State of Ohio
General Services Division
Office of State Procurement Services
Ohio Department
of Administrative Services

OhioDAS

PLEASE NOTE: This is *not* the complete ***State of Ohio Procurement Handbook.***

This 15-page excerpt includes:

- *Cover Page to Handbook*
- *Foreward to Handbook*
- *Table of Contents to Handbook*
- *Chapter 5 to Handbook -Ohio's Competitive Selection Process*

State of Ohio Procurement Handbook for Supplies and Services

OHIO PROCUREMENT PROCEDURE ATTACHMENT

An attachment to Ohio's State Planning and Establishment Grants for the Affordable Care Act's Exchanges Grant Application [CFDA: 93.525 dated July 29, 2010]

Revised July 2008

Foreword...

Each fiscal year, state agencies spend more than two billion dollars to purchase supplies and services that are necessary for their daily operation. Purchases range from computers to vehicles to uniforms to food.

Although procurement of supplies and services may appear to be as simple as placing an order with a local supplier, agencies must be aware of Ohio laws that govern the process. Laws place significant penalties upon the individual when purchases are made outside of the established policies and procedures. These laws, policies and procedures may be intimidating to both the novice and the seasoned procurement professional.

A good procurement system balances *fairness, value, accountability, and flexibility.* Vendors competing for state business want equal opportunity and *fairness* in the awarding contracts. State agencies stretching their budget dollars want the best *value* and lowest price. Taxpayers want *accountability* to ensure that their hard-earned tax dollars are spent wisely and ethically. And purchasers want the *flexibility* to use their best judgment and experience to accomplish all of these.

Procurement is both art and science. This Handbook attempts to capture the science: laws, procedures, thresholds, and other objective guidance. That being said, there is no attempt made to capture the "art" of common sense. For every guideline, it is not difficult to formulate an exception where the rule may not seem to apply. For these cases, agencies are encouraged to contact the respective procurement offices of the Department of Administrative Services for further guidance.

This Handbook is specific to Ohio law and is designed to supplement generally accepted procurement practices. The Handbook should be considered a living document that will be updated to reflect the needs of state agency customers. For those agencies who prefer an electronic version, DAS will maintain the Handbook at its web site at the following address:

http://procure.ohio.gov/pdf/pur_procmanual.pdf

We encourage your input in continuing to improve this document.

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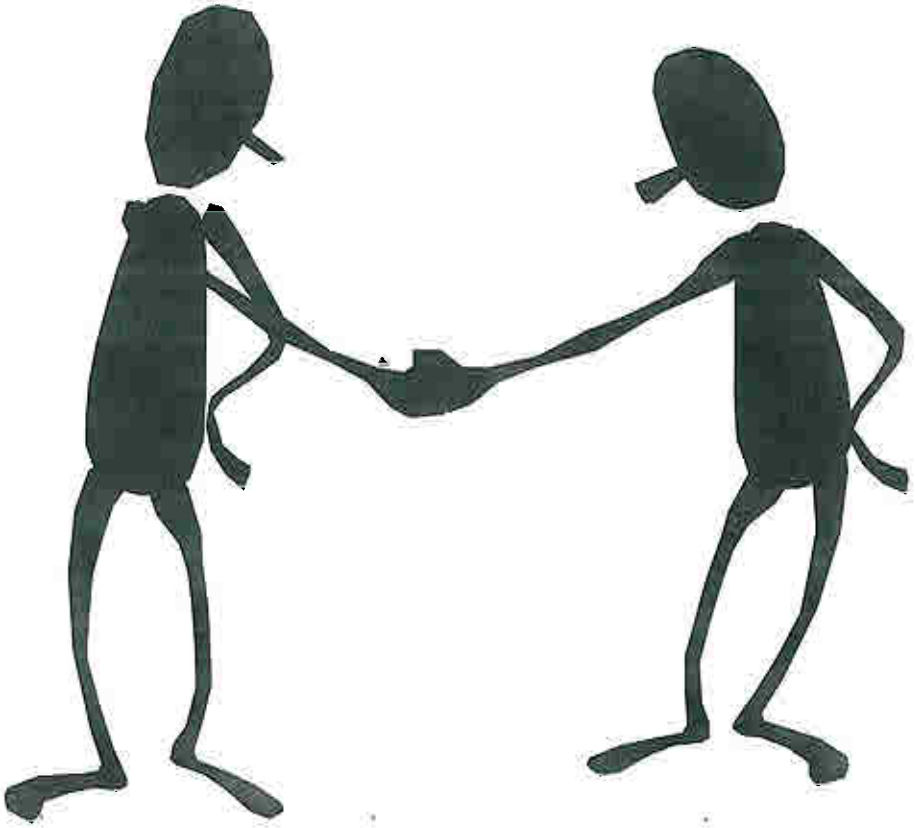
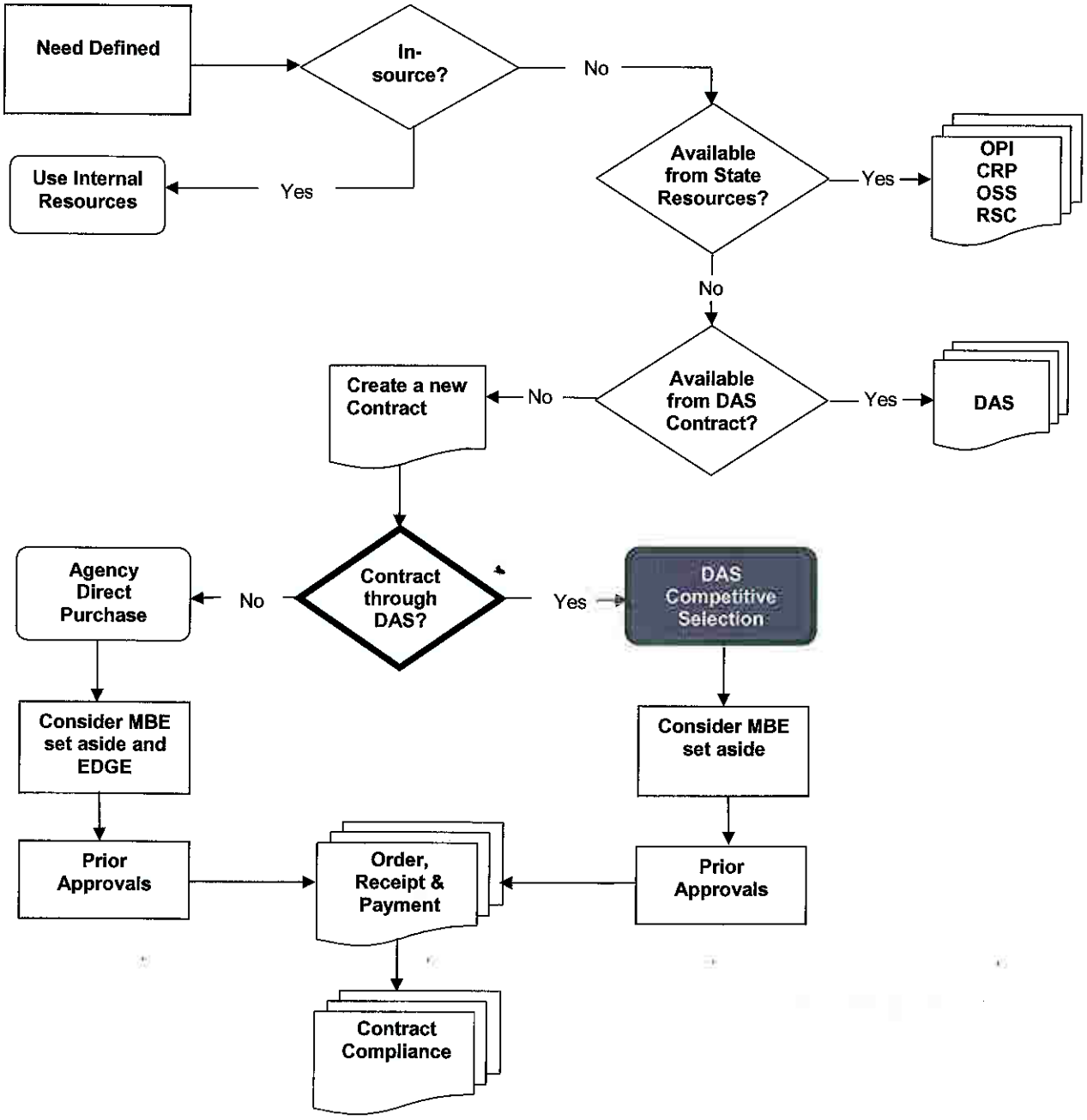


5.0 Overview

Competitive Selection is the process DAS uses to make purchases on behalf of agencies. Two methods of bidding are considered within the definition of Competitive Selection; Competitive Sealed Bids and Competitive Sealed Proposals. This chapter provides an overview of the competitive selection processes used by DAS to create and award new contracts. The process differs depending upon the procurement method used. DAS follows the hierarchy of procurement methods that is shown in Section 4.4 of this handbook. When developing bidding documents, DAS will work closely with the agency from beginning to end. Staff will review specs with the agency to ensure their needs will be met. Once bids or proposals have been opened, staff will involve the agency in the evaluation and award process prior to finalizing the contract.



5.1 Requisitions

When requesting a One-Time Purchase Bid, the agency will enter a requisition in OAKS including all funding information, specifications, and selecting State Purchasing as the vendor. After the requisition receives all agency approvals it will route to State Purchasing as part of workflow.

Requests for term contracts may be submitted using a memo signed by an authorized representative of the agency. It is not necessary to reserve funds for a term contract.

Additional recommendations that the agency should consider when preparing their requisition include:

- Agency contact person and phone number placed in the justification field.
- Estimated cost, most current.
- Ship to/Bill to address.
- Indicate if you want this as a minority business enterprise (MBE) set aside bid in the justification field.
- Proper category code.
- Complete specifications. Copies of catalog pages may be attached.
- Enter additional vendors—names, address, city, state, zip, contact person, e-mail address in the justification field.
- If assembly (construction) is required as part of the purchase, agency will need to provide prevailing wage schedules before the bid is issued.

DAS will review specifications and edit as necessary to remove restrictive requirements (agency will be advised of any changes). The specifications will be typed in bid format and notices will be e-mailed to registered bidders. Final determination of specifications will reside with DAS.

Requisitions may be delayed for a number of reasons. Following is a list of the most common reasons:

- Insufficient definition of need
- Failure to list contact person and phone number
- Additional vendors not provided by agency
- Overly-restrictive specifications: sole source, brand specific
- Failure to provide suggested manufacturer's name and model number

5.2 The Bid Process

The competitive sealed bid process includes the following steps:

1. Create **Invitation to Bid (ITB)**.
2. Advertise bid opportunity.
3. Open bids.
4. Evaluate bids.
5. Award contract.

5.2.1 Creating the ITB

The ITB is created in consultation with the user agency. Typically the process begins by the agency completing the requisition or memo. For term contracts the agency may be requested to complete an Agency Survey Letter (Form ADM 3284, see Appendix 3). DAS writes the ITB based upon this information. A standard ITB contains the following sections:

1. *Instructions to Bidders*. This section includes the date, time and location for submission of bids. It describes the process used in answering vendor questions, how to get DAS announcements regarding the ITB, and information about addenda to the ITB.

2. *Contract Terms and Conditions.* This section contains the general legal provisions that will govern the contract. Additions or deviations from these general provisions are contained in the Special Terms and Conditions section, discussed below.

3. *General Overview.* This section describes the nature of the supplies, equipment and services that the state seeks under the ITB.

4. *Certified Statements.* By signing the bid form, bidders certify that the information contained in their bid is accurate and complete, including several specific statements. For example, bidders must certify that they qualify for an in-state preference, that they have not submitted their bid in collusion with another bidder, and that they have not been subject to government action within the last seven years.

5. *Special Terms and Conditions.* This section contains special and specific legal provisions that will govern the contract, based upon the specific scope of work. Other provisions are contained in the Contract Terms and Conditions section.

6. *Specifications.* This section gives a detailed description of what the selected vendor must provide the state under the contract.

In addition to the standard sections of the ITB described above, each ITB has a number of attachments. The following are the most common attachments that are included in almost every ITB:

- *Cost Summary.* This attachment is the sheet all vendors must use to clearly identify all costs the state will have to pay for the supplies, equipment and services the vendor will deliver.

- *W-9 Form.* The W-9 is a federal form that must be submitted to allow the state to track and report payments to the vendor.

- *Additional Attachments.* Each ITB is unique and may have various attachments, in addition to those listed above, that are unique to the types of supplies, equipment and services covered by he particular ITB.

5.2.2 Advertising the Bid Opportunity

Once a particular supply or service need is fully defined and incorporated into an ITB, DAS advertises the bid opportunity to the vendor community in several ways.

DAS maintains a database of vendors registered for particular supplies or services. These vendors are differentiated by commodity codes. When the code for the bid opportunity matches the vendor's code, the system tags the vendor for notification. Notice of bid opportunities will be e-mailed to these vendors.

Bid opportunities are also posted on the following DAS web sites:
State Purchasing and Acquisition Management:.....www.ohio.gov/procure
State Printing: .....http://das.ohio.gov/gsd/printing/prt.html
State Architect's Office: ..... http://www.das.ohio.gov/gsd/SAO/bidopps.htm

Bids may be advertised for any number of days determined by DAS.

During the advertisement period, prospective bidders may contact DAS for inquiries and clarifications. All questions are to be submitted at least five working days prior to the bid opening date. On occasion these inquiries may require the ITB to be modified. If so, State Purchasing will issue an **addendum** that details the changes. It is the responsibility of prospective bidders to keep current on any addenda and consider these changes in their bid submittal.

Some bids include a pre-bid conference or site visit. Such events will be specified in the ITB.

5.2.3 Opening the Bids

Sealed bid responses are opened at the time and day specified in the ITB. A representative from the Auditor of State certifies all bids that have been opened. Bids are available for public inspection immediately. Any bids that arrive after the opening date and time are considered late and are not opened or evaluated.

5.2.4 Evaluating the Bids

Bid responses are evaluated to determine compliance with all specifications and ability of the bidders to perform the contract. During the evaluation period, bidders are not allowed to initiate contact with the contract analyst. On occasion, the analyst may contact a bidder for clarification.

If potential awardees' price exceeds the agency estimate by more than ten percent, the agency is contacted for approval to award, rebid or cancel.

5.2.5 Awarding the Contract

Once the bids have been evaluated, a contract is awarded to lowest responsive and responsible bidder.

For all one-time purchases, a Purchase Order, ADM-0523, is used as the contract,, and the requisition is updated with the awarded vendor and price in OAKS by DAS upon award. Once OAKS sources the requisition to a purchase order, the purchase order is dispatched to the vendor and the agency may review the purchase order in OAKS.

When delivery is completed and proper invoice received, agency issues a voucher to initiate payment to contractor.

The evaluation and award process for term contracts is the same as for one-time bids with the exception that all purchase orders are issued directly by the using agency. DAS will provide the agency with the contract agreement that will list the awarded supplies or services, the contractor(s), pricing and all terms and conditions of the purchase agreement.

Questions & Answers

Q: How long does the one-time bid process take?
A: Agencies should allow a minimum of 30 calendar days for completion.

Q: Why should the agency list additional vendors on the Requisition?
A: These companies may have assisted you in preparing your specification, but may not be registered with DAS. Listing them on the Requisition or memo will assist in their receiving a copy of the bid notice.

Q: What if the award will exceed my budgeted dollar amount?
A: DAS will contact an agency if the award amount exceeds the estimated cost by more than ten percent. The agency will then have the option of awarding the contract, rebidding the purchase request, or canceling the request.

Q: Will agencies be guaranteed of receiving a specified brand?
A: State law mandates that DAS award to the lowest responsive and responsible bidder meeting or exceeding requirements as set forth in the bid. Specifying one brand, no equivalent, is considered sole source, which may not be able to be competitively bid. Under certain circumstances, DAS may consider a "brand specific" bid, provided that a sufficient number of distributors are available. Such requests require approval of the administrator of the appropriate office of DAS. Sole source requests that cannot be bid and will exceed the annual cumulative dollar threshold will require Controlling Board approval.

5.3 The Request for Proposal (RFP) Process

Whenever the competitive sealed bid process is not possible or advantageous to the state, DAS is authorized to make purchases through competitive sealed proposals. In this process, award is made to the **offeror** whose proposal is determined to be most advantageous to the state, taking into consideration factors such as price and the evaluation criteria set forth in the RFP. The request for proposal process includes the following steps:

1. Create the RFP.
2. Advertise proposal opportunity.
3. Open proposals.
4. Evaluate proposals.
5. Award contract.

5.3.1 Creating the RFP

The RFP is created in consultation with the user agency. Typically the process begins by the agency contacting and meeting with DAS. DAS writes the RFP based upon this information. A standard RFP contains the following sections:

1. *Executive Summary.* This section provides summary information about the RFP, such as purpose, background, objectives, overview of the project and key dates.

2. *Structure of the RFP.* This section provides information about the RFP structure, information provided in attachments and any additional material that may have a bearing on the project. The structure of the RFP depends on the project and will vary based on the project's requirements. The structural changes from one RFP to another usually are contained in the attachments to the RFP. For example, a project that requires the delivery of custom-developed intellectual property will have a terms and conditions attachment that heavily focuses on ownership of that property. Similarly, if the people the vendor assigns to a project are critical to the project's success, the RFP will usually include personnel profile summary forms as attachments. Also, the nature of the project may affect the requirements for the proposal's contents. For example, if part of the project includes the delivery of some pre-existing items, such as software, the special provisions attachment may be modified to require inclusion of demonstration copies of the software in the proposals.

3. *General Instructions.* This section includes the date, time and location for submission of proposals. It describes the process for answering vendor questions, how to get DAS announcements regarding the RFP, and information about amendments to the RFP.

4. *Evaluation of Proposals.* This section tells vendors how the proposals will be evaluated. Generally, the evaluation is organized in the same order as the requirements for proposals, provided in an attachment to the RFP. Depending on the structure of the RFP and the evaluation process, points may be assigned to each section required in a proposal submitted in response to the RFP. Many times, points also are assigned for specific elements within each section of a proposal.

5. *Contract Award.* This section is an overview of the contract award process and the contents of the contract.

In addition to the usual five parts of the RFP described above, each RFP has a number of attachments. The following are the most common attachments that are included in almost every RFP:

- *Work Requirements and Special Provisions Attachment.* This attachment describes what the vendor must do to accomplish the work, or deliver the required supplies that may be unique to the particular project. This attachment also may cover the required qualifications of a vendor, such as:

- the amount of experience the vendor must have providing the supplies, equipment and services described;
- the qualifications and experience of personnel to be assigned to the project; and
- amounts acceptable/required for subcontractor involvement.

- *Detailed Scope of Work/Deliverables Attachment.* This attachment describes the services to be performed or supplies to be purchased. If the state has developed specifications or drawings for the project, they may be included or incorporated here by reference. Other items addressed in this attachment may include:

  - specific tasks and sub-tasks to be accomplished;
  - parameters and restrictions on performance;
  - time for completion of work (if not otherwise specified);
  - supplies, equipment and services the contractor must provide; and
  - a list of state-furnished materials, such as state plans, reports and other resources.

- *Requirements for Proposals Attachment*. This attachment covers the proposal format, profiles, staffing plan, profile summaries and work plans that must be provided in the responses to the RFP. This section also provides a list of all elements to be evaluated and a description of the level of detail that vendors must provide for each element in their responses.

- *W-9 Form.* The W-9 is a federal form that must be submitted to allow the state to track and report payments to the successful vendor.

- *Cost Summary.* This attachment is the form all vendors must use to clearly identify all costs the state will have to pay for the supplies, equipment and services the vendor will deliver.

- *Terms and Conditions.* This attachment contains the legal provisions that will govern the performance of the project by the selected vendor.

- *Contract.* This attachment is normally a one-page document for the vendor and the state to sign that. incorporates by reference all the relevant documents for the project, such as the RFP and the selected proposal. It does not contain any detailed terms and conditions, as many contracts do, because all those provisions are contained in the RFP

- *Additional Attachments*. Each RFP is unique and may have additional attachments unique to the types of supplies, equipment and services covered by the particular RFP.

5.3.2 Advertising the Proposal Opportunity

Once a particular supply or service need is fully defined and incorporated into a RFP, DAS advertises the proposal opportunity to the vendor community in several ways.

DAS maintains a database of vendors registered for particular supplies or services. These vendors are differentiated by commodity codes created by the National Institute of Governmental Purchasing (NIGP). When the code for the bid opportunity matches the vendor's code, the system tags the vendor for notification. Notifications will be sent through e-mail to these vendors.

Proposal opportunities are always available in the "Selling to the State" section of the State Procurement web site.

RFP's may be advertised for any number of days determined by DAS.

During the advertisement period, prospective offerors may **not** contact the responsible Acquisition Management analyst directly. Rather, questions are addressed through the on-line inquiry process only. Answers to all inquiries are posted on the State Procurement web site at www.ohio.gov/procure.

On occasion these inquiries may require the RFP to be modified. If so, Acquisition Management will issue an **amendment** that details the changes. It is the responsibility of prospective offerors to keep current on any amendments and consider these changes in their proposal submittal.

Some RFP's include a pre-proposal conference or site visit. Such events will be specified in the RFP.

5.3.3 Opening the Proposals

Competitive sealed proposals are typically opened at 1:00 P.M. on the day specified in the RFP. Any proposals that arrive after the opening date and time are considered late and are not opened or evaluated. The names of the offerors are tabulated, but otherwise the contents of the proposals are not disclosed. In order to ensure a fair and impartial evaluation, proposals are not available for public inspection until after the award of the contract.

5.3.4 Evaluating the Proposals

The evaluation team usually consists of members from both DAS and the client agency. The committee also may include outside consultants and other people with special expertise or with a particular interest in the outcome of the project, such as the client agency's own clients or constituents.

During the evaluation phase, offerors may not initiate any communication with the evaluation team. However, DAS may initiate discussions with offerors in order to further assess their responsiveness. Offerors may be required to provide a written clarification of specific items in its response. If products are required by the RFP, a product demonstration also may be considered. DAS also reserves the right to interview vendors to gather additional information. Evaluators may not reveal to offerors any information or tentative conclusions on the relative merits of proposals during this phase.

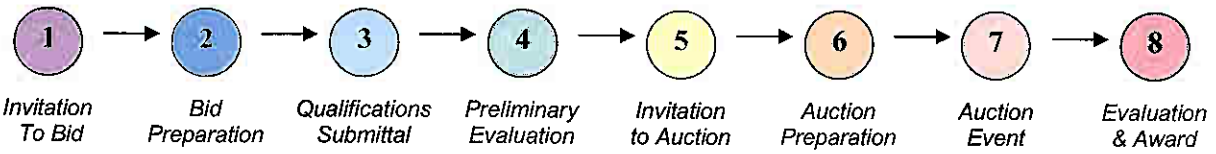
The evaluation team uses both the evaluation criteria and process defined in the RFP to recommend a vendor for award. Each evaluator reviews and scores the proposals on an individual basis. After all proposals have been scored, the evaluators meet to discuss the reasoning for their evaluations. A DAS analyst chairs the discussions and records the scores of each evaluator. In most evaluations, a consensus score is then determined, recorded, and used as the score for awarding the contract.

5.3.5 Awarding the Contract

Once the evaluation committee recommends a proposal and the client agency approves the recommendation, DAS processes the contract and notifies all offerors of the outcome. The client agency then will receive approval to process a purchase order for the selected vendor. The selected vendor may begin work upon receipt of the purchase order.

5.4 The Reverse Auction Process

Reverse auction is a purchasing process in which offerors submit bids in competing to sell services or supplies in an open environment via the internet. The auction itself is an invitation-only, timed event that is open to bidders who have been pre-qualified. The reverse auction process includes the steps listed below:



1. DAS posts the procurement opportunity on its web site
2. Q&A are done electronically on the web site
3. Bidders submit qualifications summary, without their price
4. DAS reviews submittals to determine responsiveness
5. Only those who are pre-qualified are invited to the auction event
6. Auction vendor connects bidders to auction system; performs training
7. Bidders submit progressively lower prices electronically until lowest bid is submitted
8. DAS reviews submittals for responsibility, starting with the lowest price, until award

Reverse auction is a competitive selection process newly authorized under ORC 125.072, enacted through House Bill 120 in 2001. DAS may conduct reverse auctions at its discretion when it is determined to be advantageous to the state.

5.5 Expedited Purchases through DAS

With the approval of Am. Sub. House Bill 120, DAS is no longer required to advertise bid opportunities for a minimum of fifteen calendar days. Agencies may be able to use DAS for expedited purchases that require a quick turnaround. In the event that your agency requires an expedited purchase, contact your DAS procurement representative.