

OHIO AUDITOR OF STATE  
KEITH FABER

**Federal Uniform Guidance Procurement Requirements & How they Relate to State Competitive Bidding Laws**  
COAGA Conference  
September 19, 2023

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Assistant Chief Deputy Auditor

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**A Few Important Disclaimers...**

- AOS must maintain independence under *Generally Accepted Government Auditing Standards*.
- This training is intended to serve as a practical reference, it is not intended to be, nor does it provide or constitute legal advice.
- Adherence to, application of, or use of this guidance with regard to a procurement subject to federal award funds does not guarantee the legal sufficiency of any procurement.
- Local governments & schools should refer all legal questions concerning the sufficiency of a procurement in terms of federal procurement standards and Ohio competitive bidding laws to their legal counsel.

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**AOS Resources**

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General Federal Resources

COVID-19 Assistance

Federal Program Resources

General Federal Resources

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### Local Governments vs Schools vs States

**Schools**

**Local Govts**

**States**  
*(requirements significantly less stringent than most local govts.)*

**Reminder:**  
Procurement Applies to SLFRF, except Revenue Loss, ESSER, and most IJA programs

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### Uniform Guidance Act 2 CFR 200

- Subpart A, 200.XX Acronyms & Definitions
- Subpart B, 200, 1XX - General
- Subpart C, 200.2XX - Pre Award - Federal
- Subpart D, 200.3XX - Post Award - Recipients**
- Subpart E, 200.4XX - Cost Principles
- Subpart F, 200.5XX - Audit
- 12 Appendices

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### Relevant Statutes

- 2 CFR §200.317 – Procurements by States
- 2 CFR §200.318 - .327 – General Procurement Requirements (*applicable to local governments and schools*)
- 2 CFR §200 – Other Uniform Guidance Requirements, including Single Audit
- Also must comply with all applicable federal terms and conditions and state and local laws/regulations.

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**2 CFR §200.318**  
**General Procurement Standards**

- a) Documented policies and procedures;
- b) Contract oversight;
- c) Written standards of conduct covering conflicts of interest;
- d) Avoid unnecessary or duplicative items (e.g., lease vs. purchase analysis);
- e) Encourages state and local intergovernmental agreements;
- f) Encourages uses of Federal surplus property instead of buying new;
- g) Encourages use of value engineering clauses;
- h) Award contracts only to responsible contractors;
- i) Maintain procurement records;
- j) Limit use of time-and-materials contracts; and
- k) Settle issues arising out of procurements

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**2 CFR §200.319**  
**Principles Governing Free and Open Competition**

- a) Don't place unreasonable requirements on bidders, require unnecessary experience, or specify only a "brand name" product.
- b) Don't use state or local geographical preferences.
- c) Don't allow contractors that develop or draft specifications, requirements, statements of work, invitations for bid or requests for proposal to compete for and be awarded the subsequent contract for that work. Don't award noncompetitive contracts to consultants that are on retainer.
- d) Have written standards of conduct covering conflicts of interest and governing the performance of your employees engaged in contract award and administration.
- e) Make sure to properly assess & document rationale for complying with sole-source requirements.

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**2 CFR §200.403 and §200.404**  
**Factors Affecting Allowability of Cost**

- a) Incurred during the approved budget period
- b) Necessary and reasonable and allocable
- c) Conform with federal law, guidelines and grant terms
- d) Consistent with policies and procedures
- e) Accorded consistent treatment
- f) In accordance with GAAP
- g) Not used for cost sharing or matching funds
- h) Adequately documented

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**2 CFR §200.403 and §200.404**  
**Necessary and Reasonable**

- The foundation for allowable costs:
  - To be allowable under Federal awards a cost be **necessary** and **reasonable** for the performance of the Federal award and be allocable thereto under these principles 2 CFR 200.403(a).
- Reasonable means cost does not exceed what would be incurred by a prudent person under prevailing circumstances when decision was made to incur the cost 2 CFR 200.404.

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**2 CFR §200.403 and §200.404**  
**Necessary?**

How does the purchase align with the objectives/goals of the program in which the Federal funds were awarded?

- Is the cost necessary for the performance of the award?
- Is this item or service needed to meet grant goals?

Practical aspects of necessary:

- Should use the most efficient and effective approach to purchases (e.g., bulk purchasing, lease versus purchase, agreements for use of common or shared goods and services, use of federal excess and surplus property as opposed to purchasing new equipment, etc.)

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**2 CFR §200.403 and §200.404**  
**Reasonable?**

- Meets the prudent person test (i.e., Common Sense); generally recognized as ordinary and necessary cost
- Necessary for the performance or administration of the grant
- Follow sound business practices
- Fair market prices for comparable goods/services in geographic area
- Arm's length transaction
- Act with prudence
- No significant deviation from established policies, practices or prices

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**2 CFR §200.403 and §200.404**  
**Reasonable?**

Practical aspects of reasonable:

- Do I have the capacity to use what I am purchasing?
- Did I pay a fair rate?
- If I were asked to defend this purchase, would I be comfortable?

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**Subpart D, Procurement 2 CFR §200.318-.319**  
**Documented Policies and Procedures**

- Must document procurement procedures and policies consistent with state and local laws and regulations (and charter legislation, if applicable) and conform to the Procurement rules in 2 CFR §200.317 through §200.327.
  - Must ensure all solicitations clearly and accurately describe the technical requirements of the goods or services to be procured and identify all requirements that bidders must fulfill and the factors used in evaluating bids.
  - In addition, if policies include a prequalified list of persons, firms, or products used in procuring goods and services, the list should be current and include enough qualified sources for open competition.

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**Subpart D, Procurement 2 CFR §200.318-.319**  
**Documented Policies and Procedures**

Practical aspects of Policies and Procedures

- Policies and procedures for Federal Procurement transactions must be consistent with similar policies for non-Federally funded grants and programs.
- Should provide instructions/steps employees will consider to provide consistency when classifying these costs as program (direct) or administrative (indirect).
  - How will you handle providing food in specific situations?
  - Do entertainment costs provide a programmatic purpose?
  - Do they need prior approval?

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**Subpart D, Procurement 2 CFR §200.303 & §200.319  
Internal Controls**

- UG emphasizes written, effective internal controls. 2 CFR §200.303 requires each recipient establish and maintain effective internal control to provide reasonable assurance that federal awards comply with all federal regulations and terms and conditions.
- Practical aspects of internal controls
  - Approvals should be made by the grant officer, at a minimum, in writing and prior to incurrence of cost.
  - Prior approval does not exempt grantees from the requirements that purchases are reasonable, necessary and allocable.
  - Contracts must be entered into within the period of obligation and liquidated before the period of performance deadline.

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**Subpart D, Procurement 2 CFR §320  
Procurement Methods**

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    PM[Procurement Methods] --> Informal
    PM --> Formal
    PM --> Non-Competitive
    Informal --> MP[Micro Purchases]
    Informal --> SP[Small Purchases]
    Formal --> SB[Sealed Bids]
    Formal --> Proposals
  
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**Procurement – Informal (2 CFR §200.320(a))**

**Micro Purchase**

- May be awarded **without** competitive rate quotes if price considered reasonable
- Based on **documented** research, experience, purchase history, etc.
- Purchase cards may be used with approved, written procedures
- Distributed equitably among qualified suppliers
- Entity determines applicable threshold

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### Procurement – Informal (2 CFR §200.320(a))

Micro-Purchase Threshold \$10,000 (or \$2,000 if subject to Davis-Bacon Act)

If certain conditions are met\*, with Annual Self-Certification, Increase Up to \$50,000

With Federal Cognizant Agency Approval, Increase Above \$50,000

\*Must include justification, clear identification of the threshold and supporting documentation of any of the following:

- A qualification as low-risk auditee for most recent audit
- Annual internal institutional risk assessment to identify, mitigate, and manage financial risks, or
- For public institutions, a higher threshold consistent with state law

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### Procurement – Informal (2 CFR §200.320(a)(1))

#### Annual Self-Certification

Justification for Threshold

*AOS highly recommends formal adoption by governing board.*

Clearly Identifies Threshold

Includes Supporting Documentation (Low-Risk Auditee Most Recent Audit, Annual Internal Risk Assessment, or Higher Threshold Consistent with State Law)

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### Procurement – Informal (2 CFR §200.320(a)(2))

#### Small Purchase

Aggregate dollar amount greater than micro-purchase threshold, less than simplified acquisition threshold (currently \$250k).

Must obtain **and document** price or rate quotations from adequate number of qualified sources.

Must be formal written quotes.

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**Procurement – Informal (2 CFR §200.320(a))**

**Simplified Acquisition Threshold (SAT)**

Determined by non-Federal entity based on internal controls, risk evaluation, and documented procurement procedures.

Cannot exceed \$250,000 FAR threshold.

Must perform cost or price analysis in connection with every procurement action in excess of the SAT, including contract modifications.

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**Procurement – Formal (2 CFR §200.320(b))**

**Sealed Bids**

- Publicly Solicited
- Firm, fixed-price contract awarded to responsible bidder with lowest price
- Preferred method for procuring construction if conditions in 2 CFR §200.320(b)(1) are met
- Must **document** cost and price analysis

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**Procurement – Formal (2 CFR §200.320(b)(1))**

**Sealed Bid Requirements**

- Solicited from an adequate number of qualified sources
  - Sufficient response time
  - Publicly advertised
- Invitation must define terms/services
- Opened publicly at prescribed place & time
- Award firm, fixed price contract to lowest responsive and responsible bidder

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**Procurement – Formal (2 CFR §200.320(b)(2))**

**Proposals**

- Conditions not appropriate for sealed bids (generally because cost is not the only factor)
- Either fixed-price or cost-reimbursement contract awarded

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**Subpart D, Procurement 2 CFR §200.318(d) Breaking Out Procurements**

*Governments should prepare an analysis of lease versus purchase alternatives, and any other appropriate analysis to determine and support their rationale for the most economical approach.*

**Breaking Out Procurements?**

- To obtain more economical purchase or meet 2 CFR 200.321: **ALLOWABLE**
- To avoid procurement requirements: **NOT ALLOWABLE**

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**Subpart D, Procurement 2 CFR §200.318(e) Intergovernmental/Inter-Agency Agreements**

**Encouraged**

- Strategic Sourcing, Shared Services, Similar Arrangements
- Full & Open Competition must be maintained
- All Procurement Requirements Apply
- Procurement Rules applicable to states differ from those applicable to local governments, sometimes limiting a local government’s ability to use a state cooperative purchasing program.
  - State Coop Purchasing Program → **Proceed with Caution**; Local governments should first inquire with DAS to determine procurement standards state applied in acquiring items.

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**Subpart D, Procurement 2 CFR §200.318(f)-(g)  
Other**

Encouraged To	
Use Federal Excess and Surplus Property	Use Value-Engineering Clauses

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**Subpart D, Procurement 2 CFR §200.302 & §200.318(b) &(h)  
Contractor Oversight**

Entities must monitor contractors to ensure they perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

- Examples of oversight include making sure contractors adhere to the contractual obligations regarding scope of work, invoices are accurate for the work performed, and services are delivered in a timely manner.
- Certain contracts, as discussed later, are inherently more risky and require careful oversight.

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**Subpart D, Procurement 2 CFR §200.302 & §200.318(b) &(h)  
Contractor Oversight**

- If a local government lacks qualified personnel within its organization to undertake such oversight as required by 2 CFR § 200.318(b), the Federal government expects the local government to acquire the necessary personnel to provide the oversight.
- Contractors selected to perform procurement functions on behalf of the local government are subject to the Uniform Rules and are precluded from bidding on contracts they oversee.

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**Subpart D, Procurement Contractor Oversight**

- Entities should consider whether Build America, Buy America, Act (BABAA) applies.
- For Federal awards made after May 14, 2022.
- Applies to iron and steel items, manufactured products, and construction materials used to construct, alter, maintain, or repair infrastructure. Waivers are available.

BABAA language, FAQs, and waivers are available here:  
<https://www.whitehouse.gov/omb/management/made-in-america/build-america-buy-america-act-federal-financial-assistance/>

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**Subpart D, Procurement 2 CFR §200.302 & §200.318(i) Adequate Documentation**

**Must Maintain Procurement Records**

- Rationale for Method of Procurement, Selection of Contract Type, Contractor Selection/Rejection, Basis for Contract Price
- Contractor oversight and compliance
- Subrecipient Monitoring
- Due consideration should be given in a shared service/intergovernmental arrangement

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**Uniform Guidance Procurement**

**Subpart D, Non-Competitive Procurement 2 CFR §200.320(c):**

- Can **only** be used if **one or more** apply:
  1. The acquisition of property or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold;
  2. The item is available only from a single source;
  3. The public exigency or emergency for the requirement will not permit a delay resulting from publicizing a competitive solicitation;
  4. The Federal awarding agency or pass-through entity expressly authorizes a noncompetitive procurement in response to a written request from the non-Federal entity; or
  5. After solicitation of a number of sources, competition is determined inadequate.

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**Subpart D, 2 CFR §200.320(c)  
Non-Competitive Procurement**

Describe Emergency or Exigent Circumstances	Write Description of Goods / Services	Estimate Dollar Amount; Cost or Price Analysis is required
Describe Known Conflicts of Interest	Define and Justify Time Period of Emergency or Exigency for Specific Situation	Transition to Competitively Bid as soon as Emergency/Exigency Ends

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**Subpart D, 2 CFR §200.321  
Other Procurement Requirements**

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**Subpart D, 2 CFR §200.322 & 200.323  
Other Procurement Requirements**

BABAA

Recovered Materials

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**Subpart D, 2 CFR §200.215 & 200.216**  
**Other Procurement Requirements**



Prohibition on Telecom / Video Surveillance Services or Equipment



Never Contract with the Enemy

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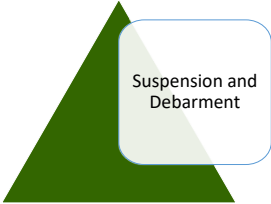
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**Subpart D, 2 CFR §200.214**  
**Other Procurement Requirements**



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**Procurement – Additional Uniform Rules**

Various other contract provisions as outlined in Subpart D and Appendix II to 2 CFR Part 200 – these are items your statutory legal counsel should assist with.

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**Uniform Guidance Procurement**

**What happens if the Federal Procurement Rules are not followed?**

Federal agencies have authority to take any of the remedies outlined in 2 CFR §200.339, including:

- Temporarily withhold cash payments until the deficiency is corrected;
- Disallow, or deny the use of, the grant funds or any matching credit for all or part of the activity that is deficient;
- Suspend or terminate the federal grant award;
- Initiate suspension or debarment proceedings;
- Withhold any further federal awards for the project or program; or
- Take other remedies that may be legally available.

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**Ohio Competitive Bidding Laws**

How Federal Uniform Guidance Compares...

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**Uniform Guidance Procurement vs. Ohio Competitive Bidding Laws**

- **Most restrictive laws and regulations apply.**
  - For example, if State law is more restrictive than Federal Procurement law, State law applies.
- Certain costs may be exempt from State Competitive Bidding laws but are not exempt under Federal Procurement Rules (e.g., professional services, text books, motor vehicles, fuel, cost-sharing contracts).
  - Must meet one of the exemptions under **2 CFR §200.320(c)**; these are the only exceptions to Procurement Rules.

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**Ohio Competitive Bidding - Generally**

- Requirements placed on entities to ensure BOTH the best **quality** for the best **price**.
- Bidding **thresholds** are set by Ohio statute.
- Prepare **plans** and **specifications**
- Competitive sealed bid process where **sealed bids** are received, **opened** at the same time, **tabulated** and “lowest and.....” bid selected or all bids rejected.
- **Notice** is required in newspaper of general circulation.
- Must **avoid conflicts of interest**.

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**Ohio Bidding Laws – Bid Thresholds**

**Typically \$50,000**

- Schools (ORC 3313.46)
- Municipalities (ORC 735.05, 731.14, 731.141)
- Counties (ORC 307.86)
- Townships (ORC 5549.21, 5575.01, 511.12, 505.37, 515.01, 515.07, 505.246, and 521.05 with exceptions)
  - EXCEPT: Maintenance and repair of roads - \$45,000 (ORC 5575.01)
- County Hospitals (ORC 339.05/307.86)
- Municipal Hospitals (ORC 749.26)
- Library (ORC 3375.41)
- General – Buildings and Structures (ORC 153.50 if applicable)

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**Contrast with Federal UG:**  
 Under Ohio law, no bidding necessary for smaller purchases; however, **UG requires documented evaluation of cost “reasonableness”** for federal micro-purchases and an **“adequate number” of price quotes** for federal small purchases.

For **bidding threshold, the most-restrictive requirement applies**. Therefore, must bid everything over the State competitive bidding threshold if it is lower than the Federal threshold of \$250,000.

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### Ohio Bidding Laws – “Lowest.....”

- **Lowest “and Best”**
  - No guideline in statute or case law as to what constitutes “best.”
  - Appropriate factors may be brand name reliability, serviceability, proximity or provider and past experience.
  - Applies to Cities, Villages, Counties, Townships (in certain cases), Contracts under ORC 153.50-153.52 (except schools or state), etc.
- **Lowest “Responsible”**
  - Law does not provide any precise standard.
  - Not limited to financial responsibility but may include other factors.
  - Applies to certain entities such as Libraries (ORC 3375.41(F)) and Schools (ORC 3313.46(A)(6)) including OFCC projects under 3318.10, except those made pursuant to ORC 153.12) and Townships (in certain cases).

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### Ohio Bidding Laws – “Lowest.....”

- **Lowest “Responsive and Responsible” (ORC 9.312)**
  - Applies if a state agency or political subdivision is required by law to follow
    - For example, ORC 153.52 requires this criteria for contracts under this section for a public authority of the state or any public institution and school. ORC 5549.021 requires a township to follow for certain lease-purchases.
  - Applies if municipal corporation, township, school district, county or any other political subdivision elects to require this standard by resolution or ordinance in accordance with ORC 9.312(C).

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### Ohio Bidding Laws – “Lowest.....” ORC 9.312

- ORC 9.312 states that, generally, the government shall accept the “lowest *responsive* and *responsible* bid.”
- Determining the lowest bid is simple
- **Responsive**
  - Proposal responds to bid specs in all material respects
  - Contains no irregularities or deviations which would impact amount and give bidder a competitive advantage.
- **Responsible**
  - More complicated to determine
  - ORC 9.312 indicates factors to consider:
    - Experience of bidder, bidder’s financial condition, conduct and performance on previous contracts, facilities, management skills and ability to execute the contract properly

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**Contrast with Federal UG:**  
 Per UG, must award contracts to **responsible** contractor possessing the **ability** to perform successfully under the contract, including such factors as integrity, compliance with public policy, record of past performance, and financial and technical resources..

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**Ohio Bidding Laws**  
**ORC 9.24 – Finding for Recovery Database**

- Contract may not be awarded to person who has an unresolved finding for recovery if contract is paid in whole or in part with state funds
- Must verify with unresolved finding for recovery database prior to award
- Applies only to the certain contracts outlined in ORC 9.24
- Does NOT apply to employment contracts or situations outlined in 9.24(F). Does NOT apply to hospitals.
- Applies to political subdivisions as defined in ORC 9.82 (County, City, Village, Township, Park District, School District)

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**Contrast with Federal UG:**  
 UG requires all procurements comply with state and local laws and regulations. Must **perform certified search of FFR database and parties debarred by the State for both state and federally-funded procurements.**

UG further requires local governments perform a **search of federally-excluded and debarred/suspended parties** on SAM.gov for federally-funded procurements, **obtain a certification** from the vendor, or **include restrictive language in contract.**

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**Ohio Bidding Laws  
ORC 9.24**

**Keith Faber  
Ohio Auditor** Certified Search for Unresolved Findings for Recovery

OHIO AUDITOR OF STATE  
KEITH FABER

Office of Auditor of State  
88 East Broad Street  
Post Office Box 1140  
Columbus, OH 43216-1140  
(614) 466-4514  
(800) 282-0370

Auditor of State - Unresolved Findings for Recovery Certified Search

I have searched The Auditor of State's unresolved findings for recovery database using the following criteria:

Contractor's Information:

Name: **Vance Pulley**  
 Organization:  
 Date: **3/9/2023 4:15:35 PM**

This search produced the following list of 8 possible matches:

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**Ohio Bidding Laws –  
Professional Design Services**

- Ohio competitive bidding does NOT apply.
- Must adhere to ORC 153.65-153.71 which requires to publicly announce and provide notice of contract, rank firms on basis of qualifications and award contract to the most qualified firm.
  - EXCEPT: Does not apply to:
    - Project with estimated professional design fee of < \$25,000
    - Project with estimated professional design fee of more than \$25,000 but less than \$50,000 if conditions in 153.71 are met.
    - Any project determined in writing to be an emergency requiring immediate action
- Professional design services=
  - Architect of landscape architect registered under ORC 4703
  - Professional engineer or surveyor registered under ORC 4733

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**Contrast with Federal UG:**  
 Ohio law has a number of exceptions to competitive bidding requirements for various local governments and especially schools.

For federal procurements; however, only the Non-competitive Procurement/"Sole-Source" exceptions apply. In all other cases, full and open competition is required.

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### Ohio Bidding Laws Municipalities

**Contracts NOT required to follow competitive bidding:**

- Used equipment or supplies at a public auction
- Emergencies
- Contracts with qualified non-profit agencies
- Contracts with state departments, political subdivisions or a regional planning commission
- Participation in a joint purchasing contract (ORC 9.48(C)-(D))
- Contracts for specialized services requiring particular skills or aptitudes (for example, engineering and legal services) (State ex rel Doria v. Ferguson)
- Professional design services (see previous slide)
- May purchase supplies or services from another party, including a political subdivision, if upon equivalent terms, conditions, specs but at a lower price than it can through contract with Ohio DAS (ORC 125.04)
- PPE during the COVID-19 emergency declaration period

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### Ohio Bidding Laws Schools/ESCs

**Requirements do NOT apply to:**

- Urgent necessities
- Acquisition of educational materials used for teaching
- Items Board determines is available and can only be obtained through a single source (requires 2/3 Board vote)
- Energy conservation measures (requires 2/3 Board vote)
- Acquisition of computer software or hardware for instructional purposes
- Participation in a joint purchasing contract (ORC 9.48(C)-(D))
- May purchase supplies or services from another party, including a political subdivision, if upon equivalent terms, conditions, specs but at a lower price than it can through contract with Ohio DAS (ORC 125.04(C))
- Professional design services (see previous slides)

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### Ohio Bidding Laws Counties - Emergencies

**Emergencies  
- when ANY  
of the  
following  
apply:**

- Estimated cost is less than \$100,000
- Physical disaster to structures, radio comm. equip. or computers
- PPE during the COVID-19 emergency declaration period.

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**Contrast with Federal UG:**  
Ohio law gives broad authority for local governing boards to determine what constitutes an emergency or exigency within statutory parameters.

However, most Federal agencies generally consider a public emergency or exigency to be **limited to natural disasters** for federally-funded procurements. Additionally, the procurement **must be subject to full and open competition upon expiration** of the emergency or exigency.

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### Ohio Bidding Laws Counties - Exceptions

Requirements do NOT apply to:

- May purchase supplies or services from another party, including a political subdivision, if upon equivalent terms, conditions, specs but at a lower price than it can through contract with Ohio DAS (ORC 125.04(C))
- Single supplier or source for purchases of supplies, or replacement parts, or information technology
- Purchases from other government agencies
- Purchases of family service duties or workforce development activities by County JFS
- Purchases of program services by County Board of DD
- The following activities purchased from nonprofit corporations or associations under programs funded by the federal government:
  - Criminal justice services
  - Social services programs
  - Family services
  - Workforce development activities

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### Ohio Bidding Laws Counties - Exceptions

Requirements do NOT apply to:

- Insurance or contracts negotiated under ORC 307.86(F)\*
- Federally funded computerized case management automation project\*
- Child care services for county employees
- Leased property (land, buildings and other real property) for offices, storage, parking or other purposes pursuant to ORC 307.86(I)\*
- Programs or services under ORC 307.86(J) for certain individuals under juvenile court supervision

\*Subject to certain conditions

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### Ohio Bidding Laws Counties - Exceptions

Requirements do NOT apply to:

- Family services, programs or ancillary services provided by children services in certain cases
- EMS services by contract between County Commissioners and Joint EMS District
- Used supplies purchased at a public auction
- Services of an accountant, architect, physician, professional engineer, construction manager, consultant, surveyor or appraiser
- Acquisitions made through another entity's purchasing program pursuant to ORC 9.48.
- Professional design services (see previous slide)

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### Ohio Bidding Laws Townships - Exceptions

Requirements do NOT apply to:

- Emergencies (ORC 505.08)
- Purchase of equipment, supplies, materials or services if contract is less than \$50,000
- Must be unanimous resolution that a real and present emergency exists
- PPE during COVID-19 emergency period
- Purchases from for certain items or services from political subdivision, SWCD, regional planning commission or ESC (ORC 505.101)
- Professional design services (see previous slides)

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### Ohio Bidding Laws Townships - Exceptions

Requirements do NOT apply to:

- Participation in a joint purchasing contract (ORC 9.48 (C)-(D))
- May purchase supplies or services from another party, including a political subdivision, if upon equivalent terms, conditions, specs but at a lower price than it can through contract with Ohio DAS (ORC 125.04(C))
- Acquisitions made through another entity's purchasing program (ORC 9.48)

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**Ohio Bidding Laws**  
**ORC 153 – Multiple-Prime**

Contracts cannot be divided for the purpose of avoiding competitive bidding requirements.

- Plumbing and gas-fitting
- Steam and hot-water heating; ventilating apparatus; steam-power plant
- Electrical equipment

Separate contracts must be “conceptually separate and unrelated to each other, or encompass independent or unrelated needs.”

May also group branches together if the aggregate of the bids is lower than the total sum of the individual bids.

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**Contrast with Federal UG:**  
 Must **avoid unnecessary/duplicative purchases** and consider consolidating or breaking out procurements to achieve a more economical purchase, and consider consolidating or breaking out procurements to achieve a more economical purchase.

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**Ohio Bidding Laws**  
**Other**

Other entities subject to State Competitive Bidding:

- Airport Authority (ORC 308.13)
- Conservancy District (ORC 6101.16)
- COG (ORC 167.08)
- FCFC (ORC 121.37(B)(5)(a))
- Joint Ambulance District (ORC 505.72, 505.376)
- Joint Fire District (ORC 731.14-731.16, 505.42)

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### Ohio Bidding Laws Other

#### Other entities subject to State Competitive Bidding:

- Joint Mental Health District (Bidding is n/a but must have contract review process – See ORC 340.03(A)(8) and 340.036)
- Park District (ORC 1545.09 – required to be included in bylaws)
- Port Authority (ORC 4582.12)
- Regional Planning Commission (ORC 713.23 – required to follow ORC 307.86-.92)
- Regional Water and Sewer (ORC 6119.10)
- Soil & Water Conservation District (ORC 940.06)
- And more ... AOS's *Ohio Compliance Supplement* is a helpful resource

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### Prevailing Wages (STATE) ORC 4115

Laws which require contractors, by contract, to pay certain wage rates "prevailing wages" for a certain area.

Entity required to obtain prevailing wage for their area prior to bidding and when contract is awarded (if more than 90 days after original)

Thresholds for prevailing wages are separate from bidding thresholds (see following slides).

- Some contracts meet bidding threshold but not prevailing wage threshold.

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#### **Contrast with Federal UG:**

Contractors must pay all laborers state prevailing wage rates, and comply with other wage and hour requirements, unless Davis-Bacon Act applies.

**Refer to terms and conditions of federal award to determine whether Davis-Bacon Act applies.**

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**Prevailing Wages (STATE)  
ORC 4115**

**Does NOT apply to:**

- Projects to which Davis-Bacon Act (federal requirement) applies
- Public improvements undertaken by BOE or ESC
- County or municipal hospitals in certain conditions
- Donated labor in certain conditions
- Other (see OCS 2A-12)

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**Resources**

Full Uniform Guidance Text

[www.ecfr.gov](http://www.ecfr.gov)



Auditor of State

[www.ohioauditor.gov](http://www.ohioauditor.gov)

US Department of the Treasury

[home.treasury.gov](http://home.treasury.gov)

System for Award Management (SAM) Suspended/Debarred Parties

Search

[SAM.gov](http://SAM.gov) | [Exclusions](#)

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**Resources**

AOS Procurement Resources

[General Federal Resources \(ohioauditor.gov\)](#)

Federal Emergency Management Procurement Resources

[Contracting with Federal Funds for Goods and Services Before, During and After Disasters | FEMA.gov](#)

Environmental Protection Agency's Procurement for Drinking Water and Wastewater Utilities

[Prepare for Funding: Develop Emergency Procurement Policies and](#)

[Procedures for Drinking Water or Wastewater Utilities | US EPA](#)

Environmental Protection Agency's Comprehensive Procurement Guideline

[Comprehensive Procurement Guideline \(CPG\) Program | US EPA](#)

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**Resources**

**AOS Ohio Compliance Supplement**  
<https://ohioauditor.gov/references/compliancemanuals.html>

**Ohio Township Handbook**  
**Village Officer's Handbook**  
<https://ohioauditor.gov/publications.html>

**Ohio Township Association**  
[American Rescue Plan and Ohio Townships - Ohio Township Association](#)

**CCAO Handbook**  
<https://ccao.org/aws/CCAO/pt/sp/handbook>  
(Use with caution. This handbook has not been reviewed by AOS for accuracy)

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**Questions?**

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