



Idaho Reciprocal Preference

Idaho Code 67-2349



What is “Reciprocal Preference”?

- ▶ A *preference* is a law/rule that gives a certain advantage to a certain category of vendors under certain conditions
 - ▶ Example: Idaho Code provides for a 10% preference for Idaho vendors when the procurement includes printing
- ▶ A *reciprocal preference* is a law/rule that allows a state to apply a foreign state's preference (when a vendor from that state bids), if that foreign state would apply the preference against its vendors



Who Needs to Know?

- DOP, Agencies with Delegated Purchasing Authority, and Political Subdivisions need to consider the reciprocal preference law for all competitive solicitations
- Agencies without DPA need to understand what it means when DOP applies the reciprocal preference law



Idaho Code 67-2349

(1) To the extent permitted by federal laws and regulations, whenever the state of Idaho, or any department, division, bureau or agency thereof, or any city, county, school district, irrigation district, drainage district, sewer district, highway district, good road district, fire district, flood district, or other public body, shall let for bid any contract for purchase of any materials, supplies, services or equipment, the **bidder domiciled outside the boundaries of Idaho shall be required, in order to be successful, to submit a bid the same percent less than the lowest bid submitted by a responsible bidder domiciled in Idaho as would be required for such an Idaho domiciled bidder to succeed over the bidder domiciled outside Idaho on a like contract being let in his domiciliary state.**

For the purposes of this section, any bidder domiciled outside the boundaries of the state of Idaho may be considered as an Idaho domiciled bidder, **provided that there exists for a period of one (1) year preceding the date of the bid a significant Idaho economic presence as defined herein.** A significant economic presence shall consist of the following:

- (a) That the bidder maintain in Idaho fully staffed offices, or fully staffed sales offices or divisions, or fully staffed sales outlets, or manufacturing facilities, or warehouses or other necessary related property; and
- (b) If a corporation be registered and licensed to do business in the state of Idaho with the office of the secretary of state.



Who are the Idaho Vendors?

- Idaho Code references a “bidder domiciled outside the boundaries of the state of Idaho”
 - Idaho Domiciled Vendors: companies incorporated in Idaho, or sole proprietorships/partnerships located in Idaho.
- “For the purposes of this section, any bidder domiciled outside the boundaries of the state of Idaho may be considered as an Idaho domiciled bidder, provided that there exists for a period of one (1) year preceding the date of the bid a **significant Idaho economic presence** as defined herein.”
 - Idaho location (fully staffed office, sales office/division/outlet, manufacturing facility, warehouses, etc.)
 - Registered/licensed with the Secretary of State



Questions on determining significant Idaho
economic presence?





How to Apply Reciprocal Preference

- Question 1: Where did your quotes/bids come from?
 - All Idaho vendors → reciprocal preference does not apply
 - All foreign vendors → reciprocal preference does not apply
 - Idaho vendors AND foreign vendors → go to Question 2



How to Apply Reciprocal Preference

- Question 2: Is the low quote/bid from an Idaho vendor?
 - Yes → reciprocal preference does not apply
 - No → go to Question 3



How to Apply Reciprocal Preference

- Question 3: Do(es) the foreign vendor(s)' state have a *relevant* preference law/rule?
 - No → no reciprocal preference
 - Yes → apply preference
- Certain category of vendors, certain circumstances
 - Category: State-specific preference (not DBE, etc.)
 - Circumstances: Applicable to the current type of solicitation and type of project



Where to Find Foreign States' Preference Rules

- <http://www.oregon.gov/das/Procurement/Pages/Recippref.aspx>

How to Apply Reciprocal Preference

- Once you determine that a reciprocal preference should apply, add the applicable preference to the foreign vendor *for evaluation purposes*
- Examples:

Example 1	Vendor A (Idaho)	Vendor B (Idaho)	Vendor C (Foreign)
Actual Bid Price	\$30,000	\$28,000	\$20,000
Preference	n/a	n/a	5%
Evaluated Bid Price	\$30,000	\$28,000	\$21,000

Example 2	Vendor A (Idaho)	Vendor B (Foreign)	Vendor C (Foreign)
Actual Bid Price	\$50,000	\$47,000	\$45,000
Preference	n/a	5%	10%
Evaluated Bid Price	\$50,000	\$49,350	\$49,500

Examples

RFQ for cameras for the State Fire Marshall:

Vendor A (Idaho)	Vendor B (Idaho)	Vendor C (Idaho)
\$11,650	\$10,005	\$13,250

Idaho Preference:

Printing Only

Printing preference of 10% applies to state and counties. Reciprocal law applies to state and political subdivisions for commodities, construction and services.

Tie-bid

In tie-bid situations, preference shall be given only to products of local and domestic production and manufacture or Idaho domiciled bidders.

Example

- ▶ ITB for a piece of equipment

Vendor A (Idaho)	Vendor B (Arizona)	Vendor C (New York)
\$143,000	\$112,000	\$129,250

Arizona Preference:

Small business

Small Business Preference for Procurements under \$100,000. (A.R.S. §41-2535.B)

Tie-bid

In tie-bid situations, the agency chief procurement officer shall make the award by drawing lots. If time permits, the agency chief procurement officer shall provide the bidders the opportunity to attend the lot drawing.

New York Preference

Recycled products

- ▶ Two step policy for recycled products. 10% preference is applied for a recycled content product without regard to the product's origin. An additional 5% preference may be granted if at least 50% of the secondary materials utilized in manufacture of that product are generated from the waste stream in New York State.

Agricultural products, including foods and beverages

- ▶ 1) Catering
- ▶ 2) Food Products

Example

ITB for microfilming services

Vendor A (Ohio)	Vendor B (Idaho)	Vendor C (Idaho)
\$215,000	\$224,000	\$237,000

Ohio Preference

Supplies, services, IT

The preference only applies to purchases of supplies, services and information technology that use the Invitation to Bid and Reverse Auction processes. Not mandatory for RFPs. See: ORC 125.11 (A); 125.09(A), OAC 123:5-1-06 (D).

5%: Qualifications

To qualify for the 5% preference, bidder must be an "Ohio" bidder; 1) offering product produced, raised, grown or manufactured in Ohio or 2) has significant Ohio economic presence - pays taxes, registered with Ohio Secretary of State and has 10 or more or 75% of workforce located in Ohio. See: OAC 123:5-1-06 (3) (d).

Border

Border state bidders are treated on the same level as Ohio bidders provided the border state does not apply a preference toward Ohio bidders. Currently Indiana (except mined products), Pennsylvania, Kentucky, Michigan and New York are recognized as border states. See: ORC 125.09(C) (4).



Reminders and Resources

- Reciprocal preference is only used for *evaluation* purposes; not contract pricing.
- Document your reciprocal preference check
- Resources:
 - “Understanding and Applying the Idaho Reciprocal Preference Law” available at:
<https://purchasing.idaho.gov/publications.html>
 - www.naspo.org/dnn.reciprocity1



Questions?

