

Preferences

Source Preferences

The following source preferences are used when applicable goods or services can be supplied by these entities:

- ◆ **Products By Persons with Disabilities**

A preference shall be given to manufactured products of workshops, organizations, or corporations whose primary purpose is training and employing persons with mental or physical disabilities so long as the products or services meet state specifications as to quantity, quality, and price.¹

Note: Competitive bids are not required for purchases of goods or services that are offered by the Texas Council for Purchasing from People with Disabilities (TCPPD).² See *Section 2.5 Special Purchases*.

- ◆ **Texas Department of Criminal Justice (TDCJ)-Office of Correctional Industries**

A preference shall be given to items manufactured by Texas Correctional Industries (TCI) under the provisions of the Prison Made Goods Act.³ See *Section 2.5 Special Purchases*.

Geographical Preference for Goods.

The Texas Building and Procurement Commission (TBPC), and any state agency making purchases of goods shall give preference to products produced or grown in this state or offered by Texas bidders as follows:

- 1) Texas Goods. Supplies, materials, or equipment produced in Texas shall be given preference over comparable goods produced outside Texas when the cost and quality of the goods are equal. Supplies, materials, and equipment are considered to be produced in Texas if they are manufactured in Texas; "manufactured" does not include the work of packaging or repackaging.⁴
- 2) Texas Agricultural Products. Agricultural products grown in Texas shall be given first preference and agricultural products offered by Texas bidders shall be given second preference over comparable products grown outside Texas when the cost and quality of the goods are equal. Agricultural products are considered "grown in Texas" if they contain any amount grown in Texas. In case of tie bids between agricultural products claiming the preference, the bidder whose product contains the greatest percentage of the product grown in Texas shall prevail. For the purpose of this preference, agricultural products include, among other things, textiles and fiber products, processed and unprocessed foods, feed, lumber, and forestry products, live animals, plants, flowers,

¹ Texas Government Code, Title 10, Subtitle D, Section 2155.441.

² Texas Government Code, Title 10, Subtitle D, Section 2155.138.

³ Texas Government Code, Title 4, Subtitle G, Chapter 497.

⁴ Texas Government Code, Title D, Subtitle D, Section 2155.444(a).

and nursery stock.⁵

- 3) U.S. Goods. Supplies, materials, equipment, or agricultural products produced or grown in the United States shall be given preference over foreign products when the cost and quality are equal, if comparable goods of equal cost and quality produced or grown in Texas or offered by Texas bidders are not available⁶. Reference Texas Government Code, Title 10, Subtitle D, Section 2155.444(b).

Type Specific Preference: Goods and/or Services.

◆ Recycled, Remanufactured, or Environmentally Sensitive Products.

- 1) Generally. The Texas Building and Procurement Commission (TBPC) or a state agency making purchases of goods shall give preference to a recycled, remanufactured, or environmentally sensitive products in a purchase made under Title 10, Subtitle D of the Government Code, if the product meets state specifications regarding quantity and quality.⁷
- 2) Purchase of Recycled Paper Products. TBPC shall contract for paper containing the highest proportion of recycled fibers for all purposes for which paper with recycled fibers may be used and to the extent that the paper is available at a reasonable price through normal commercial sources to supply the state's needs. A state agency that purchases through TBPC shall place orders for papers containing recycled fibers to the highest extent of its needs and to the extent that the paper is available through TBPC's purchasing procedures.⁸
- 3) First Choice Products. Each fiscal year, TBPC, in coordination with the Recycling Market Development Board, (RMDB) by rule may identify recycled, remanufactured, or environmentally sensitive commodities or services and designate purchasing goals for the procurement of those commodities and services by state agencies for that year ("1st Choice"). A state agency that intends to purchase a commodity or service that accomplishes the same purpose as a "1st Choice" product or service identified by TBPC that does not meet TBPC's definition of "recycled product" or "remanufactured or environmentally sensitive" are required to include with the procurement file a written justification and any applicable supporting documentation signed by the agency's executive head stating the reasons for the determination that the commodity or service identified by TBPC will not meet the agency's requirements. The justification letter also must be filed with TBPC. Currently, the following products have been designated as "1st Choice":

"1st Choice" products effective September 1, 2001:

- Re-refined oils and lubricants;
- Recycled-content toilet paper, toilet seat covers, paper towels; and

⁵ Texas Government Code, Title 10, Subtitle D, Section 2155.444(a).

⁶ Texas Government Code, Title 10, Subtitle D, Section 2155.444(b).

⁷ Texas Government Code, Title 10, Subtitle D, Section 2155.445.

⁸ Texas Government Code, Title 10 Subtitle D, Section 2155.446(a) & (b).

- Recycled-content printing, computer and copier paper, and business envelopes.

"1st Choice" products effective September 1, 2002:

- Recycled-content plastic trash bags
- Recycled-content plastic-covered binders
- Recycled-content recycling containers
- Energy Star labeled photo-copiers

4) Reporting. Beginning with FY 2001, each state agency is responsible for compiling a final recycled product report by combining the TBPC non-delegated recycled, remanufactured and environmentally sensitive purchase report with the state agency's delegated recycled, remanufactured and environmentally sensitive purchases. This final combined report using the format attached must be included in your agency's Annual Financial Report (AFR) submitted to the Comptroller and a copy must also be sent to TBPC Procurement Services Division to the attention of Procurement Services Recycling Coordinator by November 20th of each year. The TBPC will post on its website the state's consolidated final recycled product report by February 15, 2002 for public viewing of state successes in supporting recycled product purchases. For additional information regarding reporting requirements, see *Section 1.3 Reports*.

- ◆ **Energy Efficient Products**. A preference shall be given to energy efficient products if they meet state requirements as to quantity and quality, and are equal to or less than the cost of other products that are energy efficient. This preference shall be applied by evaluating the energy use of the product offered and considering the costs of such energy use over the expected life of the equipment. The methodology for evaluating energy use and costs shall be included in the bid invitation.⁹
- ◆ **Rubberized Asphalt Paving Material**. A preference shall be given to rubberized asphalt paving material made from scrap tires by a facility in this state if the cost, as determined by life-cycle cost benefit analysis, does not exceed the bid cost of alternative paving materials by more than 15%.¹⁰
- ◆ **Recycled Motor Oil and Lubricants**. A preference shall be given to motor oils and lubricants that contain at least 25% recycled oil if the quality is comparable and the cost is equal or less than new oil and lubricants.¹¹
- ◆ **Products Produced at Facilities Located on Formerly Contaminated Property**. A preference shall be given to products produced at a facility located on property for which the owner has received a certificate of completion under Health and Safety Code, Title 5, Subtitle B, Section 361.609 if the goods meet state specifications regarding quantity, quality, delivery, life cycle costs, and price.¹²

⁹ Texas Government Code, Title 10, Subtitle D, Section 2155.442.

¹⁰ Texas Government Code, Title 10, Subtitle D, Section 2155.443.

¹¹ Texas Government Code, Title 10, Subtitle D, Section 2155.447.

¹² Texas Government Code Title 10, Subtitle D, Section 2155.449

- ◆ **Products and Services from Economically Depressed or Blighted Areas.** A preference shall be given to products and services from economically depressed or blighted areas as defined in Texas Government Code, Title 10, Subtitle G, Section 2306.004 or that meet the definition of a historically underutilized business zone as defined by 15 U.S.C., Section 632(p) if they meet state requirements as to quantity and quality, and are equal to or less than the cost of other products offered.¹³

Service Contract Preferences

TBPC or a state agency that contracts for services shall require the contractor, in performing the contract, to purchase products and materials produced in this state when they are available at a price and time comparable to products and materials produced outside this state.¹⁴

Note: For reciprocity information, see *Section 2.40 Reciprocity*.

Note: For tie bid information, see *Section 2.39 Tie Bids*.

¹³ Texas Government code Title 10, Subtitle D, Section 2155.449.

¹⁴ Texas Government Code, Title 10, Subtitle D, Section 2155.4441