph (MM) of this rule.~~

~~(OO)~~ "Veteran-friendly business enterprise" ~~means a sole proprietorship, association, partnership, corporation, limited liability company, or joint venture that meets veteran employment standards as defined in paragraph (NN) of this rule.~~

Effective:

Five Year Review (FYR) Dates: 3/17/2024

Certification

Date

Promulgated Under: 119.03
Statutory Authority: R.C. 125.035, R.C. 125.08, R.C. 125.082, R.C. 125.09
Rule Amplifies: R.C. 125.01, R.C. 125.035, R.C. 125.08, R.C.
125.082, R.C. 125.09, R.C. 125.11
Prior Effective Dates: 02/02/1982, 08/30/1984, 05/05/1995, 07/25/2006,
03/28/2014, 04/27/2017, 03/09/2020