

123:5-1-14

**Biobased products bid preference program procedure.**

(A) For purposes of this section, the following definitions apply:

(1) ASTM International means the nonprofit organization that provides a forum for the development and publication of voluntary consensus standards for materials, products, systems, and services.

(2) Biobased Content means the amount of biobased carbon in the material or product as a percent of weight (mass) of the total organic carbon in the material or product.

(3) Fair Market Value means a market price that is representative of the range of prices that a state agency would expect to pay for the item in the marketplace.

(4) ISO means the international organization for standardization.

(B) The awarding of contracts under this section will be consistent with section 125.071 of the Revised Code for requests for proposals and section 125.11 of the Revised Code for invitations to bid.

(C) As applicable, when purchasing equipment, materials or supplies, first consideration must be given to the availability of such items in accordance with sections 5147.01 to 5147.26 (Ohio penal industries) or 125.60 to 125.6012 (community rehabilitation program) of the Revised Code. If both biobased and non-biobased products are available from these sources, state agencies shall purchase the biobased product provided such meets the need of the state agency, is available within a reasonable period of time, and is at a reasonable price.

(D) When it is determined that either a biobased or non-biobased product would be acceptable and it is determined that both biobased and nonbiobased products are available, the request for proposal or invitation to bid for purchase of equipment, material or supplies will contain a biobased bid preference provision indicating the minimum acceptable percentage of biobased content as designated by the United States department of agriculture. This procedure is not required when the request for proposal or invitation to bid specifies that only a biobased product will be considered for award of a contract.

(E) Bids or proposals received will be segregated into categories as follows:

(1) biobased

(2) non-biobased

(F) The biobased category shall be reviewed to determine the following:

(1) A bid or offer contains a designated item as defined in section 125.091 (D) of the Revised Code;

- (2) The offeror or bidder is listed in the current version of the United States department of agriculture catalog as maintained by the department of administrative services on its website as a company that is offering a designated item or the bidder or offeror provides a certification according to section 123:5-1-15; and
- (3) The percentage of biobased content.
- (G) Those bids or proposals containing the highest percentage of biobased content and that contain all items listed in (F)(1) through (3) above will be evaluated first in accordance with section 125.071 of the Revised Code for requests for proposals and section 125.11 of the Revised Code for invitations to bid. The information furnished by the bidder or offeror as provided for in section (F) of this rule shall be solely relied upon in making the award.
- (H) From among those bids or proposals offering non-biobased products, the department of administrative services or state agency will review the non-biobased bids in accordance with section 125.071 of the Revised Code for requests for proposals and section 125.11 of the Revised Code for invitations to bid.
- (I) In awarding the contract, the department of administrative services or state agency will compare the lowest responsive and responsible bid or the most advantageous offer for the non-biobased product to the lowest responsive and responsible bid or most advantageous offer for the biobased product containing the highest percentage of biobased content.
- (J) The department of administrative services or state agency may proceed with the award of the contract for the biobased product containing the highest percentage of biobased content unless:
- (1) The biobased product containing the highest percentage of biobased content is not available within a reasonable period of time;
  - (2) The biobased product does not meet the performance standards set forth in the applicable specifications of the product; or
  - (3) The price of the biobased product is an unreasonable price as defined in section 125.092(C)(3)(a) of the Revised Code. In determining if the biobased product is an unreasonable price, the biobased product price may exceed the price or fair market value of a substantially equivalent non-biobased product by up to five percent.
- (K) If the bid or proposal offering the highest percentage of biobased content does not meet any one of (J)(1) through (3), the department of administrative services or state agency may consider the other bids or proposals submitted that offer a lower percentage of biobased content and that meet all other requirements set forth in this

section in descending order beginning with the next highest percentage content of biobased material.

(L) If all biobased bids are excluded through the application of (J)(1) through (3) or through the evaluation of the bid in accordance with section 125.071 of the Revised Code for requests for proposals and section 125.11 of the Revised Code for invitations to bid, the department of administrative services or state agency may consider an award of the contract to the other non-biobased product bids or proposals submitted that are the lowest responsive and responsible bid or the most advantageous offer.

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CERTIFIED ELECTRONICALLY

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Certification

11/08/2010

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Date

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