

## RFQ Promo 1 FY14

**Commodities: 1) Rubberized Sunglasses (5,100 pairs);  
2) Camo Collapsible Pocket Coolies/Koozies (5,000); 3) Blue Collapsible Pocket Coolies/Koozies (5,000); 4) Green Collapsible Pocket Coolies/Koozies (5,000); and 5) Black Beanie Caps (2,880)  
Questions/Answers**

### Amendment 1

**Inquiries/Questions must be received by: Thursday, October 10, 2013, at 10 a.m. ET**

**Quote and Sample Due Date: Friday, October 18, 2013, at 10 a.m. ET. Late bids and samples will NOT be considered. Not a public bid opening.**

**Delivery Due Date: Week of December 9, no later than noon ET on Friday, December 13, 2013.**

<http://www.sceducationlottery.com/lottery/procurement.aspx>

#### Question 1

**Q: Where did you get the item # 36108 for the sunglasses? I cannot seem to find that item #.**

**A: A Google search of “rubberized sunglasses Item #36108” will turn up the following link:  
<http://www.motivators.com/Promotional-Custom-RubberizedSunglasses-36108.html>**

#### Question 2

**Q: Our vendor boxes for Koozies are different from specified in bid. 400 pieces/carton, 12 lbs, 20 x 16 x 10.5 Do these need to be repackaged per packaging specs in RFP?**

**A: No, not necessarily unless a box will weigh more than 25 lbs.** The packaging specs for the coolies/koozies are: Packaging: Case Pack Info: 250 ct. / 15" x 15" x 10" / 6 lbs; 20 boxes. There would be 20 boxes all holding the same amount, 250 items. Using the larger box holding more coolies/koozies will result in fewer, heavier boxes (12 boxes of 400 @ 12 lbs./box) and one box of 200. (5,000/400 = 12.5 boxes) **These promotional items need to weigh no more than 25 lbs. per box.** If your bid is for another packaging configuration, please provide: 1) the number of items per box, 2) the approximate weight of a box, and 3) the number of boxes to be delivered, including partial boxes. As long as no single box weighs more than 25 lbs., other packaging options will be accepted.

**Question 3**

**Q: Will SCEL accept the 5100 rubberized sunglasses packed 250 per case instead of 300 per case?**

**A: These promotional items need to weigh no more than 25 lbs. per box.** If your bid is for another packaging configuration, please provide: 1) the number of items per box, 2) the approximate weight of a box, and 3) the number of boxes to be delivered, including partial boxes. As long as no single box weighs more than 25 lbs., other packaging options will be accepted.

**Question 4**

**Q: If a product is made in China, but printed or embroidered in the USA should it be listed under US Made or China Express?**

**A: Good question, which also relates to the preferences for which the line item would be eligible. “China Express” should probably have been named “Made Outside US” as products are certainly produced in countries other than China. If a product was not “made, manufactured, or grown” in the USA, then it would be considered “Made Outside US” or as listed in this solicitation, “China Express.” For purposes of requesting preferences, only those products “made, manufactured, or grown” in the USA would qualify as US End Products.**

**The Materials Management Office maintains a Frequently Asked Questions on Preferences from the Vendor’s Point of View as shown below.**

**The link is:**

**[http://procurement.sc.gov/webfiles/MMO\\_PREFS/Main/FAQ\\_Preferences.htm](http://procurement.sc.gov/webfiles/MMO_PREFS/Main/FAQ_Preferences.htm)**

**VENDOR PREFERENCES**

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**FREQUENTLY ASKED QUESTIONS  
FROM THE VENDOR'S PERSPECTIVE**

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(Last Updated September 11, 2009)

*The following information is provided solely as a convenience. This information is not an official agency interpretation of the statute and should not be relied upon. While this document is intended to facilitate your familiarity with the rules governing preferences, you must rely only on the statute itself.*

**VENDOR PREFERENCES**  
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**FREQUENTLY ASKED QUESTIONS**  
**FROM THE VENDOR'S PERSPECTIVE**

OVERVIEW & GENERAL RULES

**What preferences are available?**

Preference	Acronym	Statutory Basis
<u>Commodity Contract Preferences</u>		
<u>United States End Product Preference</u>	USEPP	11-35-1524(B)(1)
<u>South Carolina End Product Preference</u>	SCEPP	11-35-1524(B)(2)
<u>Resident Vendor Preference</u>	RVP	11-35-1524(C)(1)(i)&(ii)
<u>Service Contract Preferences</u>		
<u>Resident Contractor Preference</u>	RCP	11-35-1524(C)(1)(iii)
<u>Resident Subcontractor Preference-2%</u>	RSCP-2%	11-35-1524(D)(1)&(2)
<u>Resident Subcontractor Preference-4%</u>	RSCP-4%	11-35-1524(D)(1)&(2)

**How do I claim a preference?**

You must request the preference as required by the solicitation. If a preference applies to a particular line item, the solicitation will provide a means for you to claim that preference for that line item. If no line items are specified, the entire solicitation is treated as one line item. You are not qualified for a preference unless you request the preference as required in the solicitation. [11-35-1524(E)(4)]

For the Resident Subcontractor Preference, you must also provide certain required information. See [below](#).

If you do request the preference, you are certifying that your bid qualifies for the preference you've claimed. Improperly requesting a preference can have [significant consequences](#). [11-35-1524(E)(4)&(6)]

**Do I have to document my claim for a preference?**

Simply by requesting a preference, you are certifying that your bid qualifies for the preference you've claimed. Make sure you understand the rules *before* requesting a preference. Improperly requesting a preference can have significant consequences. [11-35-1524(E)(4)&(6)]

If you request a preference, you must be able to provide adequate documentation *upon request*. That documentation must be sufficient to establish that you qualify for the preference. Your

failure to provide such information is ground both to deny you the preference and to take other [enforcement action](#).

For the Resident Subcontractor Preference, you must also provide certain required information. See [below](#).

### **What if I claim a preference in error?**

Preferences are valuable, but requesting them is serious business. As a rule, the State will not audit you or your bid to determine whether you qualify for a preference. Rather, the State relies on you to determine whether you qualify and on your certification that you do. Accordingly, false certification can have serious consequences. Other businesses could be improperly denied a contract based solely on your claim that you are entitled to a preference, and the taxpayer could be paying a higher price to buy commodities or equipment. Accordingly, you can be debarred, have your contract canceled, or be assessed damages if you improperly claim a preference.

Specifically, you can be debarred from receiving future state contracts if: (i) you certified that you qualified for a preference, (ii) you are not qualified for the preference claimed, and (iii) your certification was made in bad faith or under false pretenses.

Even in the absence of bad faith or false pretenses, an invalid certification can result in termination of your contract for cause. In addition, you may be required to pay the state an amount equal to twice the difference between the price paid by the State and the price offered by the next lowest bidder. [11-35-1524(E)(6)]

Depending on the specific preference, the consequences may vary. Please consult the statute.

### **Should I be concerned with post-award substitutions?**

Yes, you must be aware of the prohibitions on [substituting subcontractors](#) or [substituting end products](#) after the contract is awarded. See below.

### **How can I qualify for a preference?**

Each preference has different requirements, all of which are outlined below.

As a general matter, you are not entitled to any preferences unless, to the extent required by law, you have (a) paid all taxes assessed by the State; and (b) registered with the South Carolina Secretary of State and the South Carolina Department of Revenue. [11-35-1524(E)(1)]

### **How do the preferences work?**

All the preferences are applied by line item, regardless of whether award is made by item or lot. If a solicitation does not have multiple line items, or has no line items, the entire solicitation will be treated as one contract line item. [11-35-1524(B)(3), (C)(2), & (D)(3)]

If you qualify for the preference on a particular line item, the procurement officer will lower your price for that line item before comparing your price to the other vendors. Your price will be decreased by a certain percentage. The percentage depends on the preferences for which the bidder qualifies.

For example, Vendor A and Vendor B both submit bids for a single line item of equipment. Vendor A bids \$12,000. Vendor B bids \$11,500. Vendor A's equipment qualifies for the SCEPP. Vendor B's equipment does not. For purposes of evaluation, Vendor A's price will be decreased by seven percent (7%), down to \$11,160.00. Vendor A wins the bid.

### **Do the preferences change the price I bid?**

No. Price adjustments are for purposes of evaluation only. Application of the preferences does not change the actual price offered by (or paid to) the bidder. [11-35-1524(E)(4)]

### **What are the preferences worth?**

Preference	Percentage Preference
USEPP	2%
SCEPP	7%
RVP	7%
RCP	7%
RSCP-2%	2% (each sub)
RSCP-4%	4% (each sub)

### **Can the preferences be added together, or stacked?**

Yes. The preferences are cumulative. If a bidder qualifies for more than one preference for a particular line item, the benefit is cumulative. But there are [caps](#). See below.

### **Are the preferences capped?**

Yes. Under no circumstances may the cumulative benefit of all preferences applied to the price of a line item exceed ten percent (10%). In addition, the sum of all Resident Subcontractor Preferences, when applied to the price of a line item of work, may not exceed six percent (6%) unless the bidder [maintains an office](#) in this State. [11-35-1524(E)(7)]

### **What does it mean to 'maintain an office' in South Carolina?**

The statute defines an office a 'a nonmobile place for the regular transaction of business or performance of a particular service which has been operated as such by the bidder for at least one year before the bid opening and during that year the place has been staffed for at least fifty weeks by at least two employees for at least thirty five hours a week each.' [11-35-1524(A)(6)]

### **Do all the preferences apply to all solicitation?**

No. First, the USEPP, SCEPP, and RVP apply only to line items for a specific [end product](#). Second, the Resident Contractor Preference (RCP) and Resident Subcontractor Preferences (RSCPs) apply only to line items for a [service](#). Third, there are price caps, both for [commodities](#) and [services](#), as well as [exemptions](#), all of which are discussed below.

### **Are there procurements to which no preferences apply?**

Yes. The preferences do not apply to acquisitions of motor vehicles, as defined in Section 56-15-10, construction, or supplies or services relating to construction. In addition, the preferences do not apply to competitive sealed proposals or procurements conducted pursuant to the small purchase procedures and valued at \$10,000 or less. [11-35-1524(E)(5)]

### **What happens if there is a tie bid?**

Bids can be tied, even without the application of preferences. Occasionally, a tie arises because one or more preferences have been applied. When that happens, follow the same tie bid rules that apply in all other circumstances. Those rules are outlined in Section 11-35-1520(9). [11-35-1524(E)(4)]

Example: Vendor A, a business located in Columbia, bids \$100.00 for the Widget and claims the Resident Vendor Preference, a 7% preference. Vendor B, a business located in Atlanta, bids \$93.00. When the preference is applied to Vendor A's bid, the evaluated price is \$93.00, which creates a tie bid situation. Vendor A wins the tie because Section 11-35-1520(9)(a) provides that '[i]f two or more bidders are tied in price while otherwise meeting all of the required conditions, awards are determined in the following order of priority: (a) If there is a South Carolina firm tied with an out of state firm, the award must be made automatically to the South Carolina firm.'

## COMMODITY CONTRACT PREFERENCES

### **How do I qualify for the Resident Vendor Preference (RVP)?**

To qualify for the RVP, you must [maintain an office](#) in this state. In addition, you must *either*:

maintain at a location in South Carolina at the time of the bid an inventory of expendable items which are representative of the general type of commodities on which the award will be made and which have a minimum total value, based on the bid price, equal to the lesser of fifty thousand dollars [\$50,000] or the annual amount of the contract.

OR

be a manufacturer headquartered and having an annual payroll of at least one million dollars in South Carolina and the end product being sold is either made or processed from raw materials into a finished [end product](#) by that manufacturer or its affiliate (as defined in Section 1563 of the Internal Revenue Code).

### **How do I qualify for the United States End Product Preference?**

To qualify for this preference, you must bid a US [end product](#) for the line item at issue. A US end product is an end product [made, manufactured, or grown](#) in the United States of America.

### **How do I qualify for the South Carolina End Product Preference?**

Bid a SC end product for the line item at issue. A SC end product is an end product [made, manufactured, or grown](#) in the South Carolina. [11-35-1524(B)(1)]

### **What is an 'End Product'?**

For a given line item, the 'end product' is the tangible product described in the solicitation including all component parts and in final form and ready for the state's intended use.

### **What does 'made, manufactured, or grown' mean?**

'Made' means to assemble, fabricate, or process component parts into an [end product](#), the value of which, assembly, fabrication, or processing is a substantial portion of the price of the end product.

'Manufactured' means to make or process raw materials into an [end product](#).

'Grown' means to produce, cultivate, raise, or harvest timber, agricultural produce, or livestock on the land, or to cultivate, raise, catch, or harvest products or food from the water which results in an [end product](#) that is locally derived from the product cultivated, raised, caught, or harvested. [11-35-1524(A)]

### **Can I claim both the USEPP and the SCEPP?**

#### **What happens if I bid a SCEPP and another vendor bids a USEPP?**

You can claim both, but you cannot benefit from both. In other words, you cannot stack the USEPP and the SCEPP. If you claim both, only the SCEPP will be applied.

### **Are there price caps on the commodity preferences?**

Yes. Above a certain dollar value the preferences no longer apply. Whether or not a preference applies to your bid depends on how much you bid, not on what other bidders bid.

The commodity preferences do not apply to a single unit of an item with a price in excess of \$50,000 or a single award with a total potential value in excess of \$500,000. [11-35-1524(E)(2)]

### **What if the qualifying end products I bid are no longer available, can I supply non-qualifying end products?**

No. If you receive an award as a result of an end product preference, you may not substitute a nonqualifying end product for a qualified end product. A substitution in violation of this item is grounds for debarment pursuant to Section 11-35-4220. If you violate this provision, the State may terminate your contract for cause and, in addition, you must pay to the State an amount equal to twice the difference between the price paid by the State and your evaluated price for a substituted item. [11-35-1524(B)(4)]

Before claiming this preference, you should be very certain you will -- for the life of the contract -- have a reliable source for your qualifying end product.