

To: Agency Procurement Officers of State Agencies, Boards and Commissions  
From: Kelly Sanders, Chief Procurement Officer  
Date: October 17, 2019  
Re: Vendor Debarment Guidance

House Bill (HB) 166, which was signed by Governor DeWine on July 18, 2019, contains several statutory changes to debarment of vendors by state agencies. The purpose of this memo is to describe these changes and their effect on Ohio's procurement practices.

State agencies given the authority to debar vendors by the Ohio Revised Code (R.C.) are the Ohio Facilities Construction Commission (OFCC), the Ohio Department of Transportation (ODOT), and the Department of Administrative Services (DAS). The Revised Code requires each to maintain a list of vendors debarred by their agency, but it has not prohibited vendors debarred by one agency from responding to solicitations or being awarded contracts by the others. (For example, a construction company debarred by OFCC could respond to a DAS or an ODOT solicitation and, potentially, be awarded a contract.)

However, this prohibition will be put into place on October 17, 2019, when changes made by HB 166 become effective. HB166 includes a new statute, R.C. 9.242, and revisions to R.C. 125.25, 153.02, and 5513.06. (Respectively, these statutes govern procurement-related actions by DAS, OFCC, and ODOT.)

R.C. 9.242(B) prohibits a debarred vendor from participating in any state contract until the vendor's debarment period expires.<sup>1,2</sup> Additionally, R.C. 9.242(C) requires that state agencies exclude debarred vendors from participating in any other contracts during the debarment period.

Neither the Revised Code nor the Ohio Administrative Code (OAC) establish prescribed debarment periods. Instead, these are determined on case-by-case basis and may vary from agency-to-agency. (For example, a vendor is debarred by both OFCC and ODOT. However, OFCC has debarred the vendor for one year while ODOT has debarred the vendor for two.) To assure that a vendor debarred by one agency is unable to participate in any solicitation or contract issued by another, R.C. 125.25, 153.02 and 5513.06 have

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<sup>1</sup> As defined by R.C. 9.242(A)(3), participate "means to respond to any solicitation or procurement issued by a state agency or be the recipient of an award of a state contract, or to provide any goods or services to any state agency."

<sup>2</sup> Debarment periods are established by the or the Directors of OFCC, ODOT, and DAS (or their designees).

been revised to enable vendors to participate in solicitations or contracts, provided they are not otherwise debarred. (Using the preceding example, although a vendor's OFCC-established debarment period ended after a year, neither they nor any other state agency can allow the vendor to participate in solicitations or contracts for at least another year.)

As previously noted, the Revised Code has required OFCC, ODOT and DAS to maintain debarment lists, which have been accessible through either these agencies' web pages or links available at [procure.ohio.gov](https://procure.ohio.gov/proc/debarment.asp) (<https://procure.ohio.gov/proc/debarment.asp>). However, to assure accurate, up-to-date information, a single, statewide debarred vendors list will be collaboratively maintained by these agencies.

To meet statutory requirements, state agencies are required to use this list when conducting procurements.

The statewide debarment list will be available on [procure.ohio.gov](https://procure.ohio.gov) when HB 166's provisions become effective. Also, for agencies using Ohio|Buys, the second release of this system contains functionality enabling users to reference vendors' profiles to determine their debarment status. Additionally, Ohio|Buys will have systematic controls in place preventing debarred vendors from doing business with state agencies.

If there are any questions concerning this guidance, please direct them to Kelly Sanders ([Kelly.Sanders@das.ohio.gov](mailto:Kelly.Sanders@das.ohio.gov)) and Steve Meese ([Steve.Meese@das.ohio.gov](mailto:Steve.Meese@das.ohio.gov)).

Thank you.