Procurement Preferences

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Which do you prefer?
Which do you prefer?
Procurement Preferences

Points of Interest

• **What** is a procurement preference?

• **When** to look for a preference opportunity.

• **Why** do we use preferences?

• **Where** to find preference information.

• **How** to apply procurement preferences.
Procurement Preferences

What is a procurement preference?

• Advantage given to bidder/offerors
• Addresses award procedures
• Virginia Public Procurement Act § 2.2-4324B
• Agency Procurement & Surplus Property Manual 3.14
• Commonwealth’s Vendor’s Manual 1.8A
Procurement Preferences

When to look for a preference opportunity.

• Reciprocity
  Percentage, Price-matching, Absolute
• Tie Bids
  VA Products & Firms, Recycled Content
• Recycled Paper and Paper Products
• Recycled Oil and Antifreeze
• Energy Efficient Appliances
• Biodiesel Fuel
• Coal
Procurement Preferences

Why do we have to use preferences?

• Stimulates in-state economy
• Higher employment
• Increased tax revenue
• Increase small business participation
Procurement Preferences

Where to find preference information?

DGS/DPS posts other state’s preference laws on:

www.eva.virginia.gov

State of Oregon compiles information
Contact DPS Account Executive for assistance

Virginia’s eProcurement Portal
Procurement Preferences

Reciprocal Preference Information

State by State Reciprocal Preference Data

NOTE: The interactive map below is not functioning at this time. Please use the alphabetical listing below the map to locate the desired state. Thank you for your patience.

<table>
<thead>
<tr>
<th>State</th>
<th>Reciprocal Law/Statute</th>
<th>Tie-Bid Preference</th>
<th>Reciprocal Preference</th>
<th>Preference Conditions</th>
<th>Date of Verification</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alabama (AL)</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Details</td>
<td>October 2011</td>
</tr>
<tr>
<td>Alaska (AK)</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>Details</td>
<td>September 2011</td>
</tr>
<tr>
<td>Arizona (AZ)</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>Details</td>
<td>September 2011</td>
</tr>
<tr>
<td>Arkansas (AR)</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
<td>Details</td>
<td>December 2011</td>
</tr>
<tr>
<td>California (CA)</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>Details</td>
<td>October 2011</td>
</tr>
</tbody>
</table>
# Procurement Preferences

## Iowa (IA)

<table>
<thead>
<tr>
<th>Preference</th>
<th>Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Resident</td>
<td>Preference shall be given to purchasing Iowa products and purchases from Iowa-based businesses if the Iowa-based business bids submitted are comparable in price to bids submitted by out-of-state businesses and otherwise meet the required specifications.</td>
</tr>
<tr>
<td>Non-resident bidder</td>
<td>If the laws of another state mandate a percentage preference for businesses or products from that state and the effect of the preference is that bids from Iowa businesses or products that are otherwise fair and responsive are not selected in the other state, the same percentage of Iowa products when businesses or products from the other state are required.</td>
</tr>
</tbody>
</table>

## New Mexico (NM)

<table>
<thead>
<tr>
<th>Preference</th>
<th>Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Precertification</td>
<td>A business must be pre-certified as &quot;resident firm&quot; before being given a preference. The preference applies to state, county and political subdivisions for commodities, services, and construction. A bidder must claim manufacturer preference on bid document. The bidder who offers materials grown, produced, processed or manufactured wholly in New Mexico gets a 5% preference when bidding against any business offering goods not made in New Mexico.</td>
</tr>
</tbody>
</table>

All governmental units have a duty to award public works construction contracts to resident contractors whenever practicable, with resident contractors who are pre-certified by the State Purchasing Agent receiving a 5% preference. In accordance with a 1997 law, "resident business" means a New Mexico resident business or a New York state business enterprise." Also, "a New York state business enterprise shall be deemed to be a resident manufacturer solely for the purpose of evaluating the New York state business enterprise's bid against the bid of a resident manufacturer that is not a New York state business enterprise." Total of above preferences does not exceed five percent (5%).
What is a Percentage Preference?

1. Lowest R & R bidder is a resident of another state.
2. That state allows a resident contractor a **Percentage Preference**.
3. Next lowest R & R bidder is a Virginia resident bidder.
4. Apply like preference to Virginia resident bidder.
What is a Price Matching Preference?

1. Lowest R & R bidder is a resident of another state.
2. That state allows a resident contractor a price-matching preference.
3. Apply preference to Virginia residents bidder.

If the lowest R & R Virginia bidder is unable to match the price, the preference shall be given to other Virginia bidders in ascending price order.
What is an Absolute Preference?

A state only considers bids from resident contractors who reside within that state.

Virginia does NOT consider bids from states with absolute preferences.
Case Study 1:
Three bids are received for a statewide fire extinguisher solicitation:
1) Ready Freddy Fire Extinguisher Co., Elgin, Iowa
   $41,623.00
2) Stop It Quick Extinguisher Co., Alden, Michigan
   $41,700.00
3) No Burn LTD., Ashland, VA
   $41,800.00
Who will receive the award and why?
Case Study 1 Answer:

Michigan

Iowa has an absolute preferences and bids can not be considered. Michigan is next lowest responsive and responsible bidder.
How to Apply Procurement Preferences

Case Study 2:
Four bids are received for a Consulting Services solicitation. Multiple addendums have been issued and the solicitation has generated vendor complaints. Bids received are:
1) NC- $87,500.00
2) VA- $89,000.00
3) CT- $89,100.00
4) FL- $90,000.00
Who will receive the award and why?
How to Apply Procurement Preferences

Case Study 2 Answer:

North Carolina

NC does have a preference for price matching, however the preference does not apply to services.

Note: Does NC have an absolute preference??
How to Apply Procurement Preferences

Case Study 3:
Four bids are received for printing maps at an estimated cost of $300,000.

Bids received are:
1) Handy Dandy Printing, Salem, Oregon
   $291,000
2) Love Them Spuds Printers, Boise, Idaho
   $293,000
3) The Print Shack, Roanoke, VA
   $293,100
4) Commonwealth Printers, Allentown, Pennsylvania
   $293,400

Who will receive the award and why?
How to Apply Procurement Preferences

Case Study 3 Answer:

Virginia

- The low bidder from Oregon will not be considered as Oregon has an absolute preference.
- Idaho is the next low bidder and has a 10% preference for printing.

Virginia’s reciprocal percentage preference applies because VA is now the next low bidder to Idaho. When the preference is applied, the bid from Idaho is now $322,300 which makes VA the low bidder at $293,100.
Case Study 4: (Goods)
Low bidder is from North Carolina
Next low bidder is from Virginia

The VA bidder agrees to match the bid from NC under NC’s Price Matching Preference.

The NC bidder informs you that they have a VA office and that office should have responded to the solicitation and the products would have been shipped from the Virginia office anyway.

Who should receive the award and why?
Case Study 4 Answer:

NC defines a resident firm as being one that pays taxes in NC and has its principal place of business located there. The VA office is NOT the principal place of business and they did not submit a bid.

The award would be issued to the original lowest R & R VA firm.
How to Apply Procurement Preferences

Case Study 5:
Two bids were received for printing:

1) South Carolina, $16,000
2) Virginia, $17,120.

The specification required the bidders to submit their products recycled content.
SC contained 20% and VA contained 18%.

Who should receive the award and why?
How to Apply Procurement Preferences

Case Study 5 Answer:

The SC firm should receive the award. SC has a 7% preference for printing. Once the preference is applied to the SC bid, it results in a tie, both at $17,120. Normally the tie bid would go to a VA firm, but in this case per APSPM 3.24b “In the case of a tie bid in instances where goods are being offered and existing price preferences have already been taken into account, preference then shall be given to the bidder whose goods contain the greatest amount of recycled content.”
How to Apply Procurement Preferences

Case Study 6:

Low bidder is from Ohio
Next low bidder is from Virginia

The contract officer applied the 5% OH preference that resulted in the VA firm receiving the award. The OH company contacted their Congressman to waive the preference and he agreed to grant a permanent waiver.

What would you do?
How to Apply Procurement Preferences

Case Study 6 Answer:

Ohio currently has a border state exemption that applies to Indiana, Pennsylvania, Kentucky, Michigan and New York.

Apply the preferences that are in place at the time the bids are received.
How to Apply Procurement Preferences

Case Study 7:

The VA Dept of General Services issues an IFB for coal to be used in several DOC facilities.

Bids received are from:

1) TN- $876,000
2) KY- $877,500
3) VA- $890,000

Who should receive the award and why?
Case Study 7 Answer:

Virginia

§ 2.2-4325 “shall award to the lowest responsive and responsible bidder offering coal mined in Virginia, so long as its bid price is not more than 4% percent greater than the bid price of the low responsive and responsible bidder offering coal mined elsewhere.”
Procurement Preferences

In Review

What is a procurement preference?
When to look for a preference opportunity.
Why do we use preferences?
Where do I find preference information?
How to apply procurement preferences.

Most important question......
Which Ice-Cream Did You Prefer?
Procurement Preferences

Questions and Answers

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kelly.langley@dgs.virginia.gov