



S.C. Education Lottery  
Finance Department  
Attn: SCEL Procurement  
1333 Main St., 4<sup>th</sup> Floor  
Columbia, SC 29201  
Phone (803) 737-2002/ Fax (803) 737-0047/Email: Procurement@sclot.com

**REQUEST FOR QUOTATION** (This is not an order)

Date Posted: **Thursday, 07/24/2014**

Inquiries/Questions must be received by: **Thursday, 07/31/2014, at 11 a.m. ET**

**All Answers will be posted on SCEL's website by: Friday, 08/01/2014**

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

Quotation must be received by: **Friday, 08/08/2014, at 11 a.m. ET**

Samples must be received by: **Friday, 08/08/2014, at 5 p.m. ET**

**Late bids/quotes/samples NOT accepted.**

Send Quotations/Samples/Inquiries/Questions to above address, fax to:

Attention: **SCEL Procurement,**

or Email **Procurement@sclot.com / Phone (803) 737-2002 / Fax (803)-737-0047**

Solicitation number (write on outside of envelope): **Retailer Rally Bags FY15 RFQ**

Commodities: **3,000 Apple Green two-tone tote bags.**

**Inquiries/Questions must be received by: Thursday, July 31, 2014, at 11 a.m. ET**

**Quote Due Date: Friday, August 8, 2014, at 11 a.m. ET**

**Sample Due Date: Friday, August 8, 2014, at 5 p.m. ET**

**Late bids/quotes/samples will NOT be considered. Not a public bid opening.**

**Delivery Due Date: Week of October 6, no later than noon ET on Friday, October 10, 2014.**

Note: See attached sheets for preference clauses and provisions, certification and authorization, special conditions, and specifications and bidding schedule.

This section must be completed by the vendor.

Vendor Name:

Area Code/Telephone Number/Fax:

Mailing Address:

City:

State:

Zip Code:

FEIN/SSN:

**SOUTH CAROLINA PROCUREMENT PREFERENCES  
CLAUSES & PROVISIONS TO IMPLEMENT 2009 Act No. 72**  
[Clause numbers have not yet been assigned.]

**New Clauses for Part IIB**

PREFERENCES - **A NOTICE TO VENDORS** (SEP. 2009): On June 16, 2009, the South Carolina General Assembly rewrote the law governing preferences available to in-state vendors, vendors using in-state subcontractors, and vendors selling in-state or US end products. This law appears in Section 11-35-1524 of the South Carolina Code of Laws. A summary of the new preferences is available at [www.procurement.sc.gov/preferences](http://www.procurement.sc.gov/preferences). **ALL THE PREFERENCES MUST BE CLAIMED AND ARE APPLIED BY LINE ITEM, REGARDLESS OF WHETHER AWARD IS MADE BY ITEM OR LOT. VENDORS ARE CAUTIONED TO CAREFULLY REVIEW THE STATUTE BEFORE CLAIMING ANY PREFERENCES. THE REQUIREMENTS TO QUALIFY HAVE CHANGED. IF YOU REQUEST A PREFERENCE, YOU ARE CERTIFYING THAT YOUR OFFER QUALIFIES FOR THE PREFERENCE YOU'VE CLAIMED. IMPROPERLY REQUESTING A PREFERENCE CAN HAVE SERIOUS CONSEQUENCES.** [11-35-1524(E)(4)&(6)]

PREFERENCES - **RESIDENT VENDOR PREFERENCE** (SEP 2009): To qualify for the RVP, you must maintain an office in this state. An office is 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. In addition, you must either: (1) 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 for 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 (2) 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).

**Please check the appropriate box below.**

**South Carolina (In-State) Resident Vendor**

**In-State Office Address (If different from vendor mailing address on page 1)**

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**Non-Resident Vendor**

**SOUTH CAROLINA PROCUREMENT PREFERENCES (CONTINUED)**  
**CLAUSES & PROVISIONS TO IMPLEMENT 2009 Act No. 72**  
[Clause numbers have not yet been assigned.]

**New Clauses for Part IIB**

PREFERENCES - **SC/US END-PRODUCT** (SEP 2009): Section 11-35-1524 provides a preference to vendors offering South Carolina end-products or US end-products, if those products are made, manufactured, or grown in SC or the US, respectively. An end-product is the tangible project identified for acquisition in this solicitation, including all component parts in final form and ready for the use intended. The terms "made," "manufactured," and "grown" are defined by Section 11-35-1524(A). By signing your offer and checking the appropriate space(s) provided and identified on the bid schedule, you certify that the end-product(s) is either made, manufactured or grown in South Carolina, or other states of the United States, as applicable. Preference will be applied as required by law. Post award substitutions are prohibited. See "Substitutions Prohibited - End Product Preferences (Sep 2009)" provision.

**Please check the appropriate box below if it applies.**

**South Carolina End-Product**

**U.S. End-Product**

**CERTIFICATION AND AUTHORIZATION**

I certify that this bid is made without prior understanding, agreement or connection with any corporation, firm or person submitting a bid for the same materials, supplies or equipment and is in all respects fair and without collusion or fraud. I agree to abide by all conditions of this bid and certify that I am authorized to sign this bid for the bidder. I agree, if this quotation is accepted within 60 days from date of closing, to furnish any and all items/services at the price quoted.

Authorized Signature \_\_\_\_\_

Print or Type Name and Title \_\_\_\_\_

**SOUTH CAROLINA EDUCATION LOTTERY**  
**SOLICITATION NUMBER: Retailer Rally Bags FY15 RFQ**

**Purpose and Scope of Work:**

**Special Conditions**

1. **Award:** The Contract will be awarded to the lowest responsible and responsive bidder.

2. **Delivery:** S.C. Education Lottery  
Attn: Teresa Brock; (803) 737-2661  
1333 Main Street, Suite 400  
Columbia, SC 29201

Final shipment and samples must be sent to the Main Street, Columbia, SC address. Receiving final shipment and samples provides SCEL Staff the opportunity to view and approve the solicited items quickly, which in turn ensures the invoice will be approved expediently.

3. **Invoicing:** The invoice must be itemized. Please email the invoice to [Accounts.Payable@sclot.com](mailto:Accounts.Payable@sclot.com) or send to the address on page one (1) of this RFQ.

4. **Contact:** The contact listed on page one (1) of this RFQ and is the only SCEL employee authorized to discuss this solicitation prior to award.

5. **Sample Request:** SCEL requests samples from each bidder's current inventory for the purpose of inspecting design and quality. All samples must be labeled with the bidder's name.

6. **Pre-Production Proof:** An actual pre-production proof of the specified color is required prior to the order being processed for production. If there will be a charge for the press time necessary to produce the pre-production proof, please specify the charge in the bidding schedule.

7. **Artwork:** SCEL will provide final artwork to the winning bidder in one of the following Adobe file formats based on the printer's request: PDF, Illustrator, InDesign, or Photoshop.

8. **Setup, Die, Proof and Delivery Charges:** In preparing a bid for return to the South Carolina Education Lottery, SCEL requests that each vendor provide the following price information: 1) a price of production without tax; 2) any other charges, such as a set-up charge, a die charge, or a pre-production proof charge; 3) shipping/delivery charges; and 4) total charges without taxes.

9. **Overruns/Underruns:** *Overruns or underruns will be based on the quantity ordered and shall not exceed 2.5%. SCEL will only pay for overruns up to 2.5%.*

10. **Performance Time Frame:** Requested delivery time is listed in the specifications and bidding schedule.

## **11. New Clause for Part VIIB**

**SUBSTITUTIONS PROHIBITED - END PRODUCT PREFERENCES (SEP 2009):** If you receive the award as a result of the South Carolina end product or United States end product preference, you may not substitute a non-qualifying end product for a qualified end product. If you violate this provision, the State may terminate your contract for cause and you may be debarred. In addition, you shall pay to the State an amount equal to twice the difference between the price paid by the State and your evaluated price for the item for which you delivered a substitute. [11-35-1534(B)(4)]

## SPECIFICATIONS AND BIDDING SCHEDULE

### Request for Quotes

Date: Thursday, July 24, 2014

### SCEL Procurement

Phone: 803-737-2002

Fax: 803-737-0047

[Procurement@scel.com](mailto:Procurement@scel.com)

**Project: Retailer Rally Bags FY15 RFQ  
(Apple Green Two-Tone Tote Bag)**

**Please quote the following and send one sample of an apple green two-tone tote bag. The sample should be clearly marked with the vendor's name. Total of one (1) apple green two-tone tote bag sample is requested:**

**Description:** 3,000 Apple Green two-tone tote bags. Each bag consists of 600-denier polyester and has multiple front and side organizer pockets with a mesh water bottle holder and a zippered main compartment. Shoulder length (25") handles provide for hands-free, over-the-shoulder carrying comfort.

**Item #6258-S is requested or a similar product as deemed acceptable by SCEL. Sample of one, apple green two-tone tote bag must be provided and is due no later than Friday, August 8, 2014, at 5 p.m. ET. Bids are due no later than Friday, August 8, 2014, at 11 a.m. ET. Samples should include the vendor's name and contact information. All samples must include a logo, but it does not have to be an SCEL logo.**

**Quantity:** 3,000

**Size of Tote Bag:** 14"x17"x5"

#### **Colors:**

Tote Color: **Apple Green**

Trim, handle and back color of bag: **Black**

**Substitutions** in colors will **NOT** be **accepted**.

**Material:** 600-denier polyester bag

**Imprint:** One-color (white) with SCEL logo imprinted and centered on front pocket of tote bag. Imprint Area: Front : 5" H x 7" W.

**Artwork:** SCEL will provide final artwork to the winning bidder in one of the following Adobe file formats based on the printer's request: PDF, Illustrator, InDesign, Photoshop, or EPS Vector format.

**Shipping Method:** Drop shipment and 1 Final Sample to 1 location only (Columbia, SC Office)

**Proof:** **Actual Product Sample** of apple green tote bag **must be clearly marked** with the vendor's name and submitted **no later than Friday, August 8, 2014, at 5 p.m. ET** and **must be approved** by SCEL before the job is awarded.

**Actual Pre-production Proof** of apple green tote bag with **one-color white imprint** on the actual proof must be reviewed and **approved by SCEL before production can begin.**

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**Late bids/quotes/samples will NOT be considered. Not a public bid opening.**

**Delivery due date: Week of October 6, no later than noon ET on Friday, October 10, 2014.**

The State of South Carolina provides for the Tax Credit for Agencies that use vendors certified by the Governor's Office of Small and Minority Business Assistance (OSMBA). If your company is OSMBA certified in the State of South Carolina, please check the box below.

<b>OSMBA Certified:</b> Yes ___No___	<b>Production Price:</b>	\$ _____
<b>Vendor:</b> _____	<b>Set-up/Proof/Other Charge:</b>	\$ _____
	<b>Subtotal:</b>	\$ _____
<b>Contact:</b> _____	<b>Shipping:</b>	\$ _____
	<b>Quote Total:</b>	\$ _____

**Overruns/underruns:** Overruns or underruns will be based on the quantity ordered and shall not exceed 2.5 percent. SCEL will only pay for overruns up to 2.5 percent.

**NOTE: Partial deliveries will NOT be accepted.**

## SCEL SHIPPING INFORMATION

**Deliver Final Shipment to:** South Carolina Education Lottery  
Attn: Teresa Brock; 803-737-2661  
1333 Main Street, Suite 400  
Columbia, SC 29201

**NOTE: Partial deliveries will NOT be accepted.**

Please make sure all orders have packing slips detailing what and how many are being delivered in addition to the specifics as to how the order is bundled, grouped, and/or boxed.

Final shipment, proofs, and samples are to be sent to the Main Street, Columbia, SC address below. Receiving final shipment, proofs, and samples provide SCEL Staff the opportunity to view and approve the solicited items quickly, which in turn ensures the invoice will be approved expediently.

**Deliver Actual Pre-Production Proof and 1 Final Sample to:**

South Carolina Education Lottery  
Attn: Teresa Brock  
1333 Main Street, Suite 400  
Columbia, SC 29201

**To view SCEL's Procurement webpage:**

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

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## FREQUENTLY ASKED QUESTIONS:

**Q: The first page states: “Late bids/quotes/samples NOT accepted.” How late can a quote be, to be accepted?**

**A:** Under the South Carolina Procurement Code, bids received after the time for bids to be opened CANNOT be accepted. Unlike in the private sector, in the public sector bids must be received by the time provided to be considered.

**Q: When items are imprinted there may be additional items produced. In printing, it is not unusual for a print job to run up to 10 percent (10%) over. Will SCEL pay for the additional 10 percent produced?**

**A:** No. SCEL includes the following information in the solicitation and the award: “Overruns/underruns: Overruns or underruns will be based on the quantity ordered and shall not exceed 2.5 percent. SCEL will only pay for overruns up to 2.5 percent.”

According to the South Carolina Government Printing Services Manual, published by the Budget and Control Board’s Office of General Services, on page 7, item number 11:

**“Overruns/Underruns: Unless otherwise stated in the specifications, overruns or underruns will be based on the quantity ordered and shall not exceed 2.5% for up to 499,999 each; 1% for 500,000 each and more. The State will only pay for overruns up to 2.5% for 0 to 499,999 each; 1% for 500,000 each and more.”**

The Printing Service Manual can be found under “Printing Specific Forms and Publications” at the following link:

<http://procurement.sc.gov/PS/agency/PS-agency-procurement-forms.phtm>

**Q: Are samples of the items required with each bid or quote?**

**A:** Yes, one sample of an apple green tote bag is requested with each vendor’s quote. Each sample should be clearly labeled with the vendor’s information. The items must have imprints but NOT necessarily SCEL imprints.

**Q: Are Pre-production Samples also requested?**

**A:** Yes, prior to production of any item, the winning vendor is requested to produce an actual sample with the SCEL art on the actual item. Receiving actual samples will ensure SCEL staff the opportunity to view the quality of the art and the item.

**Q: Why are “Final Samples” also requested?**

**A:** Final samples must be sent to the Main Street, Columbia, SC address. Receiving final samples provides SCEL Staff the opportunity to view and approve the solicited items quickly, which in turn ensures the invoice will be approved expediently.

**Q: Has SCEL procured these items before? If yes, how long ago, how many, and at what price?**

**A:** No. This is a new promotional item for the South Carolina Education Lottery.

**Q: The solicitation states that partial shipments will not be accepted. Why not?**

**A:** This particular promotional item is being ordered for a lottery event that is date-specific in which the requested shipment in its entirety is crucial to the delivery date.

**Q: When do you anticipate the job being awarded and the P.O. and artwork being given to the winning company?**

**A:** While the solicitation states bids/quotes/samples are due on **Friday, August 8, 2014**, the question and answer period is scheduled a week before the expected bid/quote/sample due date. If additional relevant questions are received after the Amendment 1 Question and Answer document is published on the SCEL Procurement webpage, the bid/quote due date could be postponed in order to provide all interested vendors with the information needed to make an informed bid/quote. If a second amendment is needed, after it is published, time must be given to allow vendors the opportunity to view the amendment and ask any additional questions. **Should it be necessary to postpone a bid/quote due date, the new due date and time would be posted on the SCEL Procurement Webpage.**

Once the due date/time for receiving bids/quotes is reached, under the state’s Procurement Code **any bids/quotes received after the time set cannot be considered.** Once the bids/quotes are received, preferences are applied *if requested*, and then the bids/quotes are tabulated. If there are no questions for vendors (such as confirming with the vendor that shipping is included in the bid/quote price), an Order Delivery Worksheet is prepared to request a Purchase Order for the vendor who had the lowest price after preferences are applied. The Director of Sales and Retailer Relations must sign off on the Bid Tabulation Sheet and Order Delivery Worksheet giving his approval to move forward with the purchase. These two signed documents are taken to the Finance Department to have a Purchase Order prepared. If the Sales Director or Finance Department staff is not available, the process could be halted until such time as the proper channels can be followed. If no additional questions are received, Procurement Staff expects to post the award by **Monday, August 11, 2014.**

**Q: How do I ask a question?**

**A:** All questions must be submitted **in writing** to the Procurement Officer. You may email questions to [Procurement@sclot.com](mailto:Procurement@sclot.com) or you may Fax your question to 803-737-0047; Attention: Procurement.

Should you need to confirm receipt of your questions or receipt of your bid/quote with the Procurement Officer, please call 803-737-2002, during regular business hours, 8:30 a.m. to 5 p.m. Eastern Time, Monday through Friday and request to speak with the Procurement Officer. SCEL is closed on certain state holidays. For the list of holidays see: <http://www.sceducationlottery.com/lottery/contact/centers.asp>

**Q: How would a vendor request a preference? In-state vendor, SC end product, US end product, etc.?**

**A:** Each vendor must make the request for whichever preference(s) the individual vendor is eligible. Preferences are not automatically granted and must be requested. If the vendor does not request a preference, none will be applied. Pages 2 and 3 of the solicitation have the heading, "**SOUTH CAROLINA PROCUREMENT PREFERENCES.**" By checking the box(es) on these pages, vendors request each applicable preference.

Please note, the provision referenced on page 3, ["Substitutions Prohibited - End Product Preferences (Sep 2009)"], is found under Number 11, **New Clause for Part VIIB.**

According to the MMO website: "Price adjustments required by this section are for evaluation purposes only and do not change the actual price offered by the bidder." Requesting a preference(s) does not affect the bid price the vendor has offered. Instead, preferences are tabulated via a Materials Management Office bid sheet on which the preference percentage is calculated. The preference percentage requested is applied to the bid price for evaluation purposes. The winning vendor will be the vendor who has the lowest evaluated price after preferences are applied.

For more information, see: <http://procurement.sc.gov/PS/PS-preferences.phtml> (the Preferences webpage) on the Materials Management website.

**Q: What percentages are the different preferences?**

**A:** Preferences are:

- 7% Resident Vendor Preference (RVP) or Resident Contractor Preference (RCP)
- 7% South Carolina End Product Preference (SCEPP)
- 2% US End Product Preference (USEPP)

- NOTE: a vendor may only apply for one or the other, SC End Product or US End Product
- 2% or 4% Resident Subcontractor Preference (RSCP). Which preference percentage will apply depends on the total direct labor cost of subcontractors. The subcontractors' direct labor cost must exceed 20% of the bidder's total price to get a 2% preference; the total direct labor cost of subcontractors must exceed 40% of the bidder's total price to get a 4% preference
- 10% Resident Vendor Preference (RVP) + SC End Product Preference
- 9% Resident Vendor Preference (RVP) + US End Product Preference
- The cap for Non-resident Bidders is 6%, unless the vendor maintains an office in South Carolina; with an in-state office the cap is 8%
- Under no circumstance may the cumulative preferences applied to the price of a line item exceed 10%

**Q: If my quote came in at or under \$10,000 (and the \$10,000 or under quote included production cost, shipping charges, set-up fee, etc., but it did not include sales tax), would the South Carolina Procurement Preferences apply to me?**

**A: No.** The preferences do not apply to procurements conducted pursuant to the small purchase procedures and valued at \$10,000 or less. [11-35-1524(E)(5)]

The section of the SC Procurement Code dealing with preferences follows:

**SECTION 11-35-1524.** Resident vendor preference.

(A) For purposes of this section:

(1) "End product" means the tangible product described in the solicitation including all component parts and in final form and ready for the state's intended use.

(2) "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.

(3) "Labor cost" means salary and fringe benefits.

(4) "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.

(5) "Manufactured" means to make or process raw materials into an end product.

(6) "Office" means 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.

(7) "Services" means services as defined by Section 11-35-310(29) and also includes services as defined in Section 11-35-310(1)(d).

(8) "South Carolina end product" means an end product made, manufactured, or grown in South Carolina.

(9) "United States end product" means an end product made, manufactured, or grown in the United States of America.

(B)(1) When evaluating pricing for purposes of making an award determination, the procurement officer shall decrease by seven percent the price of any offer for a South Carolina end product.

(2) When evaluating pricing for purposes of making an award determination, the procurement officer shall decrease by two percent the price of any offer for a United States end product. This preference does not apply to an item to which the South Carolina end product preference has been applied.

(3) Whether award is to be made by item or lot, the preferences must be applied to the price of each line item of end product. A preference must not be applied to an item for which a bidder does not qualify.

(4) If a contract is awarded to a bidder that received the award as a result of the South Carolina end product or United States end product preference, the contractor 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 a contractor violates this provision, the State may terminate the contract for cause and, in addition, the contractor shall pay to the State an amount equal to twice the difference between the price paid by the State and the bidder's evaluated price for a substituted item.

(5) If a bidder is requesting this preference, the bidder, upon request of the procurement officer, must provide documentation that establishes the bidder's qualifications for the preference. Bidder's failure to provide this information promptly is grounds to deny the preference and for enforcement pursuant to subsection (E)(6).

(C)(1) When evaluating pricing for purposes of making an award determination, the procurement officer shall decrease a bidder's price by seven percent if the bidder maintains an office in this State and either (i) maintains 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 or the annual amount of the contract; (ii) is a manufacturer headquartered and having an annual payroll of at least one million dollars in South Carolina and the end product is 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); or (iii) at the time of bidding, directly employs or has a documented commitment with individuals domiciled in South Carolina that will perform services expressly required by the solicitation and the total direct labor cost to bidder for those individuals to provide those services exceeds fifty percent of the bidder's total bid price.

(2) Whether award is to be made by item or lot, the preferences must be applied to the price of each line item of end product or work, as applicable. A preference must not be applied to an item for which a bidder does not qualify.

(3) If a bidder is requesting this preference, the bidder, upon request by the procurement officer, must provide documentation that establishes the bidder's qualifications for the preference and, for the preference claimed pursuant to subsection (C)(1)(iii), must identify the persons domiciled in South Carolina that will perform the services involved in the procurement upon which bidder relies in qualifying for the preference, the services those individuals are to perform, and documentation of the bidder's labor cost for each person identified. Bidder's failure to

provide this information promptly is grounds to deny the preference and for enforcement under subsection (E)(6) below.

(D)(1) When evaluating pricing for purposes of making an award determination, the procurement officer shall decrease a bidder's price by two percent if:

(a) the bidder has a documented commitment from a single proposed first-tier subcontractor to perform some portion of the services expressly required by the solicitation; and

(b) at the time of the bidding, the subcontractor directly employs or has a documented commitment with individuals domiciled in South Carolina that will perform services expressly required by the solicitation and the total direct labor cost to the subcontractor for those individuals to provide those services exceeds twenty percent of bidder's total bid price.

(2) When evaluating pricing for purposes of making an award determination, the procurement officer shall decrease a bidder's price by four percent if:

(a) the bidder has a documented commitment from a single proposed first-tier subcontractor to perform some portion of the services expressly required by the solicitation; and

(b) at the time of the bidding, the subcontractor directly employs or has a documented commitment with individuals domiciled in South Carolina that will perform services expressly required by the solicitation and the total direct labor cost to the subcontractor for those individuals to provide those services exceeds forty percent of bidder's total bid price.

(3) Whether award is to be made by item or lot, the preferences must be applied to the price of each line item of work. A preference must not be applied to an item for which a bidder does not qualify.

(4) Subject to other limits in this section, an offeror may benefit from applying for more than one of, or from multiple applications of, the preferences allowed by items (1) and (2).

(5)(a) In its bid, a bidder requesting any of the preferences allowed by items (1) and (2) must identify the subcontractor to perform the work, the work the subcontractor is to perform, and the bidder's factual basis for concluding that the subcontractor's work constitutes the required percentage of the work to be performed in the procurement.

(b) If a bidder is requesting a preference allowed by items (1) or (2), upon request by the procurement officer, the bidder shall identify the persons domiciled in South Carolina that are to perform the services involved in the procurement upon which the bidder relies in qualifying for the preference, the services those individuals are to perform, the employer of those persons, the bidder's relationship with the employer, and documentation of the subcontractor's labor cost for each person identified. Bidder's failure to provide this information promptly will be grounds to deny the preference and for enforcement pursuant to subsection (E)(6) below.

(c) If a contract is awarded to a bidder that received the award as a result of a preference allowed by items (1) or (2), the contractor may not substitute any business for the subcontractor on which the bidder relied to qualify for the preference, unless first approved in writing by the procurement officer. A substitution in violation of this subitem is grounds for debarment pursuant to Section 11-35-4220. If a contractor violates this provision, the procurement officer may terminate the contract for cause. If the contract is not terminated, the procurement officer may require the contractor 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, unless the substituted subcontractor qualifies for the preference.

(E)(1) A business is not entitled to any preferences unless the business, to the extent required by law, has:

(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.

(2) The preferences provided in subsections (B) and (C)(1)(i) and (ii) do not apply to a single unit of an item with a price in excess of fifty thousand dollars or a single award with a total potential value in excess of five hundred thousand dollars.

(3) The preferences provided in subsections (C)(1)(iii) and (D) do not apply to a bid for an item of work by the bidder if the annual price of the bidder's work exceeds fifty thousand dollars or the total potential price of the bidder's work exceeds five hundred thousand dollars.

(4) A solicitation must provide potential bidders an opportunity to request the preferences that apply to a procurement. By submitting a bid and requesting that a preference be applied to that bid, a business certifies that its bid qualifies for the preference for that procurement. For purposes of applying this section, a bidder is not qualified for a preference unless the bidder makes a request for the preference as required in the solicitation. If a solicitation specifies which preferences, if any, apply to a procurement, the applicability of preferences to that procurement is conclusively determined by the solicitation unless the solicitation document is timely protested as provided in Section 11-35-4210. If two or more bidders are tied after the application of the preferences allowed by this section, the tie must be resolved as provided in Section 11-35-1520(9). Price adjustments required by this section for purposes of evaluation and application of the preferences do not change the actual price offered by the bidder.

(5) This section does not apply to an acquisition of motor vehicles as defined in Section 56-15-10 or an acquisition of supplies or services relating to construction. This section does not apply to a procurement conducted pursuant to Section 11-35-1550(2)(a) or (b), Section 11-35-1530, or Article 9, Chapter 35.

(6) Pursuant to Section 11-35-4220, a business may be debarred if (i) the business certified that it qualified for a preference, (ii) the business is not qualified for the preference claimed, and (iii) the certification was made in bad faith or under false pretenses. If a contractor has invalidly certified that a preference is applicable, the chief procurement officer may terminate the contract for cause, and the chief procurement officer may require the contractor 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.

(7) The sum of all preferences allowed by items (D)(1) and (D)(2), when applied to the price of a line item of work, may not exceed six percent unless the bidder maintains an office in this State. Under no circumstances may the cumulative preferences applied to the price of a line item exceed ten percent.

(8) As used in items (C)(1)(iii), (D)(1)(b), and (D)(2)(b), the term "documented commitment" means a written commitment by the bidder to employ directly an individual, and by the individual to be employed by the bidder, both contingent on the bidder receiving the award.

(9) The remedies available in this section are cumulative of and in addition to all other remedies available at law and equity.

**The Materials Management Office of the Budget and Control Board posts a webpage of Frequently Asked Questions by Vendors. The link is:**

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