



State Procurement Manual

Department of Administration, State Bureau of Procurement

Number
PRO-603

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ADMINISTRATIVE POLICY	9/16/19	PRO-C-20 5-26-04
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RECIPROCITY LAW, AND HANDLING STATE PREFERENCES		1 of 3

SCOPE: The purpose of this policy is to establish official procedure for handling state preferences in procurement activities.

POLICY: Per §16.75(1)(a) 2, Wis. Stats, if a vendor is not a Wisconsin business but is competing with a Wisconsin business in a procurement event, the agency will apply a penalty to the non-Wisconsin business if they are domiciled in a state, nation or subdivision thereof that applies a preference for their businesses.

A "Wisconsin business" is determined by Wis. Adm. Rule Tax 2.82. See PRO-101, Procurement Definitions and Thresholds.

The agency will apply the penalty only when the result will benefit a Wisconsin business. The penalty will not be applied if it only changes which non-Wisconsin business receives the award. The penalty could be applied to more than one non-Wisconsin business if the calculation would cause the award to be made to a Wisconsin business.

- PROCEDURE:**
- I. In-State Preferences
 - A. If the apparent low bidder is not a Wisconsin business and the state in which the bidder resides grants an in-state preference in making governmental purchases, the agency will give a preference to a Wisconsin business, if any, by penalizing the non-Wisconsin business when awarding an order or contract.
 - B. The agency will apply the penalty at the same percentage preference as is applied by the bidder's home state.
 - C. In the case of printing, contracts will not be awarded to printing firms located in another state if the laws of that state would penalize a Wisconsin printer in any way.
 - D. For bids, the following formula will be used:



Legal Authority
Wis. Stats. 16.75(1)(a) 2; 35.012
Wis. Adm. Rule Tax 2.82

Agencies Affected: All, plus legislative and judicial

Authorized:
Sara Redford, Director
State Bureau of Procurement



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(Lowest Responsive Non-Wisconsin Bid x 1. Preference) = \$ _____
 Minus (Lowest Wisconsin Qualified Bid) = \$ _____
 (Balance) = \$ _____

- E. When the balance of the formula in I, D is a positive number, award is made to the lowest Wisconsin qualified bid. Award is made at the cost bid. When the balance is 0, award is made according to tied bid protocols as provided in PRO-305, Basis for Bid Awards. When the balance is a negative number, award is made to the lowest responsive non-Wisconsin bidder.

For example, the following bids are received:

<p>Bidder Quote (if Alaska gives a 5% preference to Alaska-based bidders)</p> <p>Alaska \$100 (\$100 x 1.05) = \$105 Wisconsin \$104 - \$104 = \$ 1</p> <p>The award goes to the Wisconsin bidder.</p>	<p>Bidder Quote (if Hawaii gives a 3% preference to Hawaii-based bidders)</p> <p>Hawaii \$100 (\$100 x 1.03) = \$103 Wisconsin \$104 - \$104 = \$ -1</p> <p>The award goes to the Hawaii bidder.</p>
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- F. On proposals where award is points-based, use the formula for RFPs from PRO-606, Supplier Diversity Policy and Reporting.

II. Supplier Diversity Preferences and Reciprocity

- A. A certified minority business enterprise and/or disabled veteran owned business from a state with an in-state preference may receive the supplier diversity preference if the in-state preference from their home state is 5% or less. The percentage preference applied to the Wisconsin transaction is the difference between the 5% and the in-state preference.



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B. When application of the preference results in an out-of-state bidder obtaining the award over an in-state bidder, the agency will notify the Bureau before issuing the notice of award/intent to award.

III. International Bidders

A. Reciprocity rules apply to awards to foreign businesses as well. The agency will research the preference practices of the entity as the situations arise. See PRO-604, World Trade Organization Government Procurement Agreement.

IV. Recordkeeping and Resources

A. The agency will document basis for award in the bid file when reciprocity rules impact the award determination.

B. The National Association of State Procurement Officials gathers information on in-state preference practices of all states. For details consult the following Web site:

<https://www.naspo.org/reciprocity1>



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