

Direct Buy Policy

FREQUENTLY ASKED QUESTIONS

PUBLISH DATE: September 1, 2025

1. **Question:** What is a Direct Buy?

Answer: Certain public purchases do not justify the administrative time and expenses necessary to conduct a competitive process. Direct Buy purchases provide agencies with discretion to make a non-competitive purchase, using an appropriate level of due diligence, and corresponding record keeping to improve efficiencies and provide more opportunities for spending with Washington Small and Veteran-owned businesses.

For the purposes of this policy examples of “Direct Buy” includes all contracts, purchase orders, and P-Card purchases including all comparable purchasing mechanisms regardless of internal terminology. This includes, but is not limited to, work orders, field orders, task orders, service agreements, credit card purchases, and all other forms of procurement that result in the exchange of funds for goods or services.

[FAQ Published September 1, 2025]

2. **Question:** What is a Quote?

Answer: For the purposes of this policy a Quote is a written (email, etc.) offer from a vendor that includes sufficient detail to evaluate the vendor’s ability to meet the agency’s needs. To be considered valid for Direct Buy Level 3, a Quote must include the following minimum elements:

- a. **Vendor Identification**
 - i. Business name
 - ii. Contact information (email or phone number)
- b. **Description of Goods or Services**
 - i. Clear description of the item(s) or service(s) being offered
 - ii. Quantity or scope of work
- c. **Pricing**
 - i. Total cost or unit price
 - ii. Any applicable fees (e.g., shipping, setup, licensing)
 - iii. Payment terms (if applicable)
- d. **Validity Period**
 - i. The date the quote was issued
 - ii. The expiration date or duration the quote is valid for
- e. **Delivery or Performance Terms**
 - i. Estimated delivery date or service start date
 - ii. Any conditions or limitations

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3. **Question:** What qualifies as a Washington small business under this policy?

Answer: For the purposes of the Direct Buy Policy, a Washington small business is defined solely by the criteria outlined in RCW 39.26.010(22)(a). Businesses must meet the definition of a Washington small business as specified in the RCW to qualify for a Direct Buy levels 2 & 3. Agencies are required to document and verify that a business meets this definition before utilizing a Direct Buy levels 2 or 3.

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4. **Question:** What qualifies as a Veteran-owned business under this policy?

Answer: For the purposes of the Direct Buy Policy, a Veteran-owned business is defined solely by the criteria outlined in RCW 43.60A.010(7). Businesses must meet the definition of a Veteran-owned business as specified in the RCW to qualify and be certified by the Department of Veterans Affairs. Self-identification or informal claims of Veteran-owned business status do not meet this requirement. Agencies are required to document and verify that a business meets this definition before utilizing a Direct Buy level 2 or 3.

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5. **Question:** What documentation is required to support a Direct Buy purchase and that vendor qualifies for a Direct Buy Level 2 or 3?

Answer: Agencies must maintain documentation that demonstrates compliance with the requirements for Direct Buy Levels 2 and 3. This includes:

a. For Direct Buy Level 2:

- i. Confirmation that the selected vendor is a Washington small business, as defined in RCW 39.26.010(22)(a).
- ii. Confirmation that the selected vendor is a Veteran-owned businesses, as defined in RCW 43.60A.010(7).

b. For Direct Buy Level 3:

- i. Confirmation that the selected vendor is a Washington small business, as defined in RCW 39.26.010(22)(a). This can also be verified in the state's enterprise bidder registration and notification system, and/or;
- ii. Confirmation that the selected vendor is a Veteran-owned businesses, as defined in RCW 43.60A.010(7). This can be verified in the state's enterprise bidder registration and notification system.
- iii. Ensure that the documentation required in the Direct Buy Procedure Section 2 c. is maintained in the contract file.

[FAQ Revised September 1, 2025]

6. **Question:** How long does an agency have to wait for a vendor to respond to an invitation to provide a quote before proceeding with a purchase?

Answer: Agencies are expected to provide vendors with a reasonable amount of time to respond to requests for quotes. What constitutes a "reasonable" timeframe may include factors such the complexity of the Direct Buy, the urgency of the need, market, location, and the agency's business requirements. Agencies have the discretion to determine an appropriate waiting period before concluding that a vendor is unable or unwilling to provide a quote, provided that the timeframe aligns with sound business judgment.

[FAQ Published September 1, 2025]

7. **Question:** Are agencies required to use statewide contracts or DES approved cooperative contracts for purchases under the Direct Buy delegations?

Answer: Yes. If there is a statewide contract or DES approved cooperative contract that meets an agency's needs, it should be used. In the event the statewide contract or DES approved cooperative contract cannot justifiably satisfy agency needs, the agency may make the purchase from a non-statewide contract vendor. The reasons justifying the off-contract purchase should be documented. Statewide contracts maximize the state's collective buying power, which offers the state many benefits, including competitive pricing, increased efficiencies, and improved value creation.
[FAQ Revised September 1, 2025]

8. **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., pricing, warranty provisions or insurance requirements), etc. In addition, all agencies have been encouraged to increase spending with small, minority, women and Veteran-owned businesses. If a diverse spend option is not available on a statewide 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 statewide contract, or DES-approved cooperative contract, or undertake a competitive solicitation process to fulfill needs. The reasons justifying the off-contract purchase should be documented.
[FAQ Revised September 1, 2025]

9. **Question:** Are agencies permitted to use a Direct Buy to meet needs when there is a gap in coverage in a Statewide Contract and a competitive solicitation process is in progress?

Answer: When a competitive solicitation process is underway for a good or service Statewide Contract, and the statewide contract is soon to be awarded, agencies that need the good or service may use the Direct Buy purchasing method to fulfill needs during the time the contract is in gap, as long as the purchase does not exceed the established Direct Buy limits. In some situations, other options may be available, and we advise you to reach out to our team so we may partner with you to work towards a compliant solution.
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10. **Question:** How are the reporting requirements in the Direct Buy policy different from the annual agency contract report required under DES' Contract Reporting Policy (DES-POL-210-01)?

Answer: The annual agency contract report required under DES-POL-210-01 is an annual report that includes only contracts and specifically excludes many types of Direct Buys (Purchase orders, Direct Buy purchases that do not include a statement of work, etc.). It serves as a comprehensive summary of agency contracting activity for the fiscal year and supports statewide transparency and accountability goals.

The Direct Buy policy requires agencies to track and report on all Direct Buy Level 3 purchases. This reporting is specific to Direct Buy Level 3 activity and is due upon request with the intent of supporting DES' efforts to monitor compliance, evaluate policy effectiveness, and inform future policy updates.

a. Annual Contract Reporting (per DES-POL-210-01):

- i. Agencies must report all contracts that include a Scope of Work (SOW) as part of the annual Agency Contract Report.
- ii. Purchases made with Purchase orders, or Direct Buys without a SOW are not required to be reported in the annual contract report.

b. Direct Buy Reporting (upon request):

- i. Agencies that utilize the Level 3 Direct Buy threshold must be prepared to report on all Direct Level 3 purchases.
- ii. This reporting is separate from the annual agency contract report.
- iii. Agencies may use the DES-provided “Direct Buy Level 3 Worksheet Template” or develop their own internal tracking tool, provided it captures the required data fields and can be submitted electronically.

[FAQ Published September 1, 2025]

11. Question: What are repetitive purchases?

Answer: Repetitive purchases occur when agencies make the same type of purchases repeatedly, during the same state fiscal year or during consecutive state fiscal years, including when from different contractors. The timing (within the state fiscal year/yearly) is the only factor for determining whether a purchase is repetitive. Agencies should monitor repetitive purchases and test the market by either conducting a competitive procurement or using any other exceptions exemptions allowed by law. 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 and increase fairness and transparency in contracting.

Note: Agencies are expected to regularly examine their Direct Buy purchases to assess whether they may be repetitive. Factors to consider include:

- Is the agency making the same types of purchases (e.g., first aid kits and related items) repetitively?
- Is the purchase for an ongoing, indefinite need?
- Is there a competitive market for the good/service?
- Are there opportunities to unbundle or otherwise incorporate strategies from the supplier diversity policy?
- The total life cycle cost of the contract, which includes options for amendments to extend the period of performance and/or add funds.
- When in doubt, agencies should utilize the full competitive solicitation process unless another competitive solicitation exception applies.

Examples of repetitive purchases

	Types	Scenarios	Analyses
1	Goods:	An agency purchases a good item repeatedly due to an ongoing business need. The monthly purchase orders are typically under \$10,000 and may be purchased through different contractors depending on availability and pricing.	<p><u>Analysis:</u> Even though each purchase order is under Direct Buy thresholds, the agency is making the same type of purchase repetitively for ongoing business needs, and there is a competitive market. The agency should utilize the full competitive solicitation process for this purchase unless another exception applies. The agency may receive volume discounts, better pricing, and/or other favorable contract terms for establishing a contract for these goods through a competitive process.</p> <p>Note: Each good and service are unique; agencies are advised to use critical thinking, professional judgement, and all available resources when determining whether or not the agency is making the same types of purchases repeatedly and whether the full competitive solicitation process should be utilized.</p>
2	Services	An agency is purchasing services, year over year, for an ongoing business need. The cost of the services is around \$25,000 each fiscal year. The agency believes that it will need these services indefinitely and that if it signs only one-year contracts, then it can keep the cost under \$40,000 and purchase the services under the Direct Buy policy.	<p><u>Analysis:</u> This is incorrect; agencies may not manipulate a purchase to have the purchase qualify as a Direct Buy purchase to avoid using a competitive process (per DES-POL-125-03 section 4). Although the yearly contract total is under Direct Buy thresholds, the purchase is for an ongoing, repetitive need, and should be competed (unless another exception applies). The agency should also consider entering into a multi-year contract because it may receive better pricing, and/or other favorable contract terms.</p>
3	IT services	An agency is purchasing annual subscription services to access an online database for ongoing business needs. The cost is \$12,500/per fiscal year and the contract specifies that there will be six, annual auto-renewals.	<p><u>Analysis:</u> When calculating the value of a Direct Buy, 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. If there is an ongoing/indefinite/continuous need with no end in sight, and it is repetitive, and there may be a competitive market for the commodity/service, then it should utilize the full competitive solicitation process unless another exception applies. Even though the yearly subscription price is below the Direct Buy thresholds, the purchase is repetitive. By conducting a competition, the agency may receive multi-year discounts and/or other favorable contract terms.</p> <p><u>Exception:</u> For low-dollar annual software subscription or license services purchases below \$1,000 per month repetitive purchase requirements do not apply. Agencies are allowed to use repetitive</p>

			<p>purchases to fulfill needs for these types of purchases. These purchases are typically low risk, have limited vendor variability, and offer minimal opportunity for cost savings through rebidding. The administrative cost of conducting a competitive process for such purchases often outweighs the potential benefit. Agencies may continue to use Direct Buy for these purchases, provided they remain within the applicable thresholds and are not otherwise subject to competition.</p>
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[FAQ Revised September 1, 2025]

12. **Question:** What is unbundling, and how does it apply to Direct Buy purchases?

Answer: Unbundling is a procurement strategy in which a larger project, one that might otherwise be awarded to a single vendor, is intentionally divided into smaller, distinct components, such as by geographic area, category, type of goods or services, or scope of work. The goal is to award multiple contracts to different Washington small and Veteran-owned businesses for a project that may have previously been completed under a single contract. This approach expands access to contracting opportunities and supports supplier diversity.

Under the DES Supplier Diversity Policy, agencies are encouraged to consider unbundling and subcontracting as strategies to increase participation by Washington small businesses and Veteran-owned businesses. Unbundling must not be used to manipulate purchases to fall under the Direct Buy policy spend levels. Agencies must not divide a single scope of work into multiple smaller contracts awarded to the same contractor simply to stay under the Direct Buy threshold. This practice is considered a form of manipulation and is inconsistent with the intent of the Supplier Diversity Policy.

When done appropriately, unbundling should result in multiple contracts awarded to different Washington small and Veteran-owned businesses. Each of these contracts may individually fall within the Direct Buy thresholds, but the total value of the original project does not need to be under the Direct Buy limit if the work has been properly and independently unbundled. [FAQ Published September 1, 2025]

13. **Question:** What is an e-commerce marketplace?

Answer: An e-commerce marketplace is a website that allows buyers and sellers to connect and conduct business. It's a type of e-commerce site that displays products and services from multiple sellers.
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14. **Question:** Do Direct Buy purchases need to be coordinated with the state Washington Technology Solutions (WaTech)?

Answer: Yes, when they are IT related. All information technology related investments must conform to WaTech PM-01 Policy. 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 WaTech consultant. DES will also be available to assist agencies with procurement related issues. [FAQ Revised September 1, 2025]

15. **Question:** Can you define “Market Research”?

Answer: Market Research is the process of systematically gathering of information on a particular commodity or service through research conducted directly and indirectly with vendors, end-users, other agencies, and/or consumers, in order to evaluate (a) the feasibility of the service or product (including specific and justified agency needs); and (b) the existing capabilities of vendors in the market to provide the goods/services the agency needs. Market research may include, but not limited to:

- Gathering detailed information about the past, present, and potential service/good(s) being acquired.
- A market analysis of trends, pricing, and service/product availability.
- Searching the state’s enterprise bidder registration and notification system to find other vendors registered under the commodity code(s).
- Connecting with the Office of Minority and Women’s Business Enterprises (OMWBE) and/or searching the OMWBE Directory of Certified Businesses for businesses.
- Connecting with the Department of Veteran’s Affairs (DVA) to identify other possible businesses.

[FAQ Revised September 1, 2025]

16. **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. [FAQ Published March,19 2020]

17. **Question:** If an agency has a Direct Buy purchase agreement under Direct Buy Level 1 for \$40,000, which needs to be amended to add \$500, would they have to conduct a competitive procurement for the \$500 additional cost?

Answer: Yes. If an amendment causes the total value of the Direct Buy purchase to exceed the Level 1 threshold of \$40,000, the agency must use a competitive solicitation or another allowable procurement method to cover the additional scope of work. Amendments that push the total value beyond the applicable Direct Buy level are not permitted under the Direct Buy policy unless the agency qualifies for a higher threshold and meets the associated requirements. This ensures compliance with procurement rules and prevents circumvention of the competitive processes. [FAQ Revised September 1, 2025].

18. **Question:** Under the Direct Buy policy, can an agency amend a current Direct Buy that had an original cost of under the direct buy limit, 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 permissible. Otherwise, the agency must write a new contract. [FAQ Revised September 1, 2025]