

Part I Chapter 47 Reciprocal Limitations Act

- A. General Requirement.** Pennsylvania has reacted to the in-state preference laws and practices of other states by reenacting the *Reciprocal Limitations Act* through the Commonwealth Procurement Code. Under this Act, Pennsylvania responds in a like manner against those states that apply preferences or prohibitions by giving similar preferences to Pennsylvania resident bidders and bidders offering supplies manufactured in Pennsylvania.
- B. Requirements.**
- 1. Product Preference.** In all purchases of supplies exceeding \$10,000, preference is to be given to those bidders offering supplies produced, manufactured, mined, grown, or performed in this Commonwealth as against those bidders offering supplies produced, manufactured, mined, grown, or performed in any state that gives or requires a preference to goods, supplies, equipment, materials, or printing produced, manufactured, mined, grown, or performed in that state. The amount of the preferences is equal to the amount of the preference applied by the other state for that particular supply. [Lists of States Applying A Bidding Preference](#)
 - 2. Bidder Preference.** In the award of contracts for the procurement of supplies and construction exceeding \$10,000, preference shall be given to Pennsylvania resident bidders against a nonresident bidder from any state that gives or requires a preference to bidders from that state. The amount of preference shall be equal to the amount of the preference applied by the state of the nonresident bidder. A resident bidder is a person, partnership or corporation, or other business entity authorized to transact business in this Commonwealth and having a bona fide establishment for transacting business within this Commonwealth at which it was transacting business on the day when bids for the public contract were first solicited. [Lists of States Applying A Bidding Preference](#)
 - 3. Prohibition.** For construction and for all purchases of supplies, the purchasing agency shall not specify, use, or purchase any supplies which are produced, manufactured, mined, grown, or performed in any state that prohibits the specification for, use or purchase of such items in or on its public buildings or other works, when such items are not produced, manufactured, mined, grown, or performed in such state. [Lists of States Applying A Bidding Preference](#)
- C. Department of General Services Responsibilities.**
- 1. List of Discriminating States.** DGS is required to prepare a list of the states which apply a preference or prohibition and the amount of the preference. The list has been published, amended, and republished in the *Pennsylvania Bulletin*. The list also appears at the DGS website.
 - 2. Invitation for Bids.** The list of discriminating states and the amount of the preference must appear in all IFBs for supplies and construction where the amount exceeds \$10,000.

D. Bid Requirements.

1. **Lists.** IFBs for supplies and construction, where the amount exceeds \$10,000, must include the list of states which have laws prohibiting the use of out-of-state supplies or bidders.
2. **State of Manufacture.** Bidders must complete the State of Manufacture chart in IFBs by listing the name of the manufacturer and the state or foreign country of manufacture for each item. If the item is produced in the United States, the bidder must identify the state. Failure to complete the chart may result in the rejection of the bid.
3. **Bidder Residency.**
 - a. **Determining Nonresidency.** In determining whether a bidder is a nonresident bidder from a discriminating state, the address label on the IFB may be used unless the bidder corrects that address in its bid.
 - b. **Determining Residency.** In order to claim the preference for Pennsylvania resident bidders, bidders must have a bona fide establishment for transacting business within Pennsylvania at which it was transacting business on the date when bids were first solicited. The bidder must also be authorized to transact business in Pennsylvania. Therefore, if the bidder is a corporation, it must be incorporated in Pennsylvania or have a certificate of authority to do business in Pennsylvania.

E. Rejection of Bid – Prohibited Item or Bidder. If the State of Manufacture chart discloses that the item will be manufactured in a state which prohibits the purchase of such an item which isn't manufactured in such state, then the bid must be rejected.

F. Calculation of Preference. In calculating the preference, the dollar amount of the bid submitted by a Pennsylvania bidder shall be reduced by the percentage preference which would be given to a nonresident bidder by its state of residency. Similarly, the amount of a bid offering Pennsylvania supplies shall be reduced by the percentage preference which would be given to another bidder by the state where the supplies are produced, manufactured, mined, or grown.

G. Procedures.

1. Tab bids by dollar amount.
2. Start with low responsive bid and determine if:
 - a. There is a bidder or product prohibition.
 - b. The supplies offered are manufactured in a discriminating state.
 - c. The supplies are offered by a nonresident from a discriminating state.
3. If there is a product prohibition involving the low bid, reject the low bid.

4. If the low bidder is offering supplies produced, manufactured, mined, or grown in a discriminating state, and the next low bidder is offering supplies produced, manufactured, mined, or grown in Pennsylvania, reduce the next low bidder's bid by the percentage preference which would be given to the low bidder by the state where the supplies are produced, manufactured, mined, or grown.
5. If the low bidder is a resident bidder of a discriminating state, and the next low bidder is a Pennsylvania resident bidder, reduce the Pennsylvania resident bidder's bid by the percentage preference which would be given to the nonresident bidder by its state of residency.

References:

1. [Lists of States Applying A Bidding Preference](#)