



PROCUREMENT TRANSFORMATION

Initiative Briefing

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Oregon Small Business Enterprise Preference

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<https://oregon.gov/DAS/Procurement/Pages/Index.aspx>

Oregon Small Business Enterprise Preference

SITUATION

House Bill 2337 (2025) directs the Department of Administrative Services (DAS) to establish a program granting procurement preference to certified Oregon Small Business Enterprises (OSBEs). Key elements include:

Certification: Business Oregon will define eligibility criteria and certify businesses as OSBEs.

Preference Program: DAS will create a program that provides procurement preferences for certified OSBEs.



Under DAS procurement rules, agencies must follow the Buy Decision to determine where to buy. This decision tree requires agencies to use DAS statewide price agreements before purchasing from the open market, where many Oregon small businesses operate.

Your feedback is essential to make sure these rules work for everyone: fair, efficient, transparent, accountable, and collaborative. These rules focus on small (up to \$25,000) and intermediate (\$25,000-\$250,000) procurements.

- Small procurements (up to \$25,000) – Give preference to OSBEs before price agreements in the Buy Decision.
- Intermediate procurements (\$25,000-\$250,000) – Mandate state agencies seek OSBEs out for quotes and provide a preference to offers from OSBEs.

While Oregon’s public procurement code includes several preference programs; none specifically targets Oregon small businesses. These rules will change that.

Purchasing from Oregon small businesses strengthens the state’s economy, supports local jobs, and helps small businesses thrive. DAS and Business Oregon have been working closely to align certification and preference program implementation. This partnership will continue through joint outreach efforts to ensure small businesses are prepared to participate and procurement professionals know how to apply the OSBE preference.

After RAC Meeting: You will have until March 31, 2026 to:

- Review the topic further;
- Gather feedback from your organization and partners; and
- Send your comments to DAS at das.procurementequity@das.oregon.gov.

The RAC meeting will be recorded and published on the DAS website to facilitate an additional solicitation of public comments. Following this RAC and comment process, DAS will develop a final rule for submission to the Secretary of State, in order to become effective on July 1, 2026.

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NEXT STEPS FOR OREGON SMALL BUSINESSES

The OSBE preference is the first step in a larger rule update effort over the coming year that will also address:

- Price Agreements – Exploring ways to include more Oregon small businesses.
- Preferences – Consolidating all procurement preferences in one place and clarifying how they work together.

We expect the broader rules rewrite effort will expand upon what we adopt now with further input opportunities. For example, current exemptions may change or be removed as part of the Price Agreement work. For now, this update sets the foundation for future improvements while ensuring progress on a key priority.

REFERENCE MATERIALS

Existing Resources

The following resources are available to help inform this work:

Statute

- [House Bill 2337 \(2025\)](#) authorizes the OSBE preference program.

OAR

- [125-247-0200 Buy Decision and Methods of Source Selection](#) – This rule will be updated to reflect the OSBE preference.
- Business Oregon's [draft OSBE certification rules](#) will take effect by April 1, 2026. These rules explain how a business becomes certified as an OSBE.

New Resources

Attachment 1: Draft Rules

Attachment 2: Visual Aid

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Attachment 1

125-246-0230

Preference for Oregon Small Business Enterprises

Note:

This language is added as a new DAS rule.

(1) Purpose. This rule establishes the Oregon Small Business Enterprise (OSBE) preference program. The purpose of the program is to encourage OSBEs to participate in public Procurement. Purchasing from an OSBE strengthens Oregon's economy, supports local jobs, and helps small businesses thrive.

(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.

(3) Applicability. This rule applies to Authorized Agencies conducting Procurement within the Small and Intermediate Procurement Thresholds. The requirements in this rule apply regardless of payment method (including payments made with a Small Purchase Order Transaction System (SPOTS) card).

(a) Small Procurement Threshold. When conducting Procurement within the Small Procurement Threshold, Authorized Agencies must follow the Buy Decision in OAR 125-247-0200 and must procure Supplies and Services from an OSBE if the Supply or Service that meets the Authorized Agency's needs is available from an OSBE.

(b) Intermediate Procurement. When conducting an Intermediate Procurement, Authorized Agencies must directly solicit Offers from at least two OSBEs.

(A) The requirement to directly solicit OSBE certified firms is waived if a 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.

(C) When evaluating scored Offers, Authorized Agencies must apply a preference to Offers submitted by OSBEs.

(i) The OSBE preference may not exceed 10%.

(ii) 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 OSBEs strengthens Oregon's economy when determining which Offer will best serve the interests of the Authorized Agency and the State.

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(c) Authorized Agencies must ensure specifications are designed to promote fair opportunities for OSBEs.

(4) Certification Requirement. To receive the OSBE preference, a business must be certified by Business Oregon as an OSBE:

(a) At the time of Closing, for Procurements that solicit Offers, or

(b) At the time of Public Contract or Ordering Instrument execution, for Procurements that do not solicit Offers.

(5) Exceptions. The OSBE preference does not apply to:

(a) Amendments to Public Contracts or Ordering Instruments;

(b) Procurements for which the OSBE preference is prohibited by federal or State law or funding requirements;

(c) For Procurements within the Small Procurement Threshold, the OSBE preference does not apply to office supplies, information technology hardware or software, or vehicles;

(d) For Intermediate Procurements, the OSBE preference does not apply to Procurements that use the Department's statewide Price Agreements;

(e) Emergency Procurements according to ORS 279B.080;

(f) Special Procurements according to ORS 279B.085;

(g) Public Improvement projects as defined in ORS 279A.010; or

(h) Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, Land Surveying, and Related Services as defined in ORS 279C.100.

(6) Reporting. Authorized Agencies must report OSBE procurement activity for the previous calendar year at least annually by May 15, using a Department reporting process.

(7) Sunset. This rule is repealed on December 31, 2031, unless extended by the Department.

Statutory/ Other Authority: ORS 184.340, HB 2337 (2025)

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0AR 125-247-0200

Buy Decision and Methods of Source Selection

Note:

Additions are shown in bold, underlined font. [Deletions are shown in bold, bracketed font.]

(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 Enterprise (OSBE). When conducting a Procurement that falls within the Small Procurement Threshold established in ORS 279B.065, Authorized Agencies must first try procuring from an OSBE, which strengthens Oregon's economy, supports local jobs, and helps small businesses thrive (see OAR 125-246-0230).

(d) 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).

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(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)(a) & 279A.070, **HB 2337 (2025)**

Statutes/Other Implemented: ORS 279B.050

OSBE Procurement Preference Decision Process

