

**ENERGY SAVINGS PERFORMANCE CONTRACTING STATUTES**

**OHIO (as of November 4, 2010)**

|          | <b>Statute</b> | <b>Procurement Method</b> | <b>Competitive Bidding/<br/>Selection Requirements</b>  | <b>Term of Contract</b>  | <b>Guarantee Requirement</b>   | <b>Restrictions/<br/>Miscellaneous</b>                             |
|----------|----------------|---------------------------|---|--|--|--|
| State    | ORC § 156.03   | RFP                       | <p>Exempt if requested. The director of administrative services may request the controlling board to exempt the contract from the competitive bidding requirements of Chapter 153.</p> <p>If exemption is approved, the Director of Administrative Services shall select the proposal(s) <u>“most likely to result in the greatest savings.”</u> ORC § 156.03.</p> <p>If not exempt, then “the contract shall be awarded by such owner to the <u>lowest responsive and responsible bidder.</u>” ORC § 153.08.</p> | 10 years (5 years for cogeneration system as set forth in ORC § 156.01(H)).<br>ORC § 156.03. | Yes. The cost of the contract must not be likely to exceed the amount of money saved in energy and operating costs.<br>ORC § 156.03.   | See also ORC § 156.04 for installment payment contract provisions. |
| Counties | ORC § 307.041  | RFP. ORC § 307.041(C).    | <p>A county may either:</p> <p>(a) utilize competitive bidding procedures set forth in ORC §§ 307.86-307.92 and award contract to <u>“lowest and best bid or bids most likely to result in the greatest energy savings;”</u></p> <p>OR</p> <p>(b) request proposals from at least 3 vendors and select the <u>“most qualified installer ... to install the energy conservation measures that are most likely to result in the greatest energy savings.”</u></p> <p>ORC § 307.041(C)(1) – (2).</p>                 | None specified, but see “Guarantee.”   | The amount of money spent on the energy conservation measures must not be likely to exceed the amount of money the county would save in energy, operating, maintenance, and avoided capital costs over the average system life of the energy conservation measures as specified in the energy conservation report.<br>ORC§ 307.041(C)(2)(c). |  |

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| Municipalities<br>(Municipal Corporations) | ORC § 717.02                | RFP                | <p>A municipality may:</p> <p>(a) procure the measures in any manner authorized by the municipal corporation's charter, ordinances, or any other existing authority;</p> <p>(b) advertise for bids using an energy conservation report, comply with competitive bidding requirements, and award contract to "<u>lowest and best bid or bids most likely to result in the greatest energy savings</u>"; OR</p> <p>(c) request proposals from at least 3 vendors and award contract to "<u>most qualified vendor ... to install the energy conservation measures that are most likely to result in the greatest energy savings.</u>"</p> <p>ORC § 717.02(C).</p> <p><i>See</i> ORC § 735.05 for municipal competitive bidding statute.</p> | None specified, but see "Guarantee."                                     | The amount of money spent on energy conservation measures must not be likely to exceed the amount of money the municipal corporation would save in energy, operating, maintenance, and avoided capital costs over the average system life of the energy conservation measures as specified in the energy conservation report. ORC § 717.02(C)(2)(c). |                                |
| Townships                                  | Ohio Revised Code § 505.264 | RFP                | <p>A township may either:</p> <p>(a) utilize competitive bidding procedures set forth in ORC §§ 307.86-307.92 and award contract to "<u>lowest and best bid or bids most likely to result in the greatest energy savings</u>;"</p> <p>OR</p> <p>(b) request proposals from at least 3 vendors and "select the proposal or proposals most likely to result in the greatest energy savings."</p>   | 10 years (5 years for cogeneration system) or less.<br>ORC § 505.264(C). | The amount of money spent on energy savings measures must not be likely to exceed the amount of money the township would save in energy and operating costs. ORC § 505.264(C).   |                                |

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|   |                           |                    | ORC § 505.264(C).   |  |  |  |
| School Districts (including joint vocational schools) | ORC §§ 3313.372, 3313.373 | RFP                | Exempt if school board declares by resolution adopted by 2/3 of members that competitive bidding requirements do not apply. ORC § 3313.46(B)(3).<br><br>Otherwise, school district must utilize competitive bidding and award contract to <u>lowest responsible bidder</u> . ORC § 3313.46(A).  | Not specified. Note, however, that installment payment contracts are subject to a finding that costs of measures will not exceed savings over 15 year period. ORC § 3313.372(E). | Not specified. Note, however, that a school district board may not “enter into an installment payment contract ... [unless] the amount spent on such measures is not likely to exceed the amount of money it would save in energy costs and resultant operational and maintenance costs.” ORC § 3313.372(E). | Shared savings contracts are permitted and are not subject to competitive bidding requirements. ORC § 3313.373(B). |
| State Universities                                    | ORC §§ 3345.62-65         | RFP                | If installment contract, a university may either:<br><br>(a) utilize competitive bidding as set forth in Chapter 153; ORC § 3354.16 (community colleges); ORC § 3355.12 (university branch districts); ORC § 3357.16 (technical colleges); or ORC § 3358.10 (state community colleges) (ORC 3345.64);<br><br>OR<br><br>(b) by majority board of trustees vote, exempt part of the contract from competitive bidding (ORC 3345.64(A));<br><br>OR<br><br>(c) by majority board of trustees vote, exempt all of the contract from competitive bidding, request proposals from at least 3 parties, and select the proposal <u>most likely to result in the greatest savings</u> . ORC 3345.64(B).<br><br>If <i>not</i> installment contract, a university may either: | 15 years. ORC § 3345.64(A) and § 3345.65.  | The cost of the contract must not be likely to exceed the amount of money that would be saved in energy and operating costs. ORC § 3345.65.  | Capital cost avoidance is permitted. ORC § 3345.65.  |

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|                |              |                    | <p>(a) utilize competitive bidding as set forth in Chapter 153; ORC § 3354.16 (community colleges); ORC § 3355.12 (university branch districts); ORC § 3357.16 (technical colleges); or ORC § 3358.10 (state community colleges);</p> <p>OR</p> <p>(b) request proposals from at least 3 parties, and select the proposal <u>most likely to result in the greatest savings</u>. ORC § 3345.65.</p> <p>ORC §§ 3345.63, 3345.65.</p> |                     |                       |                                |
| Port Authority | ORC §4582.12 | RFP                | <p>The board of directors of by rule may provide criteria for the negotiation and award <b>without competitive bidding</b></p> <p>ORC §§ 458212(B)</p> <p>If competitively bid, contract awarded to the lowest responsive and responsible bidder.</p> <p>ORC §§ 4582.12(A)(3)</p>  | <i>See Counties</i> | <i>See Counties</i>   |                                |