

# Reciprocity

Texas statute requires that bids from bidders who reside in states that grant resident bidder preference(s) for that state's purchases will be evaluated in the same manner when bidding against a Texas bidder.<sup>1</sup> In other words, the State of Texas reciprocates and grants *Texas* bidders the same preferences granted by other states to their resident bidders.

**Note:** Reciprocity and the resident bidder preference do not apply in the evaluation of solicitations involving the use of federal funds.<sup>2</sup> When using federal grants or entitlements as the source of funding, the "Federal Common Rule" prohibits the use of statutorily or administratively imposed in-state or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable federal statutes expressly mandate or encourage geographical preferences. This prohibition does not preempt state licensing laws.<sup>3</sup>

The methodology for evaluating bids received from bidders residing in a state that has resident preference law(s) is to reciprocate by adding an *equal* residency penalty **for evaluation purposes only**. The award is made at the original bid price(s).

## **Example:**

Another state gives its in-state bidders a 10% preference on agricultural products. In effect, this would penalize a Texas bidder 10% when bidding agricultural products in that state. Consequently, Texas would add the same 10% residency penalty to any of that state's bidders when bidding agricultural products in Texas.

## **Summary of Other States' Bidder Preference Laws**

TBPC publishes a list of other states' bidder preference laws.<sup>4</sup> This publication provides a list of states which have laws or regulations regarding the award of contracts for general construction, improvements, services, or public works projects or purchases of supplies, materials, or equipment to nonresident bidders. A citation and summary of the most recent law or regulation of each state relating to the evaluation of bids from and award of contracts to nonresident bidders is provided below:

[State Laws that Provide Resident Bidder Preferences \(2005\) HTML format](#)

[State Laws that Provide Resident Bidder Preferences \(2005\) Adobe PDF format](#)

## **Endnotes**

<sup>1</sup> [Texas Government Code, Title 10, Subtitle D, Section 2252.002](#)

<sup>2</sup> [Texas Government Code, Title 10, Subtitle D, Section 2252.004](#)

<sup>3</sup> [U.S. Office of Management and Budget \(OMB\) Circular A-102](#)

<sup>4</sup> [Texas Government Code, Title 10, Subtitle D, Section 2252.003](#)

