

AN ACT

To amend sections 125.02, 125.04, 125.09, 125.56, 731.14, 731.141, and 735.05 of the Revised Code to allow certain political subdivisions to purchase supplies and services outside of a Department of Administrative Services purchase contract and without complying with competitive selection procedures if the purchase can be made at a lower price than is available through such a contract, to increase the competitive bidding threshold for certain municipal contracts from \$10,000 to \$15,000, to eliminate the requirement that state printing contracts be executed within Ohio, and to prohibit non-Ohio businesses from bidding on state printing contracts in Ohio if they are located in a state that excludes Ohio businesses from bidding on state printing contracts in that state.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 125.02, 125.04, 125.09, 125.56, 731.14, 731.141, and 735.05 of the Revised Code be amended to read as follows:

Sec. 125.02. Except as to the adjutant general, the capital square review and advisory board, the department of rehabilitation and correction as specified in division ~~(C)~~(D) of section 125.04 of the Revised Code, the general assembly, the bureau of workers' compensation, and institutions administered by boards of trustees, the department of administrative services may purchase supplies and services for the use of state agencies.

So far as possible, the department of administrative services shall make all purchases from the department of rehabilitation and correction in the exercise of the functions of the department of rehabilitation and correction in the management of state institutions.

The department of administrative services shall prescribe uniform rules

governing forms of specifications, advertisements for proposals, the opening of bids, the making of awards and contracts, and the purchase of supplies and performance of work.

Nothing in this section precludes the bureau from entering into a contract with the department of administrative services for the department to purchase supplies, or services for the use of the bureau.

Sec. 125.04. (A) Except as provided in division ~~(C)~~(D) of this section, the department of administrative services shall determine what supplies and services are purchased by or for state agencies. Whenever the department of administrative services makes any change or addition to the lists of supplies and services that it determines to purchase for state agencies, it shall provide a list to the agencies of the changes or additions and indicate when the department will be prepared to furnish each item listed. Except for the requirements of division (B) of section 125.11 of the Revised Code, sections 125.04 to 125.08 and 125.09 to 125.15 of the Revised Code do not apply to or affect the educational institutions of the state. The department shall not include the bureau of workers' compensation in the lists of supplies, equipment, and services purchased and furnished by the department.

Nothing in this division precludes the bureau from entering into a contract with the department for the department to perform services relative to supplies, equipment, and services contained in this division for the bureau.

(B) As used in this division, "political subdivision" means any county, township, municipal corporation, school district, conservancy district, township park district, park district created under Chapter 1545. of the Revised Code, regional transit authority, regional airport authority, regional water and sewer district, or port authority. "Political subdivision" also includes any other political subdivision described in the Revised Code that has been approved by the department to participate in the department's contracts under this division.

~~The Subject to division (C) of this section,~~ the department of administrative services may permit a political subdivision to participate in contracts into which the department has entered for the purchase of supplies and services. Any political subdivision desiring to participate in such purchase contracts shall file with the department a certified copy of an ordinance or resolution of the legislative authority or governing board of the political subdivision. The resolution or ordinance shall request that the political subdivision be authorized to participate in such contracts and shall agree that the political subdivision will be bound by such terms and conditions as the department prescribes and that it will directly pay the

vendor under each purchase contract. The department may charge a political subdivision a reasonable fee to cover the administrative costs the department incurs as a result of the subdivision's participation in the purchase contract. Purchases made by a political subdivision under this division are exempt from any competitive selection procedures otherwise required by law. No political subdivision shall make any purchase under this division when bids have been received for such purchase by the subdivision, unless such purchase can be made upon the same terms, conditions, and specifications at a lower price under this division.

The department shall include in its annual report an estimate of the cost it incurs by permitting political subdivisions to participate in contracts pursuant to this division. The department may require political subdivisions participating in contracts pursuant to this division to file a report with the department, as often as it finds necessary, stating how many such contracts the political subdivisions participate in within a specified period of time, and any other information the department requires.

(C) A political subdivision as defined in division (B) of this section may purchase supplies or services from another party, including another political subdivision, instead of through participation in contracts described in division (B) of this section if the political subdivision can purchase those supplies or services from the other party upon equivalent terms, conditions, and specifications but at a lower price than it can through those contracts. Purchases that a political subdivision makes under this division are exempt from any competitive selection procedures otherwise required by law. A political subdivision that makes any purchase under this division shall maintain sufficient information regarding the purchase to verify that the political subdivision satisfied the conditions for making a purchase under this division. Nothing in this division restricts any action taken by a county or township as authorized by division (A) of section 9.48 of the Revised Code.

(D) This section does not apply to supplies or services required by the legislative or judicial branches, boards of elections, the capitol square review and advisory board, the adjutant general, to supplies or services purchased by a state agency directly as provided in division (A) or (E) of section 125.05 of the Revised Code, to purchases of supplies or services for the emergency management agency as provided in section 125.023 of the Revised Code, or to purchases of supplies or services for the department of rehabilitation and correction in its operation of the program for the employment of prisoners established under section 5145.16 of the Revised Code that shall be made pursuant to rules adopted by the director of

administrative services and the director of rehabilitation and correction in accordance with Chapter 119. of the Revised Code. The rules may provide for the exemption of the program for the employment of prisoners from the requirements of division (A) of this section.

Sec. 125.09. (A) Pursuant to section 125.07 of the Revised Code, the department of administrative services may prescribe such conditions under which competitive sealed bids will be received and terms of the proposed purchase as it considers necessary; provided, that all such conditions and terms shall be reasonable and shall not unreasonably restrict competition, and bidders may bid upon all or any item of the supplies or services listed in such notice. Those bidders claiming the preference for United States and Ohio products outlined in this chapter shall designate in their bids either that the product to be supplied is an Ohio product or that under the rules established by the director of administrative services they qualify as having a significant Ohio economic presence.

(B) The department may require that each bidder provide sufficient information about the energy efficiency or energy usage of ~~his~~ the bidder's product or service.

(C) The director of administrative services shall, by rule adopted pursuant to Chapter 119. of the Revised Code, prescribe criteria and procedures for use by all state agencies in giving preference to United States and Ohio products as required by division (B) of section 125.11 of the Revised Code. The rules shall extend to:

(1) Criteria for determining that a product is produced or mined in the United States rather than in another country or territory;

(2) Criteria for determining that a product is produced or mined in Ohio;

(3) Information to be submitted by bidders as to the nature of a product and the location where it is produced or mined;

(4) Criteria and procedures to be used by the director to qualify bidders located in states bordering Ohio who might otherwise be excluded from being awarded a contract by operation of this section and section 125.11 of the Revised Code. The criteria and procedures shall recognize the level and regularity of interstate commerce between Ohio and the border states and provide that the non-Ohio businesses may qualify for award of a contract as long as they are located in a state that imposes no greater restrictions than are contained in this section and section 125.11 of the Revised Code upon persons located in Ohio selling products or services to agencies of that state. The criteria and procedures shall also provide that a non-Ohio business shall not bid on a contract for state printing in this state if the business is located in a state that excludes Ohio businesses from bidding on state printing

contracts in that state.

(5) Criteria and procedures to be used to qualify bidders whose manufactured products, except for mined products, are produced in other states or in North America, but the bidders have a significant Ohio economic presence in terms of the number of employees or capital investment a bidder has in this state. Bidders with a significant Ohio economic presence shall qualify for award of a contract on the same basis as if their products were produced in this state.

(6) Criteria and procedures for the director to grant waivers of the requirements of division (B) of section 125.11 of the Revised Code on a contract-by-contract basis where compliance with those requirements would result in the state agency paying an excessive price for the product or acquiring a disproportionately inferior product;

(7) Such other requirements or procedures reasonably necessary to implement the system of preferences established pursuant to division (B) of section 125.11 of the Revised Code.

In adopting the rules required under this division, the director shall, to the maximum extent possible, conform to the requirements of the federal "Buy America Act," 47 Stat. 1520, (1933), 41 U.S.C.A. 10a-10d, as amended, and to the regulations adopted thereunder.

Sec. 125.56. (A) Except as provided in division (B) of this section, all printing under sections 125.43 to 125.76 of the Revised Code, shall be executed ~~within this state~~ pursuant to section 125.11 of the Revised Code.

(B) Division (A) of this section does not apply to printing contracts requiring special, security paper of a unique nature if compliance with division (A) will result in an excessive price for the product or acquiring a disproportionately inferior product.

(C) As used in this section, "excessive price" means a price that exceeds by more than five per cent the lowest price submitted on a non-Ohio bid.

Sec. 731.14. All contracts made by the legislative authority of a village shall be executed in the name of the village and signed on its behalf by the mayor and clerk. Except where the contract is for equipment, services, materials, or supplies to be purchased under division (D) of section 713.23; or section 125.04 or 5513.01 of the Revised Code or available from a qualified nonprofit agency pursuant to sections 4115.31 to 4115.35 of the Revised Code, when any expenditure, other than the compensation of persons employed therein, exceeds ~~ten~~ fifteen thousand dollars, such contracts shall be in writing and made with the lowest and best bidder after advertising for not less than two nor more than four consecutive weeks in a newspaper of general circulation within the village. The bids shall be

opened and shall be publicly read by the clerk of such village or a person designated by ~~him~~ the clerk at the time, date, and place specified in the advertisement to bidders or specifications. The time, date, and place of bid openings may be extended to a later date by the legislative authority of the village, provided that written or oral notice of the change shall be given to all persons who have received or requested specifications no later than ninety-six hours prior to the original time and date fixed for the opening. This section does not apply to those villages that have provided for the appointment of a village administrator under section 735.271 of the Revised Code.

Sec. 731.141. In those villages that have established the position of village administrator, as provided by section 735.271 of the Revised Code, the village administrator shall make contracts, purchase supplies and materials, and provide labor for any work under ~~his~~ the administrator's supervision involving not more than ~~ten~~ fifteen thousand dollars. When an expenditure, other than the compensation of persons employed by the village, exceeds ~~ten~~ fifteen thousand dollars, such expenditure shall first be authorized and directed by ordinance of the legislative authority of the village. When so authorized and directed, except where the contract is for equipment, services, materials, or supplies to be purchased under division (D) of section 713.23; or section 125.04 or 5513.01 of the Revised Code or available from a qualified nonprofit agency pursuant to sections 4115.31 to 4115.35 of the Revised Code, the village administrator shall make a written contract with the lowest and best bidder after advertisement for not less than two nor more than four consecutive weeks in a newspaper of general circulation within the village. The bids shall be opened and shall be publicly read by the village administrator or a person designated by ~~him~~ the village administrator at the time, date, and place as specified in the advertisement to bidders or specifications. The time, date, and place of bid openings may be extended to a later date by the village administrator, provided that written or oral notice of the change shall be given to all persons who have received or requested specifications no later than ninety-six hours prior to the original time and date fixed for the opening. All contracts shall be executed in the name of the village and signed on its behalf by the village administrator and the clerk.

The legislative authority of a village may provide, by ordinance, for central purchasing for all offices, departments, divisions, boards, and commissions of the village, under the direction of the village administrator who shall make contracts, purchase supplies or materials, and provide labor for any work of the village in the manner provided by this section.

Sec. 735.05. The director of public service may make any contract, purchase supplies or material, or provide labor for any work under the supervision of the department of public service involving not more than ~~ten~~ fifteen thousand dollars. When an expenditure within the department, other than the compensation of persons employed therein, exceeds ~~ten~~ fifteen thousand dollars, such expenditure shall first be authorized and directed by ordinance of the city legislative authority. When so authorized and directed, except where the contract is for equipment, services, materials, or supplies to be purchased under division (D) of section 713.23; or section 125.04 or 5513.01 of the Revised Code or available from a qualified nonprofit agency pursuant to sections 4115.31 to 4115.35 of the Revised Code, the director shall make a written contract with the lowest and best bidder after advertisement for not less than two nor more than four consecutive weeks in a newspaper of general circulation within the city.

SECTION 2. That existing sections 125.02, 125.04, 125.09, 125.56, 731.14, 731.141, and 735.05 of the Revised Code are hereby repealed.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____