

# Procurement Preferences

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FORUM2014

# Which do you prefer?



# Which do you prefer?



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# 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.



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# 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](http://www.eva.virginia.gov)

State of Oregon compiles information

Contact DPS Account Executive for assistance



**Virginia's eProcurement Portal**



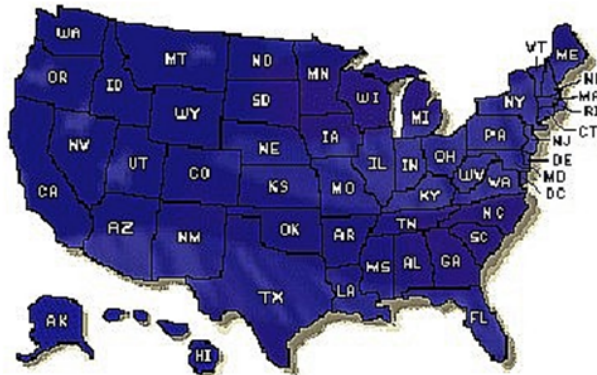


# Procurement Preferences

## 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.*



State	Reciprocal Law/Statute	Tie-Bid Preference	Reciprocal Preference	Preference Conditions	Date of Verification	
Alabama (AL)	Yes	Yes	Yes	<a href="#">Details</a>	October	2011
Alaska (AK)	Yes	No	Yes	<a href="#">Details</a>	September	2011
Arizona (AZ)	No	Yes	Yes	<a href="#">Details</a>	September	2011
Arkansas (AR)	No	No	Yes	<a href="#">Details</a>	December	2011
California (CA)	No	Yes	Yes	<a href="#">Details</a>	October	2011



# Procurement Preferences

## Iowa (IA)

Preference	Conditions
<b>Resident</b>	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.
<b>Non-resident bidder</b>	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 low and responsive are not selected in the other state, the same percentage preference shall be given to Iowa products when businesses or requirements.

[\[Print Window\]](#) | [\[Back to](#)

## New Mexico (NM)

Preference	Conditions
<b>Precertification</b>	<p>A business must be pre-certified as "resident firm" 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.</p> <p>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%).</p>

# 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



# How to Apply Procurement 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?



# How to Apply Procurement Preferences

## 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.



# How to Apply Procurement Preferences

## 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?



# How to Apply Procurement Preferences

## 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?



# How to Apply Procurement Preferences

## 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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