

Chapter 200-300 WAC
((OFFICE OF STATE PROCUREMENT)) CONTRACTING FOR GOODS AND SERVICES

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-300-010 Purpose. The purpose of this chapter is to set forth rules and regulations applicable to the purchase ~~((or sale))~~ of goods and services by, through, or under authority delegated by, the ~~((office of state procurement))~~ department of enterprise services.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-300-075 In-state preference bids. The ~~((office of state procurement))~~ department of enterprise services shall ~~((compile))~~ make available a list of each state, relating to state purchasing practices, whose statutes or regulations grant a preference to ~~((suppliers))~~ bidders located within that state or goods manufactured within that state. This list shall be updated on an annual basis ~~((and shall include only those states with currently active in-state preference clauses for procuring goods and services and the list shall contain the percentage of preference allowed. States with only reciprocity legislation will not be included on the list))~~. The ~~((office of state procurement))~~ department of enterprise services shall ~~((compile the list and))~~ notify ~~((impacted state agency, college and university purchasing offices))~~ agencies when the list is updated. In determining whether to assess a percentage increase against a bidder, and the amount of that increase, the purchasing ~~((activity))~~ agency will consider only the business address from which the bid ~~((or proposal))~~ was submitted. The purchasing ~~((activity))~~ agency will add the appropriate percentage increase to each bid ~~((or proposal))~~ bearing the address from a state with in-state preference rather than subtracting a like amount from Washington state bidders.

This action will be used only when evaluating bids ~~((or proposals))~~ for award. In no instance shall the increase be paid to a ~~((supplier))~~ bidder whose bid is accepted.

This WAC section applies only to ~~((formal invitations for bid and requests for proposals solicited in accordance with chapter 43.19 RCW))~~ competitive solicitations in accordance with chapter 39.26 RCW.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-300-085 Bid award preference. In conducting purchases of goods and/or services, preference shall be given to the extent allowed by statute: ~~((1) Under RCW 43.19.534, to those goods and serv-~~

ices produced in whole or in part by Class II inmate programs operated by the department of corrections as described in WAC 236-49-055.

(2)) To goods containing ((recovered)) recycled material as outlined under RCW ((43.19.538)) 39.26.255 provided that the purchasing ((activity)) agency sets forth in the competitive solicitation a minimum percent content of ((recovered)) recycled material that must be certified by the producer of the goods to qualify for the preference. Bids for goods so certified shall be given a preference of ten percent of the amount of the bid in determining the lowest responsive bid for any item or grouping of items to be awarded to a single bidder. This preference shall be separate from and applied after any other preferences allowed by statute. The minimum content of ((recovered)) recycled material shall be not less than fifteen percent provided that for those goods for which the Environmental Protection Agency has adopted procurement guidelines under the Resource Conservation and Recovery Act of 1976 (Public Law 94-580, 42 U.S.C. §6901 et seq.), as amended, the minimum content of ((recovered)) recycled material shall not be less than specified in the most current adopted issue of those guidelines. The producer of the goods shall certify the post consumer and ((recovered)) recycled or waste material content at the time of submitting bid. To qualify for the preference, the goods shall otherwise be at least functionally equal to all other specifications and use requirements. The preference shall be used for bid evaluation purposes only and the actual dollars bid shall be the contracted amount. In the event of a tie for lowest responsive bid between products otherwise meeting all bid specifications, the purchasing ((activity)) agency shall consider the larger post consumer material content as a factor in determining the award. Should the purchasing ((activity)) agency determine that the use of this preference does not encourage the use of more ((recovered)) recycled material for reasons including inadequate competition, economics, environmental constraints, quality or availability, the purchasing ((activity)) agency shall issue, consider and award bids without the preference. For the purpose of meeting Resource Conservation and Recovery Act requirements for state agency purchase of goods complying with Environmental Protection Agency ((recovered)) recycled or waste guidelines, the ((office of state procurement)) department of enterprise services may adopt specifications requiring that only goods meeting these guidelines are responsive and may consider bids for such goods though the cost exceeds ten percent of goods not meeting such guidelines.

NEW SECTION

WAC 200-300-086 Preference for correctional industries Class II products. The following provisions outline purchase requirements for correctional industries, Class II goods and services:

(1) Correctional industries will identify the goods and services available for purchase through the department of enterprise services and confirm the same in writing to the director of the department of enterprise services at least one hundred twenty days before the expiration of any existing contract(s). The writing from correctional industries will include a request that the department of enterprise services tender to correctional industries a mandatory use contract to sell these goods and services to state agencies, the legislature and

departments in accordance with RCW 43.19.534. A mandatory use contract as defined in the procurement document will be executed between the department of enterprise services and correctional industries that complies with state law and covers all specified Class II goods and services that are produced in whole, or in part, by correctional industries.

(2) All goods and services covered by the department of enterprise services mandatory use contract are to be purchased from correctional industries. The department of enterprise services will administer these contracts.

(3) Any state agency, branch of the legislature or department may apply for an exemption from the correctional industries purchase preference by using the form developed by the department of enterprise services. If the request for exemption is approved, that approval shall apply for the specified product or product line for a period of one year from the date of approval of the exemption. The approval shall apply to all customers of that agency requesting that product or product line.

(4) However, goods or services produced by Class II correctional industries programs which primarily replace goods manufactured or services obtained from outside the state of Washington are not subject to the criteria contained in subsection (3) of this section, and shall be purchased solely from correctional industries.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 200-300-015	Definitions.
WAC 200-300-020	Public notice.
WAC 200-300-025	Receipt of bids, quotes or proposals.
WAC 200-300-030	Amendment of invitation for bid, request for quotation or request for proposal.
WAC 200-300-035	Supplier lists.
WAC 200-300-040	Removal or suspension.
WAC 200-300-045	Appeal, reapplication or reinstatement.
WAC 200-300-050	Bid guarantee.
WAC 200-300-055	Performance guarantees.
WAC 200-300-060	Form of bid, quote or proposal.
WAC 200-300-065	Standard specifications.
WAC 200-300-070	Acceptance of alternate bid, quote or proposal.
WAC 200-300-080	Partial award.
WAC 200-300-090	Rejection.
WAC 200-300-095	Acceptance of terms.
WAC 200-300-100	Handling of bids and proposals if publicly opened.

WAC 200-300-105	Mistakes in bid(s) or proposals detected prior to opening.
WAC 200-300-110	Mistakes in bid(s) or proposals detected during or after bid opening.
WAC 200-300-115	Disclosure of information.
WAC 200-300-120	Informalities in bids, quotes, or proposals.
WAC 200-300-125	Notice of cancellation or rejection of bids.
WAC 200-300-130	Protests and appeals—Form and substance.
WAC 200-300-135	Office of state procurement protest procedure prior to award.
WAC 200-300-140	Office of state procurement protest procedure after award.
WAC 200-300-145	Offset against contractor payments.
WAC 200-300-150	Delivery date.
WAC 200-300-155	Change in product offered.
WAC 200-300-160	Contract extension.
WAC 200-300-165	Additions or deletions to contract or purchase order.
WAC 200-300-170	Leases.