Enterprise Services Policy No. POL-DES-125-03

Direct Buy Purchases

**Applies to**: Any state office or activity of the executive branch of state government, including state agencies, departments, offices, divisions, boards, commissions, institutions of higher education as defined in [RCW 28B.10.016](http://apps.leg.wa.gov/RCW/default.aspx?cite=28B.10.016) and correctional and other types of institutions.

**Authorizing sources**:

* State Law [**RCW 39.26.125**](http://app.leg.wa.gov/RCW/default.aspx?cite=39.26.125)
* State Law [**RCW 39.26.090(6)**](https://app.leg.wa.gov/RCW/default.aspx?cite=39.26.090)
* State Law [**RCW 39.26.240**](http://app.leg.wa.gov/RCW/default.aspx?cite=39.26.240)
* State Law [**RCW 43.60A.200**](https://app.leg.wa.gov/RCW/default.aspx?cite=43.60A.200)
* State Law [**RCW 39.26.005**](https://app.leg.wa.gov/RCW/default.aspx?cite=39.26.005)
* State Law [**RCW 39.26.010**](https://app.leg.wa.gov/RCW/default.aspx?cite=39.26.010)
* [**OCIO Policy #121**](https://ocio.wa.gov/policy/it-investments-approval-and-oversight-policy)

**Effective date**: {DATE}

**Last update**: N/A

**Sunset review** date: {*2 years from effective date*}

**Approved by**: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Chris Liu, Director

# Reason for Policy

A competitive solicitation process must be used for all purchases of goods and services unless there is an exception listed under RCW 39.26.125.Direct buy purchases are one of the exceptions, which do not require a competitive process. Certain public purchases do not justify the administrative time and expense necessary for the conduct of a competitive process.

This policy establishes the Direct Buy procurement levels authorized in RCW 39.26.125(3). This policy applies to all purchases for goods and services executed by agencies under delegated authority granted in accordance with [RCW 39.26.090](http://app.leg.wa.gov/RCW/default.aspx?cite=39.26.090) or under [RCW 28B.10.029](http://app.leg.wa.gov/RCW/default.aspx?cite=28B.10.029).

# Policy

1. The following direct buy designations shall apply:
	1. **Direct Buy Level 1:** $30,000
	2. **Direct Buy Level 2:** $40,000 if the purchase is being made from a small business as defined by RCW 39.26.010(22); or from a certified veteran-owned business.
2. The following conditions apply to the direct buy designations:
	1. Purchases from a large business's e-commerce marketplace (e.g. Amazon) are only authorized for Direct Buy Level 1.
	2. Direct buy purchases exclude sales and use tax, and finance charges. Shipping and handling costs are included in the limits.
	3. Direct buy is an annual cumulative limit for an agency’s purchases from a given vendor.
	4. With regard to repetitive purchases, if an agency makes the same types of purchases over and over again, even if from different vendors, it should enter into a competitive procurement.
	5. If any amendment causes the direct buy purchase to exceed the direct buy threshold, the amendment shall be competed.
	6. If the direct buy exceeds the agency's delegated authority, then the agency must request additional delegation of authority from the DES Director.
	7. Agencies shall use due diligence to determine that the price is reasonable based on experience and knowledge of the market.
	8. Agencies must confirm that a vendor meets the qualifying criteria for a Direct Buy Level 2.
	9. [DES’ Protest Policy #DES-170-00](https://des.wa.gov/sites/default/files/public/documents/About/Procurement_reform/Policies/DES-170-00ComplaintsProtests.pdf) does not apply.
	10. Advertising in Washington’s Electronic Business Solution (WEBS) is not required.
3. Agencies must use existing DES master contracts or DES approved cooperative contracts unless they cannot justifiably satisfy agency needs as documented by the agency.
4. Agencies may not manipulate a purchase to have the purchase qualify as a direct buy purchase to avoid using a competitive process.
5. Agencies are encouraged to consider whether approaches such as unbundling and subcontracting may result in increased purchases from Washington small businesses, to include minority, women, and veteran owned businesses.
6. All applicable information technology related procurements must conform to the Office of Chief Information Officer (OCIO) Policy #121.
7. An agency’s record of compliance with the direct buy policy will be a factor in an agency’s risk assessment.

# History

## Adopted

{DATE}

## Replaces

DES-125-03 Direct Buy Policy