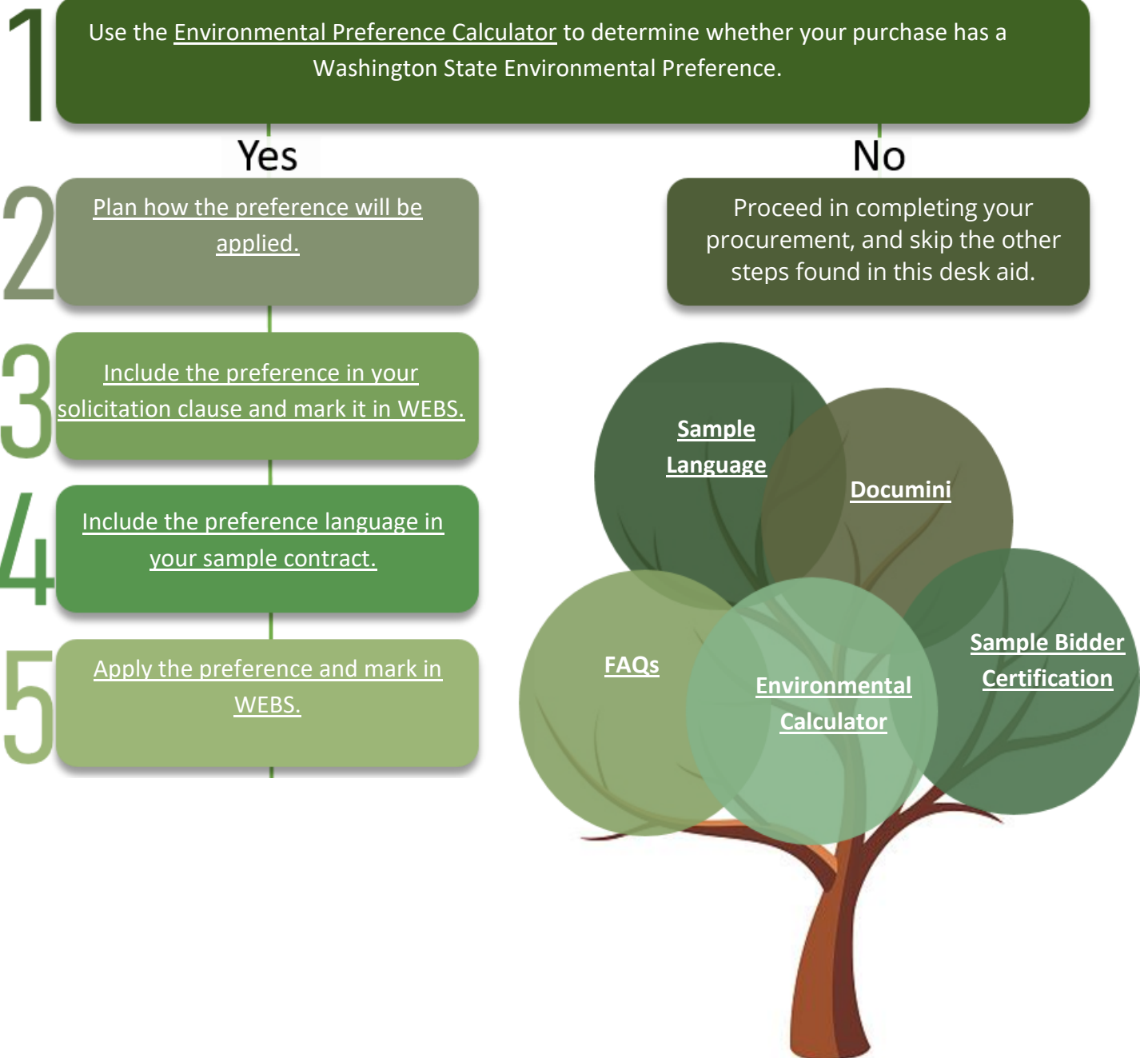




RECYCLED CONTENT PRODUCTS ENVIRONMENTAL PREFERENCE (EP) DESK AID



Authorizing Sources: [RCW 39.26.255](#) | [RCW 43.19A.020](#) | [RCW 43.19A.022](#) | [WAC 200-300-085](#)
[Executive Order 20-01](#) | [POL-DES-255-00](#)

Save [this link](#) to your favorites. This document will be updated as needed and is best used online. Please avoid printing in color.



STEP 1. DETERMINE WHETHER OR NOT THE PRODUCT YOU ARE PURCHASING HAS AN ENVIRONMENTAL PREFERENCE.

Use this [Environmental Risk Calculator](#) by selecting this link to determine whether the product you are purchasing is at risk of environmental concerns.

Specifically the Recycled Products Environmental Preference applies to the following products (reference [RCW 43.19A.020](#)):

- (a) Organic recovered materials;
- (b) Latex paint products;
- (c) Products for lower value uses containing recycled plastics;
- (d) Retread and remanufactured tires;
- (e) Lubricating oils;
- (f) Automotive batteries;
- (g) Building products and materials;
- (h) Panelboard; and
- (i) Compost products

The questions in the Environmental Calculator apply to and evaluate the products listed above.

STEP 2. PLAN HOW YOU WILL APPLY THE RECYCLED CONTENT PRODUCTS ENVIRONMENTAL PREFERENCE. THERE ARE FOUR CONSIDERATIONS (A-D BELOW).

- A. In addition to the Environmental Preference, agencies may design their specific procurements to meet agency, market, environmental and other needs, which may include other factors (i.e., human impacts and other environmental impacts).
- B. Determine if you need to identify the recycled content in one or multiple items.
Multiple items: If the procurement is for numerous line items (e.g., office products, multiple devices), the agency should specify those items within the solicitation.
- C. Determine and identify in the solicitation if the bidder must provide notification of substitute products throughout the duration of the contract.
- D. Determine if you will give the minimum 5% preference, or a higher percentage.

Example: Following is a bid tab showing how you could use a cost preference of 5% for products that are made of recycled content. Remember, you can make your Environmental Preference higher than 5%.

EXAMPLE BID EVALUATION CALCULATION FOR RECYCLED PRODUCTS SOLICITATION

Product:	Latex Paint - White	Latex Paint - Brown	Oil-Based Paint	Floor Tiles - Plastic	Floor Tiles – Office Use	
EPA CPG	20% Post-Consumer and 20%	50-99% Post-Consumer and 50-	N/A	90-100% Total Recovered	N/A	



Recommends (PC/TR):	Total Recovered Material Content	99% Total Recovered Materials Content ²		Materials ²		
Bidder A:	\$31,500.00	\$10,000.00	\$13,200.00	\$22,200.00	\$2,875.00	Total Evaluated Price ¹
PC/TR Bid	20/20%	75/75%	N/A	95%	N/A	
Price Preference ³	N/A	5%	N/A	5%	N/A	
Evaluated Price	\$31,500.00	\$9,500.00	\$13,200.00	\$21,090.00	\$2,875.00	\$78,165.00
Bidder B:	\$32,100.00	\$9,100.00	\$13,000.00	\$21,800.00	\$3,000.00	
PC/TR Bid	20/25%	50/50%	N/A	100%	N/A	
Price Preference ³	5%	N/A	N/A	5%	N/A	
Evaluated Price	\$30,495.00	\$9,100.00	\$13,000.00	\$20,710.00	\$3,000.00	\$76,305.00
Bidder C:	\$30,000.00	\$8,900.00	\$15,700.00	\$20,400.00	\$2,500.00	
PC/TR Bid	25/25%	None Bid	N/A	100%	N/A	
Price Preference ³	5%	N/A	N/A	5%	N/A	
Evaluated Price	\$28,500.00	\$8,900.00	\$15,700.00	\$19,380.00	\$2,500.00	\$74,980.00

Footnotes:

- 1 - Calculation of price preference: Bid Price multiplied by .95 equals the Evaluated Price
- 2 - If the EPA CPG recommends a range for either of the post-consumer or total recovered content levels, agencies shall use the lower of the range as the minimum.
- 3 - The preference is only applied if the product bid exceeds the minimum of either post-consumer or total recovered content levels.

STEP 3: INCLUDE RECYCLED CONTENT PRODUCTS ENVIRONMENTAL PREFERENCE IN YOUR SOLICITATION.

- A. Include a *Recycled Content Products Purpose Statement* regardless of whether the product you are purchasing will qualify for the Environmental Preference.

Sample Recycled Content Products Purpose Statement:

Buying products made from recycled content creates markets for materials collected in residential & business recycling programs. Recycling does not work without end-markets. In addition buying recycled products supports the development of green technologies, creates jobs and strengthens the local economy, and promotes and supports a more sustainable lifestyle. When manufacturers use recycled material vs. virgin materials to make new products, air and water pollution is reduced, natural resources are conserved, energy is saved, less water is used, and emissions of greenhouse gases that contribute to global climate change are reduced. Accordingly, the State of Washington through its procurements of goods is trying to maximize the purchase of products made from recycled content and to incentive its vendors to sell products and products in packaging made with recycled content.

- B. Include a statement that specifies how you will award the preference points during the evaluation.



Sample Recycled Content Products Evaluation Clause:

Pursuant to RCW 39.26.255, a preference of XX (minimum of 5%) per product line item will be applied to any bidder that provides recycled-content products as designated by the Environmental Protection Agency's (EPA) Comprehensive Procurement Guideline (CPG) Program (as it existed on July 1, 2001 [[link](#)]). The preference shall only be applied when the recycled content percentage bid exceeds one of the recommended content level percentages or the minimum product specifications, as designated by the EPA's CPG.

The preference will be applied at time of bid evaluation. When evaluating the bid price of qualifying bidders, a **XX%** (minimum of 5%) **price reduction** will be applied to those bidders' items that qualify for the recycled content preference for price evaluation purposes. This preference is separate from and applied after any other preferences allowed by statute. In the event of a tie, the bidder with the larger post-consumer recovered content will break the tie and receive the award.

Accordingly, all bidders must certify whether they are seeking the statutory preference for products containing recycled content material in this Competitive Solicitation. Bidders must make the certification on the certification form attached as Exhibit __ (Environmental Certifications). Bidders who seek to obtain the XX% bid preference for products containing recycled material must, in regard to the products pertaining to this procurement, certify that the products specified in Exhibit __ (Cost Worksheet) exceed the recommended recovered materials percentages for the relevant product as designated by the EPA's CPG standard (as it existed on July 1, 2001).

- C. Include any gradation matrix you will be using (See Examples in Step 2).
- D. Include a requirement that states that the bidder must ensure the product or products still maintain the same levels of recycled content throughout the term of the contract.

When writing this requirement consider these questions:

- What are the consequences if the product that was given preference is changed and no longer meets the agreed upon recycled content levels?
 - Will the item be removed from contract until corrected?
 - Will the vendor be cured/suspended/terminated due to contract performance?
- E. Include an [Environmental Bidder Certification](#).
 - F. Mark your preference in WEBS on the Manage Solicitations screen.



STEP 4: INCLUDE RECYCLED CONTENT PRODUCTS ENVIRONMENTAL PREFERENCE LANGUAGE IN YOUR SAMPLE CONTRACT.

- A. Include language regarding Environmental Preference in your sample contract.

Sample Recycled Content Products Environmental Preference contract warranty language:

Contractor Preference – Recycled Content Products Environmental Preference: Contractor represents and warrants that, during the term of this Contract, for any product(s) for which Contractor sought and was awarded an environmental purchasing preference pursuant to RCW 39.26.255 and Washington State Procurement Policy POL-DES-255-00, such product(s) shall exceed the minimum post-consumer or total recycled content that enabled Contractor to be awarded such preference. Notwithstanding any provision to the contrary, upon breach of warranty and Contractor's failure to provide satisfactory evidence of compliance within thirty (30) days, Agency may suspend or terminate this Contract. The rights and remedies of the parties under this warranty are in addition to any other rights and remedies of the parties provided by law or equity, including, without limitation, actual damages, and, as applicable and awarded under the law, to a prevailing party, reasonable attorneys' fees and costs.

- B. Include *Recycled Content Products Environmental purpose statement* regardless of whether the product you are purchasing qualifies for the Environmental Preference.

Sample Recycled Content Products purpose statement:

Buying products made from recycled content creates markets for materials collected in residential & business recycling programs. Recycling does not work without end-markets. In addition buying recycled products supports the development of green technologies, creates jobs and strengthens the local economy, and promotes and supports a more sustainable lifestyle. When manufacturers use recycled material vs. virgin materials to make new products, air and water pollution is reduced, natural resources are conserved, energy is saved, less water is used, and emissions of greenhouse gases that contribute to global climate change are reduced. Accordingly, the State of Washington through its procurements of goods is trying to maximize the purchase of products made from recycled content and to incentive its vendors to sell products and products in packaging made with recycled content.

STEP 5: APPLY THE PREFERENCE AND MARK IN WEBS

- If the bidder wishes to receive the preference, you will receive a Bidder Certification for Recycled Content Products Environmental Preference.
- In the event that no bids are received seeking an Environmental Preference, the agency shall evaluate and award based on best value.
- Mark the appropriate Preference/s box on the Solicitations Response screen in WEBS.



Sample Language

SELECT THIS LINK FOR THE LATEST [SAMPLE ENVIRONMENTAL PREFERENCE BIDDER CERTIFICATION](#)

SAMPLE RECYCLED CONTENT PRODUCTS ENVIRONMENTAL PREFERENCE PURPOSE STATEMENT:

Buying products made from recycled content creates markets for materials collected in residential & business recycling programs. Recycling does not work without end-markets. In addition buying recycled products supports the development of green technologies, creates jobs and strengthens the local economy, and promotes and supports a more sustainable lifestyle. When manufacturers use recycled material vs. virgin materials to make new products, air and water pollution is reduced, natural resources are conserved, energy is saved, less water is used, and emissions of greenhouse gases that contribute to global climate change are reduced. Accordingly, the State of Washington through its procurements of goods is trying to maximize the purchase of products made from recycled content and to incentivize its vendors to sell products and products in packaging made with recycled content.

SAMPLE RECYCLED CONTENT PRODUCTS ENVIRONMENTAL PREFERENCE EVALUATION CLAUSE:

Pursuant to RCW 39.26.255, a preference of XX (minimum of 5%) per product line item will be applied to any bidder that provides recycled-content products as designated by the Environmental Protection Agency's (EPA) Comprehensive Procurement Guideline (CPG) Program (as it existed on July 1, 2001 [\[link\]](#)). The preference shall only be applied when the recycled content percentage bid exceeds one of the recommended content level percentages or the minimum product specifications, as designated by the EPA's CPG.

The preference will be applied at time of bid evaluation. When evaluating the bid price of qualifying bidders, a **XX%** (minimum of 5%) **price reduction** will be applied to those bidders' items that qualify for the recycled content preference for price evaluation purposes. This preference is separate from and applied after any other preferences allowed by statute. In the event of a tie, the bidder with the larger post-consumer recovered content will break the tie and receive the award.

Accordingly, all bidders must certify whether they are seeking the statutory preference for products containing recycled content material in this Competitive Solicitation. Bidders must make the certification on the certification form attached as Exhibit __ (Environmental Certifications). Bidders who seek to obtain the XX% bid preference for products containing recycled material must, in regard to the products pertaining to this procurement, certify that the products specified in Exhibit __ (Cost Worksheet) exceed the recommended recovered materials percentages for the relevant product as designated by the EPA's CPG standard (as it existed on July 1, 2001).

SAMPLE RECYCLED CONTENT PRODUCTS ENVIRONMENTAL PREFERENCE WARRANTY LANGUAGE:

Contractor Preference – Recycled Content Products Environmental Preference: Contractor represents and warrants that, during the term of this Contract, for any product(s) for which Contractor sought and was awarded an environmental purchasing preference pursuant to RCW 39.26.255 and Washington State Procurement Policy POL-DES-255-00, such product(s) shall exceed the minimum post-consumer or total recycled content that



enabled Contractor to be awarded such preference. Notwithstanding any provision to the contrary, upon breach of warranty and Contractor's failure to provide satisfactory evidence of compliance within thirty (30) days, Agency may suspend or terminate this Contract. The rights and remedies of the parties under this warranty are in addition to any other rights and remedies of the parties provided by law or equity, including, without limitation, actual damages, and, as applicable and awarded under the law, to a prevailing party, reasonable attorneys' fees and costs.



FREQUENTLY ASKED QUESTIONS - RECYCLED CONTENT PRODUCTS ENVIRONMENTAL PREFERENCE

1. Does the policy include consideration of recycled content in product packaging?

Answer: No. The recycled content purchasing preference shall only be applied to the product.

2. What products are designated by the Environmental Protection Agency's (EPA) Comprehensive Procurement Guideline (CPG) Program?

Answer: The [Environmental Protection Agency's \(EPA\) Comprehensive Procurement Guideline \(CPG\) Program](#), designates products that are or can be made with recovered materials and recommendations for recovered content, both post-consumer material content and/or total recovered material content. The products are grouped into eight categories, which include construction products, landscaping products, miscellaneous products (i.e. awards/plaques, bike racks, signage, etc.), nonpaper office products, paper and paper products, park and recreation products, transportation products, and vehicular products.

3. Can you provide a definition for the terms "post-consumer" and "total recovered" content levels?

Answer: Post-consumer material means a material or finished product that has served its intended use and has been discarded for disposal or recovery, having completed its life as a consumer item. Post-consumer material is a part of the broader category of "recovered material".

Recovered material means waste materials and by-products recovered or diverted from solid waste, but the term does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process.

4. How would an agency determine that applying this preference will not encourage the use of more recycled material, based on inadequate competition, economics, environmental constraints, lack of quality or availability?

Answer: Agencies can make this determination through the competitive process. If, through the competitive procurement process, the agency finds that there is inadequate competition, lack of quality or availability, etc. the agency would not be required to apply a preference. If there is adequate market research that can be documented prior to a competitive process, the agency would not be required to include the preference language in the solicitation. In all cases, agencies should document the procurement file and WEBS.

5. To whom does this policy apply?

Answer: Any state office or activity of the executive branch of state government, including state agencies, departments, offices, divisions, boards, commissions, institutions of higher education as defined in [RCW 28B.10.016](#), correctional and other types of institutions ([RCW 39.26.010\(1\)](#)) ([RCW 39.26.100](#)) ([RCW 39.26.102](#)).

6. What are the Authorizing sources?

Answer:

- [RCW 39.26.255](#)
- [RCW 43.19A.020](#)
- [RCW 43.19A.022](#)
- [RCW 39.26.010\(1\) Definitions](#)
- [WAC 200-300-085](#)

7. What is the effective date of the policy?

Answer: [Link to policy](#)



8. Question: When do I have to complete the training?

Answer: [Link to Chris Liu letter](#)

CONTACTS & RESOURCES

Contact DES Customer Service, (360) 360-407-2210 or email Contractingandpurchasing@des.wa.gov.

- Questions about providing the Environmental Preference during procurement
- The ratings of recycled content products within Master Contracts