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PERMANENT ADMINISTRATIVE ORDER

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CHAPTER 125

DEPARTMENT OF ADMINISTRATIVE SERVICES

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ARCHIVES DIVISION SECRETARY OF STATE & LEGISLATIVE COUNSEL

FILING CAPTION: Establish a procurement preference for Oregon Small Business Enterprises.

EFFECTIVE DATE: 07/01/2026

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RULES:
125-246-0230, 125-247-0200

ADOPT: 125-246-0230

NOTICE FILED DATE: 04/28/2026

RULE SUMMARY: Establishes a program for granting preferences to Oregon Small Business Enterprises consistent with Oregon Laws 2025, Chapter 483.

CHANGES TO RULE:

<u>125-246-0230</u>
<u>Preference for Oregon Small Business Enterprises</u>
<u>(1) Purpose. This rule establishes a program for granting preferences to Oregon Small Business Enterprises (OSBEs) consistent with Oregon Laws 2025, Chapter 483. The purpose of the program is to attract, invite, and encourage OSBEs to participate in public Procurement. Purchasing from an OSBE strengthens Oregon's economy, supports local jobs, and helps small businesses thrive.¶</u>
<u>(2) Definition. For purposes of this rule, "Oregon Small Business Enterprise" or "OSBE" means a business certified by the Oregon Business Development Department (Business Oregon) as an Oregon Small Business Enterprise pursuant to rules adopted by Business Oregon.¶</u>
<u>(3) Applicability. This rule applies to Authorized Agencies conducting Small Procurements and Intermediate</u>

Procurements. The requirements in this rule apply regardless of payment method (including payments made with a State P-Card of Oregon Transaction System (SPOTS) card).¶
(a) Small Procurements. When conducting a Small Procurement, Authorized Agencies must procure Supplies and Services from an OSBE if the Supplies or Services are available from an OSBE and meet the Authorized Agency's needs. If the Supplies or Services are not available from an OSBE, then the Authorized Agency, when permitted by the Buy Decision Priority set forth in OAR 125-247-0200, may conduct a Small Procurement without consideration of whether it awards a Contract to an OSBE.¶
(b) Intermediate Procurement. When conducting an Intermediate Procurement that does not use a statewide Department Price Agreement, Authorized Agencies must solicit and consider Offers from three OSBEs, or the number of OSBEs that offer the type of Supplies or Services required by the Authorized Agency if fewer than three OSBEs offer those Supplies or Services. Offers from non-OSBEs may be solicited only if there are fewer than three OSBEs available or if the Offers from OSBEs do not meet the Authorized Agency's needs.¶
(A) The requirement to solicit Offers from OSBEs is waived if a Written Solicitation is advertised and open to the global market through the State's Electronic Procurement System.¶
(B) If the Intermediate Procurement includes a Written Solicitation, Authorized Agencies must ensure Solicitation Documents and other Electronic Advertisements provide notice of the OSBE preference described in Section 5 of this rule.¶
(4) Specifications. Authorized Agencies must ensure Specifications are designed to promote fair opportunities for OSBEs and meet the Authorized Agency's needs.¶
(5) Evaluation. When evaluating scored Offers, Authorized Agencies must apply a preference to Offers submitted by OSBEs. The OSBE preference must be greater than 0% but may not exceed 10%.¶
(a) If the evaluation is based on price, an Authorized Agency must apply the OSBE preference by decreasing the price of any Offer submitted by an OSBE by a percentage determined by the Authorized Agency and described in the Solicitation. This price adjustment is for purposes of evaluation of the OSBE's Offer only.¶
(b) If the evaluation is based on best value, an Authorized Agency must apply the OSBE preference by increasing the score of any Offer submitted by an OSBE by a percentage determined by the Authorized Agency and described in the Solicitation.¶
(c) The OSBE preference may be combined with other preferences.¶
(d) If the Procurement does not involve scored Offers, Authorized Agencies must consider how purchasing from an OSBE strengthens Oregon's economy and supports local jobs when determining which Offer will best meet the needs of the Authorized Agency and the State.¶
(6) Exemptions. The OSBE preference does not apply to:¶
(a) Amendments to Public Contracts or Amendments to Ordering Instruments;¶
(b) Procurements for which the OSBE preference is prohibited by federal or State law or funding requirements;¶
(c) Small Procurements for office supplies, information technology hardware or software (including cloud or online services), or vehicles;¶
(d) Procurements that use the statewide Department Price Agreements when permitted by the Buy Decision Priority set forth in OAR 125-247-0200; or¶
(e) Any Procurement governed by the provisions of ORS Chapter 279C and applicable administrative rule.¶
(7) Reporting. Authorized Agencies must report OSBE procurement activity at least twice per year, on dates established by the Department, using a Department reporting process.¶
(8) Sunset. This rule is repealed on December 31, 2031, unless extended by the Department.
Statutory/Other Authority: ORS 184.340, 279A.065(6)(a), 279A.070, Or Laws 2025, ch 483
Statutes/Other Implemented: ORS 279B.065, 279B.070, Or Laws 2025, ch 483

AMEND: 125-247-0200

NOTICE FILED DATE: 04/28/2026

RULE SUMMARY: Modifies the Buy Decision Priority order to include Oregon Small Business Enterprises.

CHANGES TO RULE:

125-247-0200
Buy Decision and Methods of Source Selection ¶

(1) Buy Decision. The Buy Decision means the decision to buy Supplies and Services through socio-economic programs, agreements, or the open market (Source). Agency is not required to make a Buy Decision based on the lowest price. See the specific law for the Authority to use each Source.¶
(2) Priority. Agencies must make their Buy Decision in the priority order set forth in subsections (a) through (~~d~~e) and in accordance with applicable law (Priority). If a higher Priority Source satisfies a Procurement and law requires the use of that Source, the Agency must procure through that higher Priority Source and may not elect to procure through a lower Priority Source.¶
(a) Surplus Property. Procuring from surplus property promotes the efficient use of existing resources (see OAR 125-050-0100 through 125-050-0400).¶
(b) Oregon Forward Contractors (OFCs) (formerly known as Qualified Rehabilitation Facilities (QRFs). Procuring from OFCs assists individuals with disabilities through gainful employment (see ORS 279.835 through 279.855 and OAR 125-055-0005 through 125-055-0045).¶
(c) Inmate Labor. See the Oregon Constitution, Article I, Section 41, subsection 11, which encourages the use of inmate work programs.¶
(d) Oregon Small Business Enterprises (OSBEs). Procuring from an OSBE strengthens Oregon's economy, supports local jobs, and helps small businesses thrive. If the anticipated Procurement is a Small Procurement, the Authorized Agency must first attempt to contract with an OSBE in accordance with OAR 125-246-0230.¶
(e) Statewide Department Price Agreement. Economy and efficiency are promoted through volume and strategic purchases. Some Statewide Department Price Agreements are Mandatory Use Contracts, described in OAR 125-247-0296. To determine if a Price Agreement exists and whether it is mandatory, use OregonBuys or other Electronic Procurement System approved by the State Chief Procurement Officer and perform a "Statewide Contract Search" or an "Award Search" for "active" Contracts. Under ORS 279A.140, DAS has the procurement Authority to establish and administer statewide Price Agreements, and in accordance with the terms of each Price Agreement, DAS delegates to the Agencies the Authority to use these Statewide Department Price Agreements. A statewide Department Price Agreement should clearly state what, if any, threshold limitation applies to the delegated Authority to use the Price Agreement. If a Statewide Department Price Agreement is silent or unclear on the threshold limitation on the delegated Authority to use the Price Agreement, the Agency's delegated Authority to use the Price Agreement is not to exceed $250,000, unless the Agency has Authority greater than $250,000 in a form in accordance with OAR 125-246-0165(4).¶
(3) ORS 190 Agreement. Section (2) does not apply to ORS 190 Agreements that promote the use of existing state resources, including an Interagency Agreement, Intergovernmental Agreement, Interstate Agreement, International Agreement, or Tribal Agreement (see OAR 125-246-0365). An Agency may elect to use an ORS 190 Agreement at any time.¶
(4) Open Market. If sections (2) and (3) do not apply, the Agency may procure Supplies and Services through the open market, using the methods provided under the Public Contracting Code, related Rules, and policies. See ORS 279AB, OAR 125-246 and 247.¶
(5) Methods of Source Selection. An Authorized Agency must award a Contract for Supplies and Services by one of the following seven sourcing methods in accordance with the Code and related Rules:¶
(a) Competitive Sealed Bidding according to ORS 279B.055;¶
(b) Competitive Sealed Proposals according to ORS 279B.060;¶
(c) Small Procurement according to ORS 279B.065;¶
(d) Intermediate Procurement according to ORS 279B.070;¶
(e) Sole-Source Procurement according to ORS 279B.075;¶
(f) Emergency Procurement according to ORS 279B.080; or¶
(g) Special Procurement according to ORS 279B.085. A Cooperative Procurement in accordance with OAR 125-246-0400 substantially uses a Competitive Sealed Bidding or Competitive Sealed Proposals method.¶
(6) All State Contracting Agencies must comply with ORS 200.035, any applicable related Governor's Executive Order regarding Oregon Minority-owned, Women-owned, Veteran-owned, and Emerging Small Businesses, and

applicable related Department statewide policy.
Statutory/Other Authority: ORS 279A.065(~~5~~6)(a), 279A.070, Or Laws 2025, ch 483
Statutes/Other Implemented: ORS 279B.050, Or Laws 2025, ch 483