



## Ohio Administrative Code

### Rule 123:5-1-16 Implementation of veterans preference program.

Effective: April 27, 2017

---

#### (A) Veteran-friendly business enterprise certification process

(1) To be certified as a veteran-friendly business enterprise, an applicant business shall be in good standing with federal, state, and local governments, and shall apply to the department of administrative services for certification.

(2) An applicant business shall provide the department of administrative services with a copy of a record verifying veteran status or documentation demonstrating active service for each employee, partner, member, or director until at least one of the requirements of paragraph (JJ) of rule 123:5-1-01 of the Administrative Code is satisfied. In order to verify the accuracy of each record verifying veteran status or documentation demonstrating active service, the department of administrative services will review all documentation that the business applying for certification as a veteran-friendly business enterprise provides and may require additional information as necessary, which the applicant business shall provide.

(3) Upon submission and review of all requested documentation, the department of administrative services may issue a certificate to a qualified applicant business designating the business as a veteran-friendly business enterprise. A certificate shall be valid for up to two years.

(4) A veteran-friendly business enterprise must apply to renew its certification before it expires to maintain continuous certification in the program. A veteran-friendly business enterprise will be notified of its obligation to renew its certificate at sixty and thirty days prior to the expiration of its current certification. In order to renew the certification, the veteran-friendly business enterprise must comply with paragraph (A)(2) of rule 123:5-1-16 of the Administrative Code.

(5) Each veteran-friendly business enterprise must remain in good standing with federal, state, and local governments and in compliance with the veteran employment standard during its certification period. The department of administrative services may conduct compliance reviews of a veteran-



friendly business enterprise to ensure its continued eligibility for the program. A veteran-friendly business enterprise may have its certification revoked for any of the following reasons:

- (a) The business has failed to remain in compliance with the veteran employment standard;
- (b) The business intentionally misrepresented material facts in its certification application;
- (c) If the actions of the business, its owner or owners result in a criminal conviction of the business or any of its owners; or
- (d) Revocation of the business's certification is in the best interest of the state, which determination may be based on, but not limited to, debarment by the federal government, the state of Ohio or any of its political subdivisions, or any other state.

(6) This section of the administrative code shall apply to all state agencies' purchases made under Chapter 125. of the Revised Code.

(7) The bids or offers submitted by the veteran-friendly business enterprise may be rejected if they contain an excessive price as defined in rule 123:5-1-06 of the Administrative Code, as amended.

(B) Procedures for applying preference for veteran-friendly business enterprises:

(1) Bids or proposals will first be evaluated to determine whether a response is from a veteran-friendly business enterprise. Information furnished in the response by the bidder or offeror shall be relied upon but may be verified in making the determination. Any response that does not meet this requirement may be removed, except in those circumstances where the director of the department of administrative services or the director's designee determines compliance would result in the state paying an excessive price or acquiring an inferior product as described in paragraph (B)(3) of this rule.

(2) Following the determination at paragraph (B) (1) of this rule and the application of any applicable preference pursuant to rule 123:5-1-06 of the Administrative Code, the bids or proposals shall be evaluated so as to give preference to veteran-friendly business enterprise bids or proposals



for goods or services. A veteran-friendly business enterprise must have an active certification at the time of bid or proposal opening to receive the preference for veteran-friendly business enterprises. If the veteran-friendly business enterprise preference is applied then the preferences under paragraphs (A)(2) to (A)(4) of rule 123:5-1-06 and rule 123:5-1-14 of the Administrative Code shall not apply. Where the preliminary analysis of bids or proposals identifies the apparent low bid or most advantageous proposal as a veteran-friendly business enterprise response, the director or the director's designee shall proceed with evaluation and award procedure as provided in rule 123:5-1-07 of the Administrative Code.

(3) Where the preliminary analysis identifies the apparent low bid as one other than a veteran-friendly business enterprise bid, the director or the director's designee shall apply the following preferences:

(a) If the apparent low bid is one other than a veteran-friendly business enterprise bid, apply five per cent to the price. For purposes of the veteran-friendly business enterprise preference, "excessive price" shall be construed to mean a price that exceeds by more than five per cent the lowest price submitted on a non-veteran-friendly business enterprise bid.

(b) If sufficient competition does not exist or if it is determined that all prices are excessive, the department may cancel the bid in its entirety, may re-bid the intended purchase, or award the contract.

(4) Where the preliminary analysis identifies the apparent most advantageous proposal as one other than a veteran-friendly business enterprise response, the director or the director's designee shall apply the following preferences:

(a) If the apparent most advantageous proposal is one other than a veteran-friendly business enterprise proposal, subtract five percent of the available points from the proposal's score.

(b) If sufficient competition does not exist or if it is determined that any of the conditions identified under paragraph (F) of rule 123:5-1-08 of the Administrative Code are met, the department reserves the right to cancel, reissue or reject all responses, in whole or in part.



(5) After application of the preferences in paragraphs (B)(3) and (B)(4) of this rule, the director shall propose an award in the following manner:

(a) When conducting a competitive sealed bid and where the director or the director's designee determines that selection of the lowest veteran-friendly business enterprise bid will not result in an excessive price or disproportionately inferior product or service, the director or the director's designee shall propose a contract award to the lowest responsible and responsive veteran-friendly business enterprise bid at the offered bid price. Where, otherwise, the director determines it is advantageous to propose the award of contract to other than a veteran-friendly business enterprise bid, the director shall propose same. The final contract award shall be made following further evaluation and award under rule 123:5-1-07 of the Administrative Code. The director or the director's designee shall at all times reserve the right to reject all bids, award partial bids, or rebid if it is deemed in the best interest of the state to do so.

(b) When conducting a competitive sealed proposal and where the director or the director's designee determines that selection of a veteran-friendly business enterprise proposal will be most advantageous to this state, the director or the director's designee shall propose a contract award to such veteran-friendly business enterprise offeror. Where, otherwise, the director determines it is most advantageous to propose the award of contract to other than a veteran-friendly business enterprise offeror, the director shall propose same. The final contract award shall be made following further evaluation and award under rule 123:5-1-08 of the Administrative Code. The director or the director's designee shall at all times reserve the right to cancel, reissue or reject all responses, in whole or in part if it is deemed in the best interest of the state to do so.