

December 24, 2003

MEMORANDUM TO: Fiscal Officers of State Agencies, Boards & Commissions

FROM: Kevin Milstead, Administrator 
State Accounting

SUBJECT: ORC Section 9.24

The purpose of this e-mail is to inform state agencies, boards and commissions about a new addition to the Ohio Revised Code (ORC) and to provide preliminary guidance on how to implement it. The new ORC section, Section 9.24, was created in House Bill 95. It states:

"No state agency and no political subdivision shall award a contract for goods, services, or construction, paid for in whole or in part with state funds, to a person against whom a finding for recovery has been issued by the auditor of state, if the finding for recovery is unresolved."

The new statute further states that as of January 1, 2004, the Auditor of State will maintain a database, accessible to the public, listing the names of persons against whom the Auditor has unresolved findings for recovery, as well as the amounts owed. The initial database will contain the information for calendar years 2001, 2002, and 2003. Beginning January 15, 2004, the Auditor will update the database quarterly or more frequently as needed. The names of those persons with unresolved findings for recovery are forwarded to the Attorney General for collection. Any resolution of an audit finding must be certified to the Auditor of State by the Attorney General's office.

The Attorney General's office is developing language that will be available to agencies and their legal counsels, and is recommended for inclusion in state contracts for goods, services, and construction. Agency personnel involved in awarding contracts are required to access the Auditor of State's database and verify that potential contractors do not have unresolved findings for recovery. The database will be available on the Auditor's website, www.auditor.state.oh.us. Since the law is clear that the action is prohibited at the point of award, not at the point of encumbering, there are no edits in the state's Central Accounting System (CAS) to identify vendors with unresolved audit findings.

The Attorney General, Auditor, DAS/State Purchasing, DAS/Acquisitions, and OBM have coordinated our efforts to ensure that agencies receive helpful information about RC 9.24. We strongly encourage agencies to work closely with their legal counsel and contract management staff to identify opportunities to inform potential awardees of this new law. The opportunities range from the inclusion of language in the RFP process to the actual signing of a contract. RC 9.24 is a new legal requirement that prohibits agencies from awarding contracts to anyone who has an unresolved finding for recovery. It is the duty of all state agencies to verify that potential awardees are not listed on the Auditor of State's database, and to avoid awarding contracts to any person or entity with an unresolved finding for recovery.

Thank you for your adherence to this new law.