



## **State-by-State Review of Local Preference Bids**

**List Based on Lexis Database Search Conducted November, 2008**  
**Research Completed by Center for Governmental Research (CGR)**

### **States WITHOUT a Percentage or Dollar limit on Local Preference Bids**

Alabama, Arizona, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Washington, West Virginia, Wisconsin

### **States WITH a Percentage or Dollar limit on Local Preference Bids**

#### **1) Alaska**

TITLE 36. PUBLIC CONTRACTS  
CHAPTER 30. STATE PROCUREMENT CODE  
ARTICLE 2. COMPETITIVE SEALED BIDDING  
Alaska Stat. § 36.30.170 (2008)

Sec. 36.30.170. **Contract** award after bids

(a) Except as provided in (b) -- (h) of this section, the procurement officer shall award a **contract** based on the solicited bids with reasonable promptness by written notice to the lowest responsible and responsive bidder whose bid conforms in all material respects to the requirements and criteria set out in the invitation to bid.

(b) The procurement officer shall award a **contract** based on solicited bids to the lowest responsive and responsible bidder after an Alaska bidder **preference** of five percent, an Alaska products **preference** as described in [AS 36.30.322](#) -- [36.30.338](#), and a recycled products **preference** under [AS 36.30.337](#) have been applied. In this subsection, "Alaska bidder" means a person who

(1) holds a current Alaska business license;

- (2) submits a bid for goods, services, or construction under the name as appearing on the person's current Alaska business license;
- (3) has maintained a place of business within the state staffed by the bidder or an employee of the bidder for a period of six months immediately preceding the date of the bid;
- (4) is incorporated or qualified to do business under the laws of the state, is a sole proprietorship and the proprietor is a resident of the state, is a limited liability company organized under [AS 10.50](#) and all members are residents of the state, or is a partnership under former AS 32.05, AS 32.06, or [AS 32.11](#) and all partners are residents of the state; and
- (5) if a joint venture, is composed entirely of ventures that qualify under (1) -- (4) of this subsection.

## 2) California

(a) Whenever the state prepares a solicitation for a **contract for goods in excess of one hundred thousand dollars (\$100,000)**, except a contract in which the worksite is fixed by the provisions of the contract, the state shall award a **5-percent** preference to California-based companies who demonstrate and certify under penalty of perjury that, of the total labor hours required to manufacture the goods and perform the contract,

- 1) at least 50 percent of the hours shall be accomplished at an identified worksite or worksites located in a local agency military base recovery area.

OR

- 2) not less than 90 percent of the labor hours required to perform the contract shall be accomplished at an identified worksite or worksites located in a local agency military base recovery area.

(c) Where a bidder complies with subdivision (a) or (b), the state shall award

- 1) a **1-percent** preference for bidders who certify under penalty of perjury to hire persons living within a local agency military base recovery area equal to 5 to 9 percent of its workforce during the period of contract performance;

- 2) a **2-percent** preference for bidders who shall agree to hire persons living within a local agency military base recovery area equal to 10 to 14 percent of its workforce during the period of contract performance;

3) a **3-percent** preference for bidders who shall agree to hire persons living within a local agency military base recovery area equal to 15 to 19 percent of its workforce during the period of contract performance; and

4) a **4-percent** preference for bidders who shall agree to hire persons living within a local agency military base recovery area equal to 20 or more percent of its workforce during the period of contract performance.

(d) The maximum preference a bidder may be awarded pursuant to this chapter and any other provision of law shall be **15 percent**. However, in no case shall the maximum preference cost under this section exceed **fifty thousand dollars (\$50,000)** for any bid, nor shall the combined cost of preferences granted pursuant to this section and any other provision of law exceed one hundred thousand dollars (**\$100,000**). In those cases where the **15-percent** cumulated preference cost would exceed the one hundred thousand dollar (**\$100,000**) maximum preference cost limit, the one hundred thousand dollar (**\$100,000**) maximum preference cost limit shall apply.

### **3) Louisiana**

a) If a nonresident contractor bidding on public work in the state of Louisiana is domiciled in a state that provides a **percentage preference in favor of contractors domiciled in that state over Louisiana resident contractors** for the same type of work, **then every Louisiana resident contractor shall be granted the same preference over contractors domiciled in the other state favoring contractors** domiciled therein whenever the nonresident contractor bids on public work in Louisiana.

### **4) Montana**

a) If there are no out-of-state bidders for a contract subject to competitive bid under this part, the contract may be awarded to the lowest and best responsible bidder that is a county resident and that makes a bid that is no more than **\$500** or **3%** higher, whichever is less, than the bid of the lowest responsible bidder that is not a county resident.

b) If there is one or more out-of-state bidders for

1) a contract for construction, repair, or maintenance of a building, road, or bridge that is in excess of \$ 50,000 and that is subject to competitive bid under this part, or

2) a public contract for the purchase of goods, **THEN a resident bidder must be allowed a preference on a contract against the bid of a nonresident bidder from any state or country that enforces a preference for resident bidders.** The

preference given to resident bidders of this state must be **equal** to the preference given in the other state or country.

## 5) Nevada

1. Except as otherwise provided in subsection 10 and NRS 338.143; , 338.1442; and 338.1446, a local government or its authorized representative shall award a contract for a public work for which the estimated cost exceeds \$250,000 to the contractor who submits the best bid.

2. Except as otherwise provided in subsection 10 or limited by subsection 11, the lowest bid that is:

(a) Submitted by a contractor who:

(1) Has been found to be a responsible and responsive contractor by the local government or its authorized representative; and

(2) At the time he submits his bid, has a **valid certificate of eligibility to receive a preference in bidding on public works issued to the contractor by the State Contractors' Board pursuant to subsection 3 or 4; and**

(b) Not more than **5 percent higher than the bid submitted by the lowest responsive and responsible bidder who does not have, at the time he submits the bid, a valid certificate of eligibility to receive a preference in bidding on public works issued to him by the State Contractors' Board pursuant to subsection 3 or 4,** shall be deemed to be the best bid for the purposes of this section.

3. The State Contractors' Board shall issue a certificate of eligibility to receive a preference in bidding on public works to a general contractor who is licensed pursuant to the provisions of chapter 624 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the general contractor has, while licensed as a general contractor in this state:

(a) Paid directly, on his own behalf:

(1) **The sales and use taxes imposed pursuant to chapters 372, 374 and 377 of NRS on materials used for construction in this state, including, without limitation, construction that is undertaken or carried out on land within the boundaries of this state that is managed by the Federal Government or is on an Indian reservation or Indian colony, of not less than \$5,000 for each consecutive 12-month period for 60 months**

**immediately preceding the submission of the affidavit from the certified public accountant;**

**(2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his business in this state of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant; or**

**(3) Any combination of such sales and use taxes and governmental services tax; or**

(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating construction firm that possesses a:

(1) License as a general contractor pursuant to the provisions of chapter 624 of NRS; and

(2) Certificate of eligibility to receive a preference in bidding on public works.

4. The State Contractors' Board shall issue a certificate of eligibility to receive a preference in bidding on public works to a specialty contractor who is licensed pursuant to the provisions of chapter 624 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the specialty contractor has, while licensed as a specialty contractor in this state:

**(a) Paid directly, on his own behalf:**

**(1) The sales and use taxes pursuant to chapters 372, 374 and 377 of NRS on materials used for construction in this state, including, without limitation, construction that is undertaken or carried out on land within the boundaries of this state that is managed by the Federal Government or is on an Indian reservation or Indian colony, of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant;**

**(2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his business in this state of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant; or**

**(3) Any combination of such sales and use taxes and governmental services tax; or**

(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating construction firm that possesses a:

(1) License as a specialty contractor pursuant to the provisions of chapter 624 of NRS; and

(2) Certificate of eligibility to receive a preference in bidding on public works.

5. For the purposes of complying with the requirements set forth in paragraph (a) of subsection 3 and paragraph (a) of subsection 4, a contractor shall be deemed to have paid:

(a) Sales and use taxes and governmental services taxes paid in this state by an affiliate or parent company of the contractor, if the affiliate or parent company is also a general contractor or specialty contractor, as applicable; and

**(b) Sales and use taxes paid in this state by a joint venture in which the contractor is a participant, in proportion to the amount of interest the contractor has in the joint venture.**

6. A contractor who has received a certificate of eligibility to receive a preference in bidding on public works from the State Contractors' Board pursuant to subsection 3 or 4 shall, at the time for the renewal of his contractor's license pursuant to NRS 624.283, submit to the Board an affidavit from a certified public accountant setting forth that the contractor has, during the immediately preceding 12 months, **paid the taxes required pursuant to paragraph (a) of subsection 3 or paragraph (a) of subsection 4, as applicable, to maintain his eligibility to hold such a certificate.**

## **6) Virginia**

a) Whenever the lowest responsive and responsible bidder is a resident of any other state and such state under its laws allows a resident contractor of that state a **percentage preference, a like preference shall be allowed to the lowest responsive and responsible bidder who is a resident of Virginia and is the next lowest bidder.** If the lowest bidder is a resident contractor of a state with an absolute preference, the bid shall not be considered. The Department of General Services shall post and maintain an updated list on its website of all states with an absolute preference for their resident

contractors and those states that allow their resident contractors a percentage preference, including the respective percentage amounts. For purposes of compliance with this section, all public bodies may rely upon the accuracy of the information posted on this website.

b) Notwithstanding the provisions of subsections A and B, in the case of a tie bid in instances where goods are being offered, and existing price preferences have already been taken into account, preference shall be given to the bidder whose goods contain the **greatest amount of recycled content**.

## **7) Wyoming**

a) If a contract is let by the state, any department thereof, or any county, city, town, school district, community college district or other public corporation of the state for the erection, construction, alteration or repair of any public building, or other public structure, or for making any addition thereto, or for any public work or improvements, the contract shall be let, if advertisement for bids or request for proposal is not required, to a resident of the state. Unless an alternate design and construction delivery method is used, if advertisement for bids or request for proposal is required the contract shall be let to the responsible certified resident making the lowest bid if the certified resident's bid is not more than **five percent (5%)** higher than that of the lowest responsible nonresident bidder.

b) Every board, commission or other governing body of any state institution, and every person acting as purchasing agent for the board, commission or other governing body of any state institution or department, and every county, municipality, school district and community college district, shall prefer in all purchases for supplies, material, agricultural products, equipment, machinery and provisions to be used in the maintenance and upkeep of their respective institutions, supplies, materials, agricultural products, equipment, machinery and provisions produced, manufactured or grown in this state, and supplies, materials, agricultural products, equipment, machinery and provisions supplied by a resident of the state, competent and capable to provide service for the supplies, materials, agricultural products, equipment, machinery and provisions within the state of Wyoming. Preference shall not be granted for articles of inferior quality to those offered by competitors outside of the state, but a differential of not to exceed **five percent (5%)** may be allowed in cost of contracts less than **five million dollars (\$5,000,000.00) for the Wyoming materials, supplies, agricultural products, equipment, machinery and provisions of quality equal to those of any other state or country**.