

**WAC 200-300-085 Bid award preference.** In conducting purchases of goods and/or services, preference shall be given to the extent allowed by statute: To goods containing recycled material as outlined under RCW 39.26.255 provided that the purchasing agency sets forth in the competitive solicitation a minimum percent content of recycled material that must be certified by the producer of the goods to qualify for the preference. Bids for goods so certified shall be given a preference of ten percent of the amount of the bid in determining the lowest responsive bid for any item or grouping of items to be awarded to a single bidder. This preference shall be separate from and applied after any other preferences allowed by statute. The minimum content of recycled material shall be not less than fifteen percent provided that for those goods for which the Environmental Protection Agency has adopted procurement guidelines under the Resource Conservation and Recovery Act of 1976 (Public Law 94-580, 42 U.S.C. §6901 et seq.), as amended, the minimum content of recycled material shall not be less than specified in the most current adopted issue of those guidelines. The producer of the goods shall certify the post consumer and recycled or waste material content at the time of submitting bid. To qualify for the preference, the goods shall otherwise be at least functionally equal to all other specifications and use requirements. The preference shall be used for bid evaluation purposes only and the actual dollars bid shall be the contracted amount. In the event of a tie for lowest responsive bid between products otherwise meeting all bid specifications, the purchasing agency shall consider the larger post consumer material content as a factor in determining the award. Should the purchasing agency determine that the use of this preference does not encourage the use of more recycled material for reasons including inadequate competition, economics, environmental constraints, quality or availability, the purchasing agency shall issue, consider and award bids without the preference. For the purpose of meeting Resource Conservation and Recovery Act requirements for state agency purchase of goods complying with Environmental Protection Agency recycled or waste guidelines, the department of enterprise services may adopt specifications requiring that only goods meeting these guidelines are responsive and may consider bids for such goods though the cost exceeds ten percent of goods not meeting such guidelines.

[Statutory Authority: Chapters 39.26 and 43.19 RCW. WSR 14-14-090, § 200-300-085, filed 6/30/14, effective 7/31/14. Statutory Authority: 2011 c 43. WSR 11-23-093, recodified as § 200-300-085, filed 11/17/11, effective 11/17/11. Statutory Authority: Chapter 43.19 RCW. WSR 99-15-070, § 236-48-096, filed 7/19/99, effective 8/19/99. Statutory Authority: RCW 43.19.534. WSR 94-21-017, § 236-48-096, filed 10/6/94, effective 11/6/94. Statutory Authority: Chapter 43.19 RCW. WSR 91-09-035, § 236-48-096, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. WSR 89-17-094 (Order 89-02), § 236-48-096, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. WSR 83-18-004 (Order 83-03), § 236-48-096, filed 8/26/83; Order 77-2, § 236-48-096, filed 1/28/77.]