

Direct Buy Policy

FREQUENTLY ASKED QUESTIONS

PUBLISH DATE: March 19, 2020

- Question:** Are agencies required to use master contracts or DES approved cooperative contracts for purchases under the direct buy limits?

Answer: Yes. If there is a master contract or DES approved cooperative contract that meets an agency's needs, it should be used. In the event the master contract or DES approved cooperative contract cannot justifiably satisfy agency needs, the agency may make the purchase from a non-master contract vendor. One of the main tenets of strategic sourcing is aggregating spend to increase buying power.
- Question:** What is meant by "cannot justifiably satisfy agency needs?"

Answer: Agencies are directed to use their discretion and good, sound judgment when making this decision. For example: the product does not meet the required performance specifications, the contractor's delivery time does not meet the agency's needs, the agency requires different terms (i.e., warranty provisions or insurance requirements), etc. In addition, all agencies have been encouraged to increase spending with certified small and minority-, women- and veteran-owned businesses. If a diverse spend option is not available on a master contract and an agency has identified a diverse spend option that meets its needs and complies with all procurement rules, then the agency would be justified to purchase outside of a master contract or DES-approved cooperative contract. The reasons justifying the off contract purchase should be documented.
- Question:** What should be included in calculating the direct buy threshold?

Answer: When calculating the value of a direct buy purchase agencies should consider the total life cycle cost, including amendments. If the total life cycle cost with amendments exceeds the direct buy limit, a competitive solicitation method should be used.
- Question:** What are repetitive purchases?

Answer: Repetitive purchases occur when agencies make the same type of purchases repeatedly during the same fiscal year (e.g., first aid kits). Agencies should monitor repetitive purchases even if from different vendors. When the aggregate total of the same type of purchases exceeds the direct buy limit in a fiscal year, the agency must enter into a competitive procurement (e.g., tracked by type of purchase not by vendor). The reasons for conducting a competitive procurement for the same type of purchases include that an agency may receive volume discounts, better pricing, and/or other favorable contract terms. In this way, agencies maximize state resources.
- Question:** What documentation is required to support a direct buy purchase?

Answer: This policy provides agencies with discretion to make a non-competitive purchase, using an appropriate level of due diligence, and corresponding record keeping (e.g., monitoring repetitive purchases). Agencies must retain documentation that confirms that a vendor meets qualifying small or veteran-owned business criteria for a Direct Buy Level 2. This may include validation using WEBS or the Office of Minority and Women's Business Enterprises (OMWBE) Directory of Certified Businesses.
- Question:** What should I include to show that a vendor qualifies for a Direct Buy Level 2?

Answer: Agencies must confirm that a vendor meets the qualifying criteria for a Direct Buy Level 2. This may include validation using WEBS or OMWBE's Directory of Certified Businesses. When purchasing under

Direct Buy Level 2, staff should retain documentation supporting that the firm meets the qualifying business criteria (e.g., Washington small business or certified veteran-owned business).

7. **[Revised May 27, 2020] Question:** Do direct buy purchases need to be coordinated with the state Office of the Chief Information Officer (OCIO)?
Answer: Yes, when they are IT related. All information technology related investments must conform to [OCIO Policy #121](#). Regardless of price or complexity, IT purchases carry liability and/or security impacts that are orders of magnitude above the price and require approvals prior to purchase. In addition, you should check with your internal IT team to ensure that the technology that is being purchased can be integrated into the current infrastructure and that IT staff are able to provide the required support. Agencies should coordinate with their assigned OCIO consultant. DES will also be available to assist agencies with procurement related issues.
8. **Question:** Can you define sound professional judgment?
Answer: Sound professional judgment is defined as "The use of relevant training, knowledge and experience in making informed decisions." Agencies are to exercise sound professional judgment in implementing direct buy. Although some direct buy purchases can be made using a purchasing card, others require creating a formal contract. An agency's record of compliance with the direct buy policy will be a factor in an agency's risk assessment.
9. **Question:** Can you define market research?
Answer: Market research is defined as "Collecting and analyzing information about capabilities within the market to satisfy agency needs. The results of market research are used to arrive at the most suitable approach to acquiring, distributing, and supporting goods and services." While market research has been removed from the policy, it can be used to support the reasonableness of the purchasing decision.
10. **Question:** Can you define due diligence?
Answer: Due diligence is defined as "A business and legal term which refers to research and inquiry made prior to committing to a purchase or making a major business decision." The nature of a procurement will determine how much work is needed to fulfill the due diligence requirement. This policy provides agencies with discretion to make a non-competitive purchase, using an appropriate level of due diligence, and corresponding record keeping.
11. **Question:** If an agency has a direct buy purchase agreement under Direct Buy Level 1 for \$30,000, which needs to be amended to add \$500, would they have to conduct a competitive procurement for the \$500 additional cost?
Answer: Yes, the direct buy purchase is now above the Direct Buy Level 1 for \$30,000. A competitive procurement for the \$500 additional cost would need to occur.
12. **Question:** Under the new Direct Buy policy, can an agency amend a current direct buy contract that had an original cost of \$10,000 or less, if the amended contract value is less than the current direct buy limit? Or does the agency have to write a new contract?
Answer: As long as the amendment is within the scope of the original contract, the amendment is permissible. Otherwise, the agency must write a new contract.