

State Procurement Manual

Number PRO-C-20
Effective 5-26-04
Replaces 2-1-99
Page 1 of 4

DOA-3449 N(R06/94) Formerly AD-P-12

Section THE PROCUREMENT PROCESS	Agencies Affected ALL
Title RECIPROCIY LAW	

AUTHORITY: [Wis. Stats.](#) 16.75(1)(a) 2
35.012
[Wis. Adm. Rule Tax](#) 2.82

SCOPE:

- to define "Wisconsin business"
- to establish policy on the purchasing preference reciprocity law
- to identify a resource for information on in-state preference practices of other states

DEFINITION: "Wisconsin business" means any producer, distributor, supplier, or retailer that has all of the following: one or more employees located in Wisconsin; a physical business presence such as a store, factory, warehouse, or office in Wisconsin; "nexus" in Wisconsin as defined by [Wis. Adm. Rule Tax](#) 2.82, and is required to file a tax form; and, when required, is licensed to do business in Wisconsin by the Department of Regulation and Licensing and/or the Secretary of State.

CONTENT:

- I. 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.
- II. The agency will apply the penalty at the same percentage preference as is applied by the bidder's home state. In the case of printing, contracts will not be awarded to printing firms located in another state if the laws of that state discriminate against Wisconsin printers.
- III. 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.

Authorized:



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State Bureau of Procurement

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		Effective 5-26-04
Section THE PROCUREMENT PROCESS	Agencies Affected ALL	Replaces 2-1-99
Title RECIPROCITY LAW		Page 2 of 4

IV. A certified minority business enterprise, coming from a state with an in-state preference, may receive the minority business 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 in this situation. When application of the preference results in an out-of-state minority firm obtaining the award over an in-state firm, the agency will notify the State Bureau of Procurement before issuing the notice of intent.

V. Qualified bid formulas

A. On competitive bids

1. To achieve consistency in evaluating a Wisconsin qualified bid against an apparent low bid, the following formula will be used:

$$\begin{aligned} & \text{(Lowest Responsive Non-Wisconsin} \\ & \text{Bid x 1. Preference)} && = \$ \underline{\hspace{2cm}} \\ & \text{Minus (Lowest Wisconsin Qualified Bid)} && = \$ \underline{\hspace{2cm}} \\ & \text{(Balance)} && = \$ \underline{\hspace{2cm}} \end{aligned}$$

2. When the balance is a positive number, award is made to the lowest Wisconsin qualified bid. Award is made at the cost actually bid.
3. When the balance is 0, award is made according to [PRO-C-24](#), Tied Bids.
4. When the balance is a negative number, award is made to the lowest responsive non-Wisconsin bidder.

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Section THE PROCUREMENT PROCESS	Agencies Affected ALL	Replaces 2-1-99
Title RECIPROCITY LAW		Page 3 of 4

5. For example, the following bids are received:

<u>Bidder</u>	<u>Quote</u>	
Alaska	\$100 (\$100 x 1.05)	= \$105
Wisconsin	\$104	- <u>\$104</u>
		\$ 1

The award goes to the Wisconsin bidder.

<u>Bidder</u>	<u>Quote</u>	
Hawaii	\$100 (\$100 x 1.03)	= \$103
Wisconsin	\$104	- <u>\$104</u>
		\$ -1

The award goes to the Hawaii bidder.

B. On proposals (competitive negotiations)

1. Use a formula similar to that on page 4 of [PRO-D-1](#), Minority Business Enterprise Policy.

VI. The agency will document basis for award in the bid file.

VII. PRO-C-20 also applies to awards to foreign businesses. The agency will research the preference practices of the entity as the situations arise. When making an award that involves a member country under the Government Procurement Agreement, the agency will show no preference in favor of the United States. See [PRO-C-37](#), World Trade Organization Government Procurement Agreement, for a listing of member countries and additional information. For assistance contact the State Bureau of Procurement.

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Section THE PROCUREMENT PROCESS	Agencies Affected ALL	Replaces 2-1-99
Title RECIPROCITY LAW		Page 4 of 4

- VIII. The State of Oregon routinely gathers information on in-state preference practices of all states. For details consult the following Web site:
<http://www.oregon.gov/das/Procurement/Pages/Recippref.aspx>
- IX. The agency should direct any questions regarding PRO-C-20 to the State Bureau of Procurement.

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