




Notice 2023.08 General Services

To: Agency Procurement Staff
Central Management Services Bureau of Strategic Sourcing
State Purchasing Officers

From: Ellen H. Daley 

Date: February 6, 2023

Subject: Procurement of Domestic Products Act 30 ILCS 517

CC: Procurement Compliance Monitors
Procurement Policy Board
Commission on Equity and Inclusion

This notice is effective immediately.

Public Act 102-721 amended the Procurement of Domestic Products Act (30 ILCS 517/) making it the public policy of the State of Illinois that each purchasing agency use State procurements to maximize the use of goods, products, and materials produced in Illinois. This notice provides instructions to implement this policy.

The Procurement of Domestic Products Act (Act) requires that each purchasing agency promote the purchase of and give preference to manufactured articles, materials, and supplies that have been manufactured in the United States.

New Solicitation Term

The following instruction shall be included in agency procurements conducted by an Invitation for Bid (IFB) or Request for Proposal (RFP) published on or after March 1, 2023. The IFB and RFP templates have been updated to include the instruction.

It is the policy of the State of Illinois to use State procurements to maximize the use of goods, products, and materials produced in Illinois. 30 ILCS 517. If this procurement is for a product alone and does not include a service, then preference shall be given to a product manufactured in the United States.

A vendor must affirmatively declare at the time they submit their bid or offer that the product being proposed to the State is manufactured in the United States. The purchasing agency may request documentation verifying the product's manufacturing origin. The purchasing agency shall purchase the product manufactured in the United States unless the agency determines that any of the following applies: (1) the procured product is not manufactured in the United States in reasonably available quantities, or (2) the price of the procured product



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manufactured in the United States exceeds the price of available and comparable procured products manufactured outside of the United States by 12% or more, or (3) the quality of the procured product manufactured in the United States is substantially less than the quality of the comparably priced, available, and comparable procured products manufactured outside of the United States, or (4) the purchase of the procured products manufactured outside of the United States better serves the public interest by helping to protect or save life, property, or the environment, or (5) the purchase of the procured product is made in conjunction with contracts or offerings of telecommunications, fire suppression, security systems, communications services, Internet services, or information services, or (6) the purchase is of pharmaceutical products, drugs, biologics, vaccines, medical devices used to provide medical and health care or treat disease or used in medical or research diagnostic tests, and medical nutritionals regulated by the Food and Drug Administration under the federal Food, Drug and Cosmetic Act.

The term does not need to be included in a sole source or emergency procurement, or a procurement that includes services. If a procurement includes both a service and product, then the agency is encouraged to consider if the product may be procured separately from the service so that the preference may be applied.

Evaluation and Award

In an Invitation for Bid (IFB) where one or more items (products) are being procured, the Act applies to each line item when each item is independently evaluated and awarded separately from the other items. To calculate whether the US product's price is 12% or more than the non-US product, multiply the non-US product's price by 1.12. If the US product's price is below the resulting price, then the US product shall be preferred.

In an IFB where one or more items (products) are being procured and the award will go to the bidder with the lowest total cost of the combined items, the Act's 12% price preference will not apply to a bidder proposing a mix of US and non-US products. However, if a bidder proposes all US products, then the 12% price preference will apply.

For example, an IFB has six (6) line items and will award on the lowest total combined cost. Bidder #1 proposes 6 non-US products for \$200,000. Bidder #2 proposes 3 non-US and 3 US products for \$205,000. Bidder #3 proposes 6 US products for \$210,000. Bidder #3 wins the award because the 12% price preference applies.

If there is a tie between 2 bidders or offerors who have both certified that they will provide products manufactured in the United States, the bidder or offeror that certifies it will provide products manufactured in Illinois shall be given preference.

"Manufactured in Illinois" means assembled articles, materials, or supplies, that are designed, finally assembled, processed, packaged, tested, or otherwise processed in Illinois in a manner that adds value, quality, or reliability.

When awarding to a bidder that successfully uses the domestic product preference, please include this notation in the Notice of Award.



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Award Exceptions

If a vendor affirmatively declared when they submitted their bid or offer that the product being proposed to the State is manufactured in the United States and the agency determines to not award to that vendor, then the agency shall provide the reason for the determination. The agency shall select and document one of the following exceptions provided by Section 10(a) of the Act as the basis for not awarding to the vendor:

Exception 10(a)(1): The procured products are not manufactured in the United States in reasonably available quantities.

Exception 10(a)(2): The price of the procured products manufactured in the United States exceeds the price of available and comparable procured products manufactured outside of the United States by 12% or more.

Exception 10(a)(3): The quality of the procured products manufactured in the United States is substantially less than the quality of the comparably priced, available, and comparable procured products manufactured outside of the United States.

Exception 10(a)(4): The purchase of the procured products manufactured outside of the United States better serves the public interest by helping to protect or save life, property, or the environment.

Exception 10(a)(5): The purchase of the procured products is made in conjunction with contracts or offerings of telecommunications, fire suppression, security systems, communications services, Internet services, or information services.

Exception 10(a)(6): The purchase is of pharmaceutical products, drugs, biologics, vaccines, medical devices used to provide medical and health care or treat disease or used in medical or research diagnostic tests, and medical nutritionals regulated by the Food and Drug Administration under the federal Food, Drug and Cosmetic Act.

Compliance Report

Section 35 of the Act provides that each purchasing agency shall submit to the chief procurement officer a report on:

- (i) the purchasing agency's compliance with the Act, including details on any incidents of noncompliance;
- (ii) the purchasing agency's analysis of goods, products, and materials not subject to the Act, including details of any procured products purchased under an exception listed in subsection (a) of Section 10; and
- (iii) any recommendations for how to further effectuate the policy set forth in this Act.



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The compliance report is due to the Chief Procurement Officer for General Services on June 30, 2023. The report will be due each June 30 thereafter.

The “Procurement of Domestic Products Act Compliance Report” form attached to this notice may be used to meet these requirements.

If there are any questions regarding this notice, please ask your State Purchasing Officer or contact the Chief Procurement Office at (217) 558-2231.

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