



Report to the Legislature In-state bidding preferences Senate Bill 5662

December 2011

Requirements

The 2011 Legislature approved Senate Bill 5662, which directed the former Department of General Administration* to:

- Conduct a survey and develop a list of which states provide a bidding preference for public works contracts for resident contractors. The list must include: details on the type of preference, the amount of the preference, and how the preference is applied.
- Update the preference list as needed.
- Complete the initial survey by November 1, 2011.
- Submit a report of survey results to the appropriate committees of the Legislature by December 1, 2011. The report must include the list and the recommendations necessary to implement the intent of the legislation.
- Distribute the report along with the requirements to all state and local agencies with the authority to procure public works.
- Adopt rules or procedures necessary for implementation.

**General Administration became part of the Department of Enterprise Services (DES) on October 1, 2011.*

Survey summary

The department contacted 49 states by telephone and spoke with the public works contracting departments in each state. The survey specifically addressed in-state preferences for public works contracting for construction services. We did not survey in-state preferences for other goods and/or services such as commodity purchasing.

We learned that a comprehensive survey regarding in-state bidding preferences had been completed recently by Virginia. Based on the Virginia survey and our direct contacts, we learned that four states have an in-state preference that favors bidders from those states:

- Alaska
- Nevada
- New Mexico
- Wyoming

The amount of the preference in each of these states is 5 percent. The 5 percent preference is applied to bids for in-state bidders in order to determine the successful bidder for the contract award.

We also learned that there are several states that have implemented reciprocal preference laws that penalize construction bidders from a state with in-state preference. During our survey, Alabama, Kentucky, Louisiana, Mississippi and Ohio indicated that they have a reciprocal preference law. We did not ask about reciprocal preference laws as a part of the survey, so there may be others.

Recommendation for implementation

The following procedure is recommended in order to apply a reciprocal preference for a Washington state public works project when a bid or bids are received from one or more of the states that have an in-state preference:

- For the purpose of determining the successful bidder, multiply the bid amount by 0.95 for each bidder except the bidder(s) from the state(s) that have an in-state bidder's preference. The "bid amount" shall be the total of the base bid and all accepted alternate bid items. The bidder with the lowest adjusted total shall be the successful bidder.

As required by SB 5662, DES will distribute this report along with the requirements to all state and local agencies with the authority to procure public work.

Contact

For more information about the survey or if you have questions, please contact:

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