



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

Effective: April 26, 2024

- (A) The department of administrative services ("the department") has authority to prepare specifications for procurement of goods or services.
- (B) The department may delegate the authority to prepare specifications to a state agency.
- (C) The department or the state agency authorized to prepare specifications may enter into a contract for preparation of specifications provided there is no conflict of interest and it is in the best interest of the department or state agency. Such contractor is ineligible to provide a response or proposal for which the contractor prepared specifications. The department or state agency 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 will not include such items as the contract terms and conditions, time or place of bid or proposal opening, time of delivery, payment, liquidated damages, or qualification of bidders or offerors. The department or state agency will use one of the following methods to develop specifications:
- (1) A design specification may be used when it is necessary to define the need in very prescriptive terms. A design specification will include specific details of how the item is to be manufactured to meet the needs of the department or state agency and may include engineering plans, drawings, or blueprints.
 - (2) A performance specification may be used to describe the general performance characteristics needed to achieve an end result or desired outcome. A performance specification does not obligate the bidder or offeror to comply with specific design requirements.
 - (3) 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 stated need.



(4) 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 goods or services being purchased.

(a) Use of a brand name or approved equal specification will include a minimum of two manufacturers to be considered as competition.

(b) 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.

(5) A "Qualified Products List" (QPL) is a list of goods or services that have been examined, tested, and determined to have satisfied all applicable specifications of the department or state agency. A QPL is used to restrict bidders and offerors to those products appearing on the list.

(a) 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 department or state agency to use a QPL;

(b) A state agency will obtain prior approval from the department before using a QPL;

(c) A minimum of two manufacturers of equivalent goods or services will be solicited for inclusion on a QPL; and

(d) Examination and testing of the goods or services may be completed by the department, state agency, or by any independent testing facility as determined by the department or state agency.

(6) A brand-specific specification may be used only when a particular brand will satisfy the need. Brand-specific specifications will only be used when authorized by the department of and the following have been met;

(a) The identified brand name is the only brand that is capable of satisfying the need; or



- (b) 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
- (c) 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
- (d) A minimum of two qualified authorized distributors are available to provide the brand-specific goods or services. If such are not available, purchases will be completed pursuant to section 127.16 of the Revised Code.