DEPARTMENT OF ADMINISTRATION
STATE PROCUREMENT

Policy and Instructions for Applying Preferences (Purchasing Policy 35)

Version: ~~7~~.00
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Approval: Chief Procurement Officer, Rachel Dougherty

Policy Statement

The 2016 Legislature enacted several revisions to Minn. Stat. § 16C.16, relating to targeted group small businesses, economically disadvantaged area small businesses, and veteran-owned small businesses. The statutory changes affect solicitations awarded on or after July 1, 2016. In fiscal year 2018, a policy change was made to make preferences that are applied to the dollar amount of a response more effective. The cap on the dollar amount for applying preferences was increased. This change affects solicitations that close on or after July 1, 2018. Also in fiscal year 2018, based on a recent Disparity Study, the commissioner of Administration issued an order designating all small businesses owned and operated by women, by minority groups (defined in Minn. Rules Chapter 1230), or by persons with a substantial physical disability as Targeted Group businesses. The result of this change is elimination of the Table of Groups Experiencing Disparity. This change affects solicitations that close on or after August 1, 2018. The 2023 Legislature increased the preference for certified Targeted Group vendors from up to 6% to up to 12%. The change increasing the preference to 12% affect solicitations awarded on or after July 1, 2023.

Background

The following information includes the changes described above. The policy is an overview of the available preferences for the procurement of goods and supplies, general services, and construction. Also attached are examples of calculating and recording preferences on the bid tabulation.

For information on all preferences, visit the Office of State Procurement's website to review the Authority for Local Purchase (ALP) Manual. If you have any questions regarding the ALP Manual or how to apply Targeted Group (TG), Economically Disadvantaged (ED), Veteran-Owned (VO), Environmental, Department of Employment & Economic Development (DEED) Certified Providers and Department of Human Services (DHS) Certified Providers and reciprocal preferences, please call any OSP Acquisitions Management Specialist/Buyer or the OSP Acquisitions Manager.

Applying Preferences (for Goods, General Services, and Construction Procurements)

I. The following preferences are authorized if a vendor meets all of the specified requirements:

a) Targeted Group (TG) preference – 12%. (See Minn. Stat. § 16C.16)

The vendor must be BOTH certified and eligible to receive a TG preference.

CERTIFIED means the vendor has made application and has been approved by the Office of Equity in Procurement (OEP) as a TG vendor. The vendor must be identified on the Directory of Certified Targeted Group, Economically Disadvantaged and Veteran-Owned Vendors on the OEP website as a

TG vendor (see Category Codes below). See ALP Manual, Appendix J, Directory of Certified TG/ED/VO Vendors. Below are the Category Codes.

A = Asian American
B = African American
H = Hispanic American
I = Indigenous American (American Indian)
W = Women Owned (Nonminority Women)
D = Disabled

ELIGIBLE means the CERTIFIED TG vendor's certification includes the goods or services being purchased. For goods, eligibility also means the vendor must be an original equipment manufacturer (OEM) or an authorized distributor for the OEM or a manufacturer's representative for the OEM or its authorized distributor. This is explained further below.

The TG 12% preference applies to purchases of goods, general services, and construction.

b) Economically Disadvantaged (ED) preference – 12%. (See Minn. Stat. § 16C.16)

The vendor must be certified by the OEP as being located in a Labor Surplus Area or Low Median Income County, or certified as a Rehabilitation Facility or Extended Employment Provider. See the ALP Manual, Appendix J, Economically Disadvantaged Counties in Minnesota. Also see paragraph "e" below.

The Directory of Certified Targeted Group, Economically Disadvantaged and Veteran- Owned Vendors on OEP's website must identify the vendor is classified as ED (Category Codes = L, M, or R). See ALP Manual, Appendix J, Directory of Certified TG/ED/VO Vendors.

The ED 12% preference applies to purchases of goods, general services, and construction.

c) Veteran-Owned (VO) preference – 12%. (See Minn. Stat. § 16C.16 and § 16C.19)

The vendor must be certified by the OEP as a veteran-owned small business. The Directory of Certified Targeted Group, Economically Disadvantaged and Veteran- Owned Vendors on the OEP's website must identify that the vendor is classified as veteran-owned (Category = V or S). See ALP Manual, Appendix J, Directory of Certified TG/ED/VO Vendors.

The VO 12% preference applies to purchases of goods, general services, and construction.

d) Environmental preference - up to 10% if stated in the solicitation. (See Minn. Stat. §16C.0725)

Purchasers must consider the recycled content and recyclability of the commodities to be purchased in solicitation specifications. For additional information, see ALP Manual Section 2.24, Applying a Preference. For an example of solicitation language, see Appendix D, Forms, Informal Solicitation at or less than $10,000.

e) Departments of Employment and Economic Development (DEED) Certified Providers and Human Services (DHS) Day Services Licensed Providers (DEED/DHS Providers) – 6% for certain services. (See Minn. Stat. §§ 16C.155 and 16C.16)

Effective August 1, 2010, DEED/DHS providers offering the following designated services will be eligible for a 6% preference: janitorial services; document imaging; document shredding; and mailing, collating, and sorting services. DEED providers that are certified as an ED vendor are also eligible for a 6% preference when offering any goods and services.

Purchasing Policy 29 provides additional information on purchasing services from DEED/DHS providers. For a list of DEED/DHS providers, see the ALP Manual, Appendix J, Vendor Information.

f) Reciprocal preference – preference percentage rate may vary by state.
(See Minn. Stat. § 16C.06, subd. 7)

A resident vendor (Minnesota vendor) shall be allowed a preference over a non-resident vendor (non-Minnesota vendor) from a state that gives or requires a preference to vendors from that state for the commodity or service being purchased. This is called a reciprocal preference, or reciprocity.

A Minnesota vendor is a vendor with a place of business in Minnesota. The SWIFT vendor record for the responding vendor must have a Minnesota address.

For assistance in determining and applying a reciprocal preference, see the ALP Manual, Section 2.24, Applying a Preference; Appendix G, States with Resident Bidder and Reciprocal Preferences, Instructions for Determining Eligibility for Reciprocal Preference; and Appendix J, Vendor Information, Revised Instructions for Applying Preferences (this policy document).

II. Guidelines for applying preferences for goods, supplies and other services:

a) Before applying a preference, determine if a vendor's response has offered a discount for prompt payment terms. A discount for prompt payment terms that begins at 30 days or more is subtracted from the total amount of the response before a preference is applied. Review all vendors to determine if a vendor is qualified to receive one or more of the stated preferences.

NOTE: The vendor must be the original equipment manufacturer (OEM) or an authorized distributor for the OEM or a manufacturer's representative for the OEM or its authorized distributor.

If an authorized distributor or a manufacturer's representative is submitting an offer on behalf of the OEM, it must either:

a. Be listed on the OEM's website as an authorized distributor or an authorized manufacturer's representative, or
b. Provide a letter from the OEM stating it is authorized to sell the product and that all OEM equipment warranties are applicable.

If the vendor is a manufacturer's representative, it must have an approved agreement from the manufacturer on file with the OEP.

b) If a vendor is found to be eligible for one or more preferences, apply only the largest preference. Record all eligible preferences and each preference percentage on the bid tabulation sheet. Also identify and note the preference with the highest percentage rate. Also see the ALP Manual, Section 2.24, Applying a Preference, and Appendix J, Vendor Information.

c) Preferences apply to the first $2,000,000 of the response.

d) Solicitations that result in a multiple or split award must have preferences applied to each line or combination thereof until a maximum preference percent is applied to the first $2,000,000.

e) If none of the responders are eligible for a preference, no preference is calculated.

f) If all responders are eligible for the same percentage rate of preference, no preferencesare calculated.

g) On the bid tabulation, if the preference percent is the same for all vendors eligible for a preference, calculate the preference by multiplying each *non-eligible vendor's* response by the preference percentage rate and *adding* the preference amount to the *respective non-eligible vendor's* response for the purpose of comparison. For example, if an eligible TG, ED, and/or VO and a non-TG/ED/VO respond, calculate the preference by *adding* 12% of each *non-TG/ED/VO's* response to their response. (See Examples 1, 2, and 3 for Goods Supplies, and Other Services.)

h) On the bid tabulation, if multiple vendors who are eligible for different percentage rate preferences respond, calculate each percentage rate preference using the lowest qualified response and subtract the appropriate preference amount from the respective preference eligible vendor's response for the purpose of comparison. (See Example 4 for Goods, Supplies, and Other Services.)

History

Version	Description	Date
1.0	Purchasing Policy 35	08/09/1999
2.0	Updated for 2009 Disparity Study	2010
3.0	Updated for 2009 Disparity Study	07/01/2016
4.0	Updated references to OSP and increased cap from $1M to $2M	07/01/2018
5.0	Updated to remove Table of Groups Experiencing Disparity	10/16/2018
6.0	Updated to reflect 6% to 12% preference change	7/1/2023

Contact

If you have questions concerning this policy, please contact Doug Heeschen, Division Procurement Coordinator, the Office of State Procurement, at Doug.Heeschen@state.mn.us or 651.201.2422.

DEPARTMENT OF ADMINISTRATION
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GOODS, GENERAL SERVICES, AND CONSTRUCTION PREFERENCE EXAMPLES

Example 1: Four bids are received. Bidder A and D are eligible TG vendors. Payment terms are net 30.

				Bidder A (TG)		Bidder B		Bidder C		Bidder D (TG)	
Item	**Description Of Item**	**Qty**	**Unit**	**Unit Price**	**Total Price**	**Unit Price**	**Total Price**	**Unit Price**	**Total Price**	**Unit Price**	**Total Price**
1	Description of Item	10	ea	980.00	9,800.00	990.00	9,900.00	980.50	9,805.00	985.00	9,850.00
	S&H/Freight				.00		.00		.00		.00
	Subtotal				9,800.00		9,900.00		9,805.00		9,850.00
	Payment Terms				Net 30		Net 30		Net 30		Net 30
	Subtotal				9,800.00		9,900.00		9,805.00		9,850.00
	Preference: Designate which one, if applicable: 12%TG ___ED ___VO ___DEED/DHS ___Environmental						1,188.00		1,176.60		
	Evaluation Total				9,800.00		11,088.00		10,981.60		9,850.00

Documentation: Award goes to Bidder A, a TG response and the low bid, based on calculating the 12% TG preference on each non- TG/ED/VO response and **adding** that amount to the respective non-TG/ED/VO response.

Example 2: Four bids are received. Bidder B and D are eligible VO vendors. Two vendors have offered payment terms 2% 30.

				Bidder A		Bidder B (VO)		Bidder C		Bidder D (VO)	
Item	**Description Of Item**	**Qty**	**Unit**	**Unit Price**	**Total Price**	**Unit Price**	**Total Price**	**Unit Price**	**Total Price**	**Unit Price**	**Total Price**
1	Description of Item	100	ea	106.50	10,650.00	105.99	10,599.00	100.00	10,000.00	107.00	10,700.00
	S&H/Freight				.00		.00		.00		.00
	Subtotal				10,650.00		10,599.00		10,000.00		10,700.00
	Payment Terms & Discount				Net 30		Net 30		2% 30 (200)		2% 30 (214)
	Subtotal				10,650.00		10,599.00		9,800.00		10,486.00
	Preference: Designate which one, if applicable: ___TG ___ED 12%VO ___DEED/DHS ___Environmental				1,278.00				1,176.00		
	Evaluation Total				11,928.00		10,599.00		10,976.00		10,486.00

Documentation: Award goes to Bidder D, the eligible VO response and the low bid, based on **subtracting** the payment terms discount from the offering vendors following the subtotal below the payment terms and calculating the 12% VO preference on each non-TG/ED/VO response and **adding** the 12% VO preference to the respective non-TG/ED/VO response.

Example 3: Four bids are received. Bidder A is an eligible VO vendor. Bidder C is an eligible ED vendor. Payment terms are net 30.

				Bidder A (VO)		Bidder B		Bidder C (ED)		Bidder D	
Item	Description Of Item	Qty	Unit	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
1	Description of Item	100	ea	150.00	15,000.00	145.00	14,500.00	148.00	14,800.00	149.00	14,900.00
	S&H/Freight				.00		.00		.00		.00
	Subtotal				15,000.00		14,500.00		14,800.00		14,900.00
	Payment Terms				Net 30		Net 30		Net 30		Net 30
	Subtotal				15,000.00		14,500.00		14,800.00		14,900.00
	Preference: Designate which one, if applicable: ___TG 12%ED 12%VC ___ DEED/DHS ___Environmental						1,740.00				1,788.00
	Evaluation Total				15,000.00		16,240.00		14,800.00		16,688.00

Documentation: Award goes to Bidder C, the eligible ED response and the low bid, based on calculating a 12% preference on each non-TG/ED/VO response, and **adding** that amount to the respective non-TG/ED/VO response.

Example 4: Four bids are received. Bidder A has documented, certified 100% recycled content paper, Bidder B has documented, certified 30% recycled content paper. Environmental preference is up to 10%, 1% per 10% recycled content. Payment terms are net 30.

				Bidder A (100% Recycled Content)		Bidder B (30% Recycled Content)		Bidder C		Bidder D	
Item	Description Of Item	Qty	Unit	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
1	Cut sheet bulk paper	100	Box	34.00	3,400.00	35.00	3,500.00	33.00	3,300.00	34.00	3,400.00
	S&H/Freight				.00		.00		.00		.00
	Subtotal				3,400.00		3,500.00		3,300.00		3,400.00
	Payment Terms				Net 30		Net 30		Net 30		Net 30
	Subtotal				3,400.00		3,500.00		3,300.00		3,400.00
	Preference: Designate which one, if applicable: ___TG ___ED ___VC ___DEED/DHS _X_ Environmental			10 %	(330.00)*	3%	(99.00)†				
	Evaluation Total				3,070.00		3,401.00		3,300.00		3,400.00

Documentation: Award goes to bidder A, the 100% recycled response and low bid, based on calculating a 10% preference amount on Bidder C's response (the low bid before calculating preference) and **subtracting** that amount from Bidder A's response and calculating a 3% preference amount on Bidder C's response and **subtracting** that amount from Bidder B's response. If the low bid response is rejected, the 10% and 3% preferences have to be calculated from the next low bid response. [Preference calculation: *$3,300 (Bidder C) x 10% = $330 for 100% recycled; †$3,300 (Bidder C) x 3% = $99 for 30% recycled.]