



## Ohio Revised Code

### Section 125.09 Bid conditions or terms - preferences.

Effective: March 30, 1999

Legislation: House Bill 204 - 122nd General Assembly

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(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 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.