

 STATEWIDE PROCEDURE	NUMBER 107-009-0030_PR	SUPERSEDES new
	EFFECTIVE DATE December 16, 2020	PAGE NUMBER Pages 1 of 5
	REVIEWED DATE December 16, 2020	
Division Enterprise Goods & Services	REFERENCE Oregon Revised Statute (ORS) 174.112, 184.340, 200.005-200.045, 200.090, 279A.100, and 279A.140; Oregon Administrative Rules (OAR) 125-246-0200 and 125-246-0110; Executive Order 18-03; DAS Statewide Policy 107-009-0020 Statewide Policy 107-009-0030	
Policy Owner Procurement Services		
SUBJECT Business Equity, Inclusion and Engagement in Public Procurement	APPROVED SIGNATURE Katy Coba, Director/Chief Operating Officer <i>(signature on file with DAS Business Services)</i>	

PURPOSE

This procedure provides guidance and requirements to state agencies on how to implement the DAS Statewide Policy 107-009-0030 for the advancement of business equity, inclusion and engagement in public procurement.

APPLICABILITY

This procedure applies to all state agencies, boards, and commissions within the Executive Branch, as defined by ORS 174.112. State agencies, cities, counties, and other public entities outside the Executive Branch are encouraged to develop, implement, and participate in accordance with this procedure as appropriate and to the extent allowable by law.

This procedure and related policy are intended to function in addition to other existing legal responsibilities related to the procurements of state agencies, boards or commissions.

GENERAL INFORMATION

Procedure Outline and Content:

- (1) Increase Opportunities through Business Engagement.
- (2) Method of Notice to the Governor’s Policy Advisor.
- (3) Pre-Solicitation Consultation.
- (4) Solicitation Development.
- (5) Diversify Provider Pool for Equitable Opportunities.
- (6) Records.
- (7) Procurement Methods and Requirements:
 - (a) Small Procurements not exceeding \$10,000.
 - (b) Intermediate Procurement for Supplies and Services exceeding \$10,000 and not exceeding \$150,000.
 - (c) Formal Procurements for Supplies and Services Exceeding \$150,000.
 - (d) Sole-Source Procurements for Supplies and Services.
 - (e) Special Procurements for Supplies and Services.
 - (f) Emergency Procurements for Supplies and Services, A&E, and Public Improvements.
 - (g) Direct Selection and Informal Selection Procurements for A&E.
 - (h) Competitive Quotes Procurements for Public Improvements.
- (8) Awards.
- (9) Required Training.

DEFINITIONS

All capitalized terms in this procedure are defined in Oregon Administrative Rules (OAR) 125-246-0110. Capitalized terms not defined in the aforementioned OAR, are defined as set forth below.

Agencies means all state agencies, boards, and commissions within the Executive Branch, as defined by ORS 174.112.

Certification Office for Business Inclusion and Diversity (COBID) is the certification office for the Oregon state government. COBID certifies firms that meet the requirements of this voluntary program for business owners.

COBID Certified Firms refers to the following certification categories: minority-owned, women-owned, service-disabled veteran-owned and emerging small business.

COBID Vendor Directory refers to the directory of COBID Certified firms that meet the requirements of certification.

Engagement is a value-added set of strategies, activities and partnerships designed to support and promote economic prosperity by providing valuable information, tools and resources to businesses interested in contracting with public agencies.

Equity means seeking to ensure fair treatment, equality of opportunity, and fairness in access to information and resources for all Oregon businesses.

Governor's Policy Advisor is the Governor's Policy Advisor for Economic and Business Equity, appointed by the Governor, in the Governor's Office of Diversity, Equity, and Inclusion.

Inclusion is actively inviting the participation of Oregon businesses, with intentional invitation expanding to COBID Certified Firms.

Provider means collectively or in the alternative, the Supplier, Contractor, Consultant or Business.

Requestor refers to the person making a request to procure a good or service.

PROCEDURES

(1) Increase Opportunities through Business Engagement

Agencies are strongly encouraged to seek to expand opportunities and increase participation of Oregon small businesses and COBID Certified Firms by engaging in activities such as, but not limited to, the following:

- Newsletters.
- Open Houses.
- Engagement events coordinated by the Office of the Governor.
- Participation in local and regional outreach opportunities.
- Debriefs provided as a best business practice.
- Advertise opportunities in minority and rural-focused publications that can provide extended outreach.
- Other activities as Agencies find valuable to connect with diverse vendors.

(2) **Method of Notice to the Governor’s Policy Advisor**

ORS 200.035 requires state agencies to provide timely notice and information to the Governor’s Policy Advisor for public contracts with a value of \$10,000 or more. Posting in the state’s Electronic Procurement System satisfies this requirement for both of the following:

- (a) Solicitations.
- (b) Contract awards.

(3) **Pre-solicitation Consultation**

- (a) Non-procurement staff, such as a Requester, must discuss opportunities for equity, inclusion and engagement with procurement staff prior to developing or releasing a solicitation.
- (b) Procurement staff must be included early in the planning process for procurements that exceed \$10,000.
- (c) Procurement staff should be included in procurements under \$10,000 to ensure COBID Certified Firms have an opportunity to participate in procurement activities.

(4) **Solicitation Development**

In the development of solicitations, Agencies must ensure that requirements and specifications do not inadvertently limit Providers from equitable opportunities. Examples of activities that mitigate unintentional limited competition include, but are not limited to, the following:

- (a) Analyze contract risks with required insurance levels.
- (b) Utilize the Risk Assessment Tool.
- (c) Conduct market research, including industry and rate standards.
- (d) Consider size, scope and location of good or service to be provided.
- (e) Thoughtfully set requirements of experience based on Agencies need.
- (f) Allow the Provider to determine availability and willingness to travel.
- (g) Payment terms made with consideration of prompt pay to subcontractors and suppliers.

(5) **Diversify Provider Pool for Equitable Opportunities**

Agencies must intentionally treat each procurement as a new opportunity to engage with a new pool of Providers to ensure that the Agencies participate in fair and open competition.

(6) **Records**

Agencies’ determination of the number of offers must be documented in all procurement methods. The determinations and documentations must be available for review on request by the Governor’s Policy Advisor or the State Chief Procurement Officer. Records of COBID Vendor Directory searches where COBID Certified Firms did not exist or were not available to perform work should be kept with other solicitation documentation.

(7) **Procurement Methods and Additional Requirements**

(a) **Small Procurements**

- (A) Agencies must review the COBID Vendor Directory for Providers in the category of work needed before awarding the contract.
- (B) To the extent possible, record contracts awarded in the state’s current Electronic Procurement System.

(b) **Intermediate Procurements - Quotes or Proposals (Offers)**

- (A) Agencies must directly solicit quotes or invite bids or proposals from at least one non-COBID Certified Firm and include a minimum of at least one COBID Certified Firm from the certification categories below, whenever possible:
- (i) Minority-owned.
 - (ii) Woman-owned.
 - (iii) Service-disabled veteran owned.
 - (iv) Emerging small business.
- (B) Although a single COBID Certified Firm may have multiple certifications, Agencies may not use one COBID Certified Firm with multiple certifications to satisfy the requirement of directly soliciting to one of each category noted above. Each COBID Certified Firm selected will only serve as one certification.
- (C) The direct solicitation requirement may be waived if, upon review of the COBID Vendor Directory, no businesses certified in the category of work being solicited exist. As an alternative to the direct solicitation requirement, Agencies may instead advertise the intermediate contracting opportunity in the global market through the state's current Electronic Procurement System.

(c) **Formal Procurements for Supplies and Services Exceeding \$150,000: Notified Competition**

If a Solicitation exceeds \$150,000, the State Chief Procurement Officer or delegate through OAR 125-246-0170 must notify all Providers in the global market through the state's current Electronic Procurement System. Agencies are encouraged to also directly invite COBID Certified Firms and non-COBID businesses to ensure business equity and inclusion in solicitations.

(d) **Sole-Source Procurements for Supplies and Service**

When performing market research to determine a sole source procurement, Agencies must review the COBID Vendor Directory.

(e) **Special Procurements for Supplies and Services**

When exploring the Special Procurement method for procurements, Agencies must review COBID Vendor Directory.

(f) **Emergency Procurements for Supplies and Services, A&E, and Public Improvements**

Agencies are encouraged to invite competition if practicable under the circumstances. When competition is practicable, Agencies are urged to comply with the processes and conditions in Section (7)(b) of this procedure.

(g) **Direct Selection and Informal Selection Procurements for A&E**

In addition to other existing legal requirements and responsibilities related to procurement of the services of a Consultant, Agencies must comply with the processes and conditions in Sections (2) and (7)(b) of this procedure.

(h) **Competitive Quotes Procurements for Public Improvements**

In addition to other existing legal requirements and responsibilities related to procurement for a Public Improvement, Agencies must comply with processes and conditions in Sections (2) and (7)(b) of this procedure.

(8) **Awards**

All Awards equal to or greater than \$10,000 must be posted on the state's Electronic Procurement System.

(9) **Required Training**

(a) The State Chief Procurement Officer will provide training and instructional opportunities to ensure Agencies staff are equipped with the necessary knowledge and skills to comply with the standards, duties and responsibilities set out in this procedure and related policy.

(b) Agencies are responsible for ensuring that all management and personnel with procurement or contract administration responsibilities are trained on the requirements of this procedure and related policy.