

DELAWARE PROCUREMENT CODE

Fiscal Year End: June 30

1. **Prequalifications:** There is a vendor registration list, but it does not restrict competition.
 - a. **DE Code § 6923.d.4** → Firms desiring to be included on the prospective vendors list shall notify the agency. Upon notification, the agency shall mail or otherwise provide the firm with a vendor registration form. The firm shall complete the vendor registration form and return it to the agency. A vendor registration list shall not be used as a means to restrict competition.

2. **Auto-drop:** If fail to respond for 2 consecutive procurement contracts, may be removed from applicable vendor list (not required to bid).
 - a. **DE Code § 6923.d.6** → Firms that fail to respond to solicitations for 2 consecutive procurement contracts for a particular item may be removed from the applicable vendors list. The agency shall send notice of such a removal by mail or facsimile to the firm. Firms may be reinstated upon request

3. **Life Cycle Costing (LCC):** Evaluations based on LCC are allowed, with the LCC criteria being mentioned in the ITB. Note: contracts awarded under § 6923 are competitive sealed bids
 - a. **DE Code § 6909A.b** → In the case of contracts awarded under §§ 6922, 6923, 6924, 6925, 6933, 6934 and 6938 of this title, the contracting agency shall perform lifecycle costing analysis on equipment that has the potential to reduce operating, maintenance or energy costs over the useful life of the equipment. On the basis of said analysis, the contracting agency shall incorporate specifications in the contract for equipment that has the lowest total cost of ownership and operation over the useful life of the equipment. The use of lifecycle costing analysis may be waived by the agency head, in writing, if the equipment is not appropriate for lifecycle costing analysis. In the case of central contracts, and public works contracts awarded by the Office, only the Director may waive the use of lifecycle costing analysis
 - b. **DE Code 6923.k.4** → Bids shall be evaluated to determine which bidder offers the lowest cost to the agency in accordance with the evaluation criteria set forth in the invitation to bid. Only objectively measurable criteria that are set forth in the invitation to bid shall be applied in determining the lowest bidder. Examples of such criteria include, but are not limited to, transportation cost, energy cost, ownership cost and other identifiable costs. Evaluation factors need not be precise predictors of actual future costs, but to the extent possible, the evaluation factors shall be reasonable estimates based upon information the agency has available concerning future use. Prior unsatisfactory performance on a State contract by a bidder may be included in the evaluation criteria to determine if a bidder is responsible

4. **Piggybacking:** Must have written approval in order to piggyback.
 - a. **DE Code 6933** → The Section may, with written approval of the Director, participate in, sponsor, conduct or administer a cooperative purchasing agreement for the procurement of materiel or nonprofessional services with 1 or more public procurement units either within the State or within another state in accordance with an agreement entered into between the participants.

5. **Recycle Preferences:** Within 5% of price of product with virgin material
 - a. § 6938. b → Prior to initiating a request for procurement of any product, an agency shall review its existing specifications for such product to determine whether recycled content products or reusable or recyclable products are directly or indirectly excluded. The agency must eliminate any such exclusion from its specifications, unless it can demonstrate in writing to the satisfaction of the agency head that the exclusion is either:
 - i. Operationally necessary;
 - ii. Legally mandated; or
 - iii. Necessary to avoid excessive cost. -- Excessive cost shall be defined as when the recycled product cost is greater than 5% of the equivalent virgin product cost. Such costs shall include lifecycle costing analysis as defined by §§ 6902 and 6909A(b) of this title.
6. **Minority/Small/Disadvantaged Business Enterprise preferences:** Preference for products made from disabled when on special procurement list.
 - a. § 6904.g.2 → When material or services are on the procurement list published by the commission for the purchase of products and services of the blind and other severely disabled individuals those material or services shall be purchased in accordance with the procedure described in § 9605 of Title 16

7. **Cooperative Purchasing**

National IPA

The City of Tucson, AZ has awarded a national cooperative purchasing agreement available to agencies through National Intergovernmental Purchasing Alliance (National IPA). Visit the National IPA website for state specific information <http://www.nationalipa.org/statutes.html>

National Joint Powers Alliance (NJPA)

NJPA currently supports over 100 national contracts for products and services that are available to local governmental agencies and other not for profit entities. Additional information can be found by visiting NJPA's State Procurement Resources web site.

<http://www.njpacoop.org/national-cooperative-contract-solutions/legal-authority/>

***** Delaware Procurement Code**

<http://delcode.delaware.gov/title29/c069/sc03/index.shtml>