

EXECUTIVE ORDER NO. 50 (PRICE-MATCHING PREFERENCE):

Pursuant to North Carolina General Statute § 143-59 (G.S. § 143-59) and Executive Order No. 50 issued by Governor Perdue on February 17, 2010, entitled "Enhanced Purchasing Opportunities for North Carolina Businesses," a price-matching preference may be given to North Carolina resident bidders on contracts for the purchase of goods. This preference will allow a qualified North Carolina resident bidder to match the price of the lowest responsible nonresident bidder, if the North Carolina resident bidder's price is within five percent (5%) or \$10,000, whichever is less, of the nonresident bidder's price. **If the resident bidder requests and qualifies for the price-matching preference, the resident bidder will first be offered the contract award and will have three (3) business days to accept or decline the award based on the lowest responsible nonresident bidder's price.**

Executive Order #50 applies to procurements from the Governor's Office, Cabinet Agencies (i.e., Administration, Commerce, Correction, Crime Control and Public Safety, Cultural Resources, Environment and Natural Resources, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, and Transportation), Universities and Community Colleges and all procurements handled by the Division of Purchase and Contract. All other State Agencies are encouraged to implement the requirements of the Executive Order #50 and vendors should contact these State Agencies to determine whether they have adopted and implemented Executive Order #50.

ANY RESIDENT BIDDER REQUESTING THIS PREFERENCE SHOULD CAREFULLY REVIEW PARAGRAPH 23 OF THE INSTRUCTIONS TO BIDDERS, WHICH PROVIDES MORE INFORMATION REGARDING THE DEFINITION OF RESIDENT AND NONRESIDENT BIDDERS; THE QUALIFICATION PROCESS FOR GRANTING THE PREFERENCE AND HOW THE CONTRACT WILL BE AWARDED IF THE PREFERENCE IS APPLICABLE.

ALL BIDDERS (RESIDENT AND NONRESIDENT) MUST ANSWER THE FOLLOWING QUESTION:

1. Bidder is a resident of North Carolina as defined in G.S. § 143-59:
(Bidder may be deemed a nonresident bidder, if it failed to circle any choice.)

YES / NO
(circle one)

ALL RESIDENT BIDDERS REQUESTING A PRICE-MATCHING PREFERENCE MUST ANSWER THE FOLLOWING QUESTION AND MUST COMPLETE "RESIDENT BIDDER'S CERTIFICATION FOR PRICE-MATCHING PREFERENCE UNDER EXECUTIVE ORDER #50", WHICH IS BELOW AFTER QUESTION 2. AS STATED ABOVE AND PARAGRAPH 23 OF THE INSTRUCTIONS TO BIDDERS, A RESIDENT BIDDER ANSWERING "YES" TO THE QUESTION BELOW AND IS QUALIFIED FOR THE PRICE-MATCHING PREFERENCE WILL BE GIVEN AN OPPORTUNITY TO ACCEPT OR DECLINE THE CONTRACT AWARD WITHIN THE SPECIFIED PERIOD OF TIME.

2. Resident Bidder requests the price-matching preference:

(Bidder shall be deemed not to have requested the preference, if it failed to circle any choice and did not complete the Resident Bidder's Certification. If a Bidder failed to circle a choice above and completed and notarized the Bidder's Certification, then it will have been deemed to have responded YES to the above question.)

YES / NO
(circle one)

**RESIDENT BIDDER'S CERTIFICATION FOR
PRICE-MATCHING PREFERENCE UNDER EXECUTIVE ORDER #50**

NOTICE: The Price-Matching Preference will only be given to bidders that fully complete this affidavit (i.e., all information must be provided, all supporting documents must be attached, the affidavit must be signed by an authorized representative of the bidder and the affidavit must be notarized) and demonstrate their qualifications for the Price-Matching Preference through the certification and information provided in this affidavit and any required attachments.

Affidavit of _____ (name of resident bidder,
hereinafter the "Bidder")

PART I

Please check the box applicable to the Bidder's business in order for the Bidder to be considered for the price-matching preference established by Executive Order #50 and North Carolina General Statute § 143-59(c)(1).

I hereby certify that the Bidder paid unemployment taxes to the State of North Carolina for the most recent quarter or annually, and has specifically done so for the last such payment period.

OR

I hereby certify that the Bidder paid income taxes to the State of North Carolina each calendar quarter, or otherwise annually, and has specifically done so for the last such payment period.

AND

PART II

1. I hereby certify that the Bidder is a resident of the State of North Carolina under North Carolina General Statute § 143-59(c)(1), in that, Bidder's principal place of business is located in North Carolina.

YES / NO (circle one)

A. **Business Type** (circle one of the following): CORPORATION (ALL TYPES); LIMITED LIABILITY COMPANY; GENERAL PARTNERSHIP; LIMITED PARTNERSHIP; LIMITED LIABILITY PARTNERSHIP; SOLE PROPRIETORSHIP; INDIVIDUAL; UNINCORPORATED ASSOCIATION; OR OTHER.

B. Provide address of principal place of business/principal office in North Carolina:

Street Address (no P.O. Box number)

City, State, Zip Code

Is the above address the location of Bidder's headquarters? YES / NO (circle one)

If Bidder has a public website, provide the link/address: _____

C. **ATTACH A COPY OF BIDDER'S MOST RECENT FILINGS WITH THE NORTH CAROLINA SECRETARY OF STATE** (such as Bidder's Certificate of Authority, Annual Report or such other filing that discloses a North Carolina business address for the Bidder).

OR (check the box below)

Bidder certifies that its business is **not** required to make filings with the North Carolina Secretary of State.

2. I hereby certify that the Bidder is a resident of the State of North Carolina under North Carolina General Statute § 143-59(c)(3), in that, Bidder directs or manages its trade or business from its principal place of business in North Carolina.

YES / NO (circle one)

A. State the number of Bidder's employees that work at the North Carolina principal place of business:

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B. State the total number of employees in Bidder's entire workforce:

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C. Briefly describe in the box below how Bidder manages or directs its business or trade from its North Carolina principal place of business:

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IF BIDDER DESIRES TO KEEP CONFIDENTIAL ITS ANSWERS TO QUESTION 2.A, B AND C ABOVE PURSUANT TO PARAGRAPH 17 OF THE INSTRUCTIONS TO BIDDERS, THEN PLEASE CIRCLE YES OR NO IN THE BOX. IF BIDDER FAILS TO CIRCLE YES FOR ANY REASON, THEN BIDDER'S ANSWERS MAY BE SUBJECT TO PUBLIC DISCLOSURE.

YES / NO

PART III

By executing this affidavit, the Bidder agrees to provide any additional information or documentation requested by the State (during the procurement process seeking clarification of the request for the Price-Matching Preference or after contract award to resolve any bid protest) to confirm the above certifications and statements within five (5) business days of request (including tax filings in North Carolina, banking statements, financial and accounting statements reflecting Bidder's payment of the subject taxes, and any other documentation that may establish Bidder's principal place of business in North Carolina, including but not limited to information regarding the amount of income and unemployment taxes paid to other states and number of employees in North Carolina and number of employees in other states). Pursuant to G.S. §§ 132-1.1, 105-259(b) and Paragraph 17 of the Instructions to Bidders, the State is prohibited from making public disclosures of the bidder's tax information and documents (except if one of the 39 exceptions applies in G.S. § 105-259(b)) and the State shall preserve the confidentiality of the information and/or documents received in response to a request for clarification (or, as discussed below, to resolve a bid protest challenging resident bidder's qualification for the price-matching preference). In order to further preserve the confidentiality of bidder's tax information and documentation provided the State, the bidder shall comply with Paragraph 17 of the Instructions to Bidders and mark "CONFIDENTIAL" at the top and bottom of each page of the information and documentation. Bidder further understands and agrees that if Bidder fails to provide the State with the additional information and documentation within five (5) business days of the request; or the State determines that certifications or information in this Affidavit are false at any time after the contract is awarded to Bidder, the State may:

- (1) Cancel the Bidder's contract and/or purchase order that was awarded based on the price-matching preference and Bidder shall be liable for all its cost it incurs as a result of the cancellation and all increased costs of the State by awarding the contract to the next lowest bidder;
- (2) Bidder will not be entitled to any price-matching preference in any future State bidding opportunities;
- (3) Action may be taken against the contractor under the False Claims Act, G.S. § 1-605 through 1-617, inclusive, for submitting a false Certification for the price-matching preference under Executive Order #50 (including but not limited to treble damages and civil penalties); and/or
- (4) Debar Bidder from doing business with the State of North Carolina for a period determined by the State Purchasing Officer and/or Board of Award.

The undersigned hereby certifies that he or she has read this certification and is an officer, member, partner, owner or such managing employee of the Bidder (the "Authorized Representative") that is authorized to execute this affidavit and to bind the Bidder to the certifications, statements and agreements herein.

Name of Authorized Representative: _____

Signature: _____

Title: _____

Date: _____

State of _____, County of _____

Subscribed and sworn to before me this _____ day of _____ 20____

Notary Public: _____

My commission expires _____