VENDOR PREFERENCES

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 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 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 and will be paid. Instead, preferences are tabulated via a Materials Management 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.phtm on 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' director 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%

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 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

VENDOR PREFERENCES

FREQUENTLY ASKED QUESTIONS
FROM THE VENDOR'S PERSPECTIVE

(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.

OVERVIEW & GENERAL RULES

What preferences are available?

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

SERVICE CONTRACT PREFERENCES

How do I qualify for the Resident Contractor Preference?

You must meet the following requirements.

First, you must maintain an office in this state.

Second, you must -- at the time you submit your bid -- directly employ, or have a documented commitment with, individuals domiciled in South Carolina that will perform services expressly required by the solicitation and your total direct labor cost for those individuals to provide those services must exceed fifty percent of your total bid price. [11-35-1524(C)(1)(iii)]

Third, if and *upon request* by the procurement officer, you must identify the persons domiciled in South Carolina that will perform the services involved in the procurement upon which you rely in qualifying for the preference, the services those individuals are to perform, and documentation of the your labor cost for each person identified. If requested, your failure to provide this information promptly will be grounds to deny the preference (and, potentially, for other enforcement action).

How do I qualify for the 2% Resident Subcontractor Preference?

You must meet the following requirements.

First, you must -- at the time you submit your bid -- have a documented commitment from a single proposed first-tier subcontractor to perform some portion of the services expressly required by the solicitation.

Second, the subcontractor -- at the time you submit your bid -- must directly employ, or have 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. [11-35-1524(D)(1)]

Third, you must identify the subcontractor that will perform the work, the work the subcontractor is to perform, and your factual basis for concluding that the subcontractor's work constitutes the required percentage of the work to be performed in the procurement. [11-35-1524(D)(5)(a)]

Fourth, if and *upon request* by the procurement officer, you must identify the persons domiciled in South Carolina that are to perform the services involved in the procurement upon which the you rely in qualifying for the preference, the services those individuals are to perform, the employer of those persons, your relationship with the employer, and documentation of the

subcontractor's labor cost for each person identified. If requested, your failure to provide this information promptly will be grounds to deny the preference (and, potentially, for other enforcement action).

You can stack this preference, i.e., earn another 2% preference for each additional qualifying subcontractor, but the preference is capped. [11-35-1524(D)(4), (E)(7)]

How does a vendor qualify for the 4% Resident Subcontractor Preference?

See question above, but apply 40% each time you see 20%, and apply 4% each time you see 2%.

What services are covered?

'Services' means the furnishing of labor, time, or effort by a contractor not required to deliver a specific end product, other than reports which are merely incidental to required performance. This term includes consultant services other than architectural, engineering, land surveying, construction management, and related services. This term also include the providing of consultant assistance for any aspect of information technology, systems, and networks. [11-35-310(1)(d) & (29), - 1524(A)(7)]

What type of 'documented commitment' is required?

Depends on the context.

With regard to a documented commitment to employ an individual person, a documented commitment is a written commitment by the potential employer to employ directly an individual, and by the individual to be employed by the potential employer, both contingent on the bidder receiving the award. [11-35-1524(C)(1)(iii), & (D)(1)(b), (2)(b)]

With regard to a documented commitment by a subcontractor to perform some service, the statute does elaborate. Perhaps you satisfy the statute by having in hand a binding bid by a potential subcontractor. Regardless, the statute does require that you identify the subcontractor that will perform the work, the work the subcontractor is to perform, and your factual basis for concluding that the subcontractor's work constitutes the required percentage of the work to be performed in the procurement. [11-35-1524(D)(5)(a)]

How are labor costs calculated?

Labor cost means salary and fringe benefits.

What if my subcontractor doesn't work out, can I switch subs?

Depends. If you receive an award as a result of the subcontractor preference, you may not substitute any business for the subcontractor on which you relied to qualify for the preference, unless first approved in writing by the procurement officer. A substitution in violation of this restriction is grounds for debarment from further state contracts. In addition, the procurement officer may terminate the contract for cause. Even if the contract is not terminated, the procurement officer may require you 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. [11-35-1524(D)(5)(c)]

Are there price caps on the service 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 service preferences do not apply to a bid for an item of work by the bidder if the annual price of the bidder's work exceeds $50,000 or the total potential price of the bidder's work exceeds $500,000. [11-35-1524(E)(3)]