

Section 2.27

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 function is training and employing persons with mental or physical disabilities if the products or services meet state specifications as to quantity, quality, and price. Competitive bids are not required for purchases of goods or services offered through the State Use program managed by TIBH Industries, Inc. on behalf of the Texas Council for Purchasing from People with Disabilities if the goods or services meet state specifications as to quantity, quality, delivery, life cycle costs and testing and inspection requirements. Texas Human Resources Code §122.008, 40 Texas Administrative Code §189.2(9).

- **Texas Department of Criminal Justice (TDCJ)/Institutional Division**

A preference shall be given to items manufactured by the Texas Correctional Industries (TCI) under the Prison Made Goods Act (see Section 2.5 Set-aside Purchases). Reference Texas Government Code Chapter 497.

- **Texas and United States Products and Texas Services**

A preference shall be given to goods, including agricultural products, produced or grown in this state or offered by Texas bidders. If goods, including agricultural products produced or grown in this state or offered by Texas bidders, are not equal in cost and quality to other products, then goods, including agricultural products produced or grown in other states of the United States, shall be given preference over foreign products if the cost to the state and quality are equal. Reference Texas Government Code § 2155.444.

- **Products and Services from Economically Depressed and Blighted Areas**

A preference shall be given to goods and services produced in an economically depressed or blighted area if the goods or services meet state specifications regarding quantity and quality and the cost of the good or service does not exceed the cost of other similar products or services that are not produced in an economically depressed or blighted area. Reference Texas Government Code § 2155.449. An economically depressed or blighted area is defined by Texas Government Code § 2306.004.

- **Products of Facilities on Formerly Contaminated Property**

A preference shall be given for goods produced at a facility located on property for which the owner has received a certificate of completion under Health and Safety Code §361.609, if the goods meet state specifications regarding quantity, quality, delivery, life cycle costs, and price. Reference Texas Government Code § 2155.450.

Specification Preferences

The following items are preferences regarding recycled materials:

- **Recycled, Remanufactured, or Environmentally Sensitive Products**

A preference shall be given to products made of recycled materials if the products meet state specifications as to quantity and quality.

Texas Government Code § 2155.445 and Health and Safety Code §361.426 require all state agencies, institutions of higher education, state courts, judicial agencies, counties, municipalities, school districts, junior or community college districts, or special districts to follow certain precepts regarding recycling and the purchase of recycled content products.

Texas Government Code § 2155.445(a) provides that all entities **"give preference to recycled, remanufactured, or environmentally sensitive products" as determined by CPA rule if the purchases meet applicable specifications as to quantity and quality.**

Health and Safety Code § 361.426(a) provides that a state agency, state court, or judicial agency not subject to Texas Government Code, Subtitle D, Title 10, a county, municipality, school district, junior or community college district, or special district shall give preference to purchasing products made of recycled materials if the products meet applicable specifications as to quantity and quality.

Texas Government Code § 2155.448(a) states that each fiscal year, TPASS by rule may identify recycled, remanufactured or environmentally sensitive commodities or services. Under 34 Texas Administrative Code § 20.135 TPASS may designate as "First Choice" certain recycled, remanufactured or environmentally sensitive commodities or services. These "First Choice" items include but are not limited to the following:

- Re-refined oils and lubricants;
- Recycled-content toilet paper, toilet seat covers, paper towels;
- Recycled-content printing, computer and copier paper, and business envelopes; and
- Recycled content plastic trash bags
- Recycled content plastic covered binders
- Recycled content recycling containers
- Energy Star labeled photocopiers

First Choice products essentially become the default items for purchase by state agencies including institutions of higher education; that is, state agencies shall give these products preference over virgin (non-recycled) counterparts. A state agency may choose to buy the virgin (non-recycled) material counterpart of these designated products if the agency writes a justification letter, signed by the executive head of the agency. The justification letter must state the reason(s) for the determination that the First Choice product did not meet the requirements of the agency and should include applicable supporting documentation. The justification letter must be included in the procurement file for that item.

• **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 not 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 solicitation document. Reference Texas Government Code § 2155.442.

• **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%. Reference Texas Government Code § 2155.443.

• **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. Reference Texas Government Code § 2155.447.

- **Vendors that Meet or Exceed Air Quality Standards**

A preference may be given to goods or services of a vendor that meets or exceeds state or federal environmental standards, including voluntary standards, relating to air quality. The preference may be given only if the cost to the state for the goods and services would not exceed 105% of the cost of the goods and services provided by a vendor who does not meet the standards. Reference Texas Government Code § 2155.451.

A preference shall be given to 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. This section does not apply if the average price of paper with recycled fibers exceeds by more than 10 percent the price of comparable non-recycled paper. Reference Texas Government Code §2155.446.

- **Recycled or Reused Computer Equipment of Other Manufacturers**

A preference shall be given to a manufacturer that has a program to recycle or reuse the computer equipment of other manufacturers, including collection events, recycling grants, and manufacturer initiatives to accept computer equipment labeled with another manufacturer's brand. Reference Health and Safety Code §361.965(d).