

As Introduced

133rd General Assembly

Regular Session

2019-2020

H. B. No. 586

Representatives Greenspan, Kelly

A BILL

To amend sections 125.035 and 125.607 of the 1
Revised Code to require any state agency seeking 2
to purchase supplies or services to comply with 3
an applicable first or second procurement 4
program and to prohibit any governmental 5
ordering office from combining multiple parts of 6
a larger related project to avoid using the 7
procurement list maintained by community 8
rehabilitation programs. 9

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 125.035 and 125.607 of the 10
Revised Code be amended to read as follows: 11

Sec. 125.035. (A) ~~Except as otherwise provided in the~~ 12
~~Revised Code, a~~ A state agency wanting to purchase supplies or 13
services shall make the purchase subject to the requirements of 14
an applicable first or second requisite procurement program 15
described in this section, or obtain a determination from the 16
department of administrative services that the purchase is not 17
subject to a first or second requisite procurement program. 18
State agencies shall submit a purchase request to the department 19

of administrative services unless the department has determined 20
the request does not require a review. The director of 21
administrative services shall adopt rules under Chapter 119. of 22
the Revised Code to provide for the manner of carrying out the 23
function and the power and duties imposed upon and vested in the 24
director by this section. 25

(B) The following programs are first requisite procurement 26
programs that shall be given preference in the following order 27
in fulfilling a purchase request: 28

(1) Ohio penal industries within the department of 29
rehabilitation and correction; and 30

(2) Community rehabilitation programs administered by the 31
department of administrative services under sections 125.601 to 32
125.6012 of the Revised Code. 33

(C) The following programs are second requisite 34
procurement programs that may be able to fulfill the purchase 35
request if the first requisite procurement programs are unable 36
to do so: 37

(1) Business enterprise program at the opportunities for 38
Ohioans with disabilities agency as prescribed in sections 39
3304.28 to 3304.33 of the Revised Code; 40

(2) Office of information technology at the department of 41
administrative services as established in section 125.18 of the 42
Revised Code; 43

(3) Office of state printing and mail services at the 44
department of administrative services as prescribed in Chapter 45
125. of the Revised Code; 46

(4) Ohio pharmacy services at the department of mental 47

health and addiction services as prescribed in section 5119.44 48
of the Revised Code; 49

(5) Ohio facilities construction commission established in 50
section 123.20 of the Revised Code; and 51

(6) Any other program within, or administered by, a state 52
agency that, by law, requires purchases to be made by, or with 53
the approval of, the state agency. 54

(D) Upon receipt of a purchase request, the department of 55
administrative services shall provide the requesting agency a 56
notification of receipt of the purchase request. The department 57
then shall determine whether the request can be fulfilled 58
through a first requisite procurement program. In making the 59
determination, the department may consult with each of the first 60
requisite procurement programs. When the department has made its 61
determination, it shall: 62

(1) Direct the requesting agency to obtain the desired 63
supplies or services through the proper first requisite 64
procurement program; 65

(2) Provide the agency with a waiver from the use of the 66
applicable first requisite procurement programs under sections 67
125.609 or 5147.07 of the Revised Code; or 68

(3) Determine whether the purchase can be fulfilled 69
through a second requisite procurement program under division 70
(E) of this section. 71

(E) In making the determination that a purchase is subject 72
to a second requisite procurement program, the department shall 73
identify potentially applicable programs and notify each program 74
of the requested purchase. The notified second requisite 75
procurement program shall respond to the department within two 76

business days with regard to its ability to provide the 77
requested purchase. If the second requisite procurement program 78
can provide the requested purchase, the department shall direct 79
the requesting agency to make the requested purchase from the 80
appropriate second requisite procurement program. If the 81
department has not received notification from a second requisite 82
procurement program within two business days and the department 83
has made the determination that the purchase is not subject to a 84
second requisite procurement program, the department shall 85
provide a waiver to the requesting agency. 86

(F) Within five business days after receipt of a request, 87
the department shall notify the requesting agency of its 88
determination and provide any waiver under divisions (D) or (E) 89
of this section. If the department fails to respond within five 90
business days or fails to provide an explanation for any further 91
delay within that time, the requesting agency may use direct 92
purchasing authority to make the requested purchase, subject to 93
the requirements of division (G) of this section and section 94
127.16 of the Revised Code. 95

(G) As provided in sections 125.02 and 125.05 of the 96
Revised Code and subject to such rules as the director of 97
administrative services may adopt, the department may issue a 98
release and permit to the agency to secure supplies or services. 99
A release and permit shall specify the supplies or services to 100
which it applies, the time during which it is operative, and the 101
reason for its issuance. A release and permit for telephone, 102
other telecommunications, and computer services shall be 103
provided in accordance with section 125.18 of the Revised Code 104
and shall specify the type of services to be rendered, the 105
number and type of hardware to be used, and may specify the 106
amount of such services to be performed. No requesting agency 107

shall proceed with such purchase until it has received an 108
approved release and permit from the director of administrative 109
services or the director's designee. 110

Sec. 125.607. (A) Before purchasing any supply or service, 111
a governmental ordering office shall determine, in compliance 112
with section 125.035 of the Revised Code, whether the ~~supply or~~ 113
~~service is~~ specifications, in whole or in part, include supplies 114
or services on the procurement list maintained by the office of 115
procurement from community rehabilitation programs. If the 116
supply or service is on the list at an established fair market 117
price, the government ordering office shall purchase it from the 118
qualified nonprofit agency or approved agent at that price. 119

(B) If the supply or service is on the procurement list 120
but a fair market price has not been established, the government 121
ordering office shall attempt to negotiate an agreement with one 122
or more of the listed qualified nonprofit agencies or approved 123
agents. The office of procurement from community rehabilitation 124
programs may accept as fair market price an agreement negotiated 125
between the government ordering office and a qualified nonprofit 126
agency or approved agent. 127

(C) If an agreement is not successfully negotiated, the 128
office may establish a fair market price, or it may release a 129
government ordering office from the requirements of this 130
section. 131

(D) A purchase under divisions (A) to (C) of this section 132
is not subject to any competitive selection or competitive 133
bidding requirements, notwithstanding any other provision of 134
law. 135

(E) The department of administrative services has the 136

authority to structure or regulate competition among qualified 137
nonprofit agencies for the overall benefit of the program. 138

(F) No governmental ordering office shall combine multiple 139
parts of a larger related project that may include the purchase 140
of supplies or services in order to avoid the requirements of 141
this section. 142

Section 2. That existing sections 125.035 and 125.607 of 143
the Revised Code are hereby repealed. 144