



Boilerplate

Green Purchasing Boilerplate Language for Bid Solicitations & Contracts

This language is intended to be inserted into solicitations and contracts to help improve green purchasing in state contracts, providing language consistency and standardization for state agency procurement coordinators. Cut and paste sections that fit into solicitations as needed/appropriate, and/or can become a standard green purchasing appendix, for example.

Green purchasing bid solicitation language

The following is the recommended green purchasing language that can be inserted into the solicitation and contract that is sent to all bidders. This notifies bidders that the State of Washington is committed to purchasing green products and services and that they must comply with all green purchasing specifications in the contract proposal, follow the [Federal Trade Commission's Green Marketing Guidelines](#), and provide at least one purchaser that has purchased green products from them in the past as a reference. In addition, the green purchasing bid solicitation language encourages bidders to offer green products and services that qualify for the state's statutory environmental bid preferences as well as best value non-cost points. Finally, it also puts bidders on notice that they may be required to provide samples of their green products or green purchasing-related training materials for the bid evaluation.

1. The State of Washington is committed to purchasing environmentally preferred products and services.

This includes goods and services that can help the state conserve energy or water, are powered with clean and renewable energy, prevent climate change, reduce solid waste generation or are made with recycled content, and protect human health and the environment by preventing toxic chemical usage, emissions and waste.

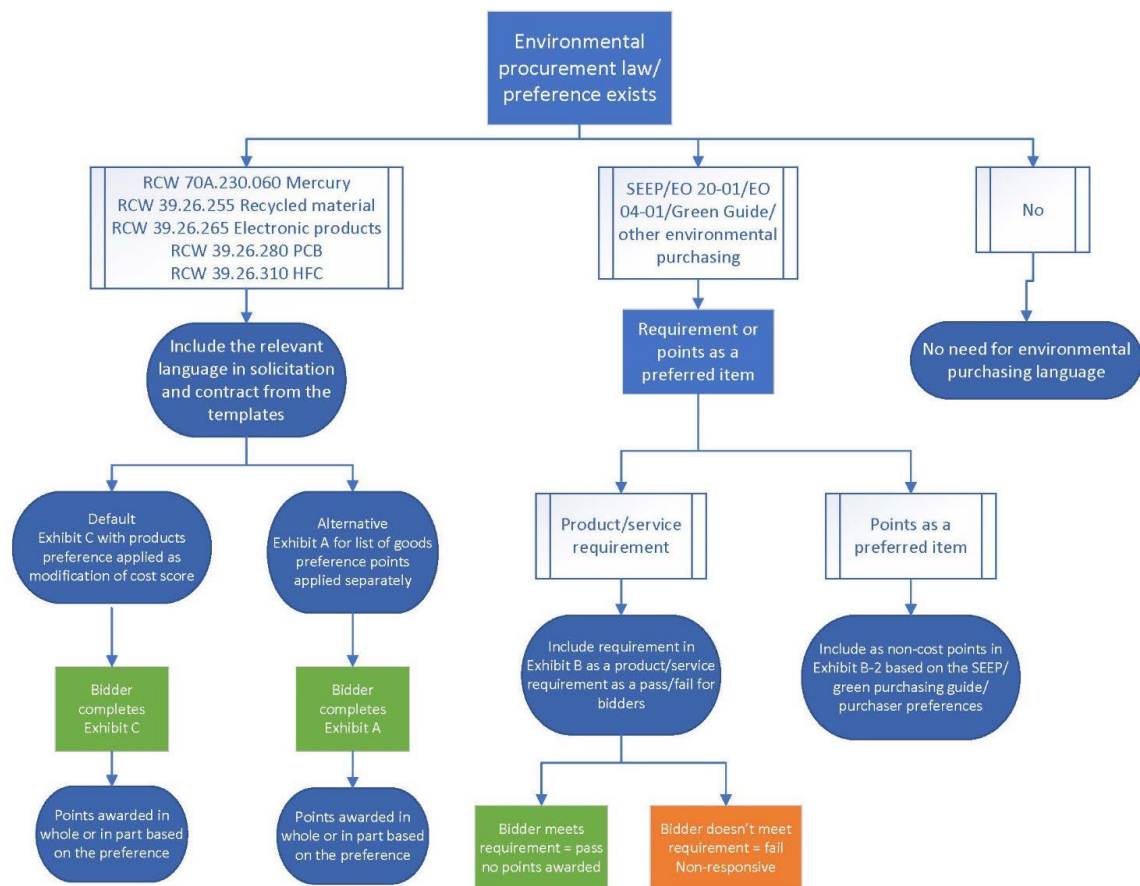


RCW 39.26.160: Bid Awards—Considerations states that in determining the lowest responsive and responsible bidder, an agency may consider best value criteria including, but not limited to, whether the bid considers human health and environmental impacts. Accordingly, state agencies can specify and purchase goods and services that protect human health and the environment and that reduce life-cycle costs.

1. Bidders must comply with the green purchasing specifications in this Contract Proposal.

To be deemed responsive, Bidders must offer products and services that meet or exceed the Minimum EPP Specifications included in this Contract Proposal.

Environmental Purchasing Flowchart



A screen reader version of the flowchart can be found [here](#).(Download PowerPoint for screen reader access).



EPP specifications to include

A. Statutory EPP requirements

Enacted by the State of Washington or the federal government, including notably the Revised Code of Washington (RCW), which prohibit State agencies from purchasing products containing PCBs mercury, and other chemicals of concern, except when safer alternatives are not cost-effective or technically feasible or direct State agencies to purchase products with recycled content at levels that comply with the U.S. EPA's Comprehensive Procurement Guidelines. (See examples of EPP Minimum Requirements in table below.)

- **Avoidance of polychlorinated biphenyls (PCBs)**

STATUTORY PREFERENCE FOR PCB-FREE PRODUCTS & PRODUCTS-IN-PACKAGING. Pursuant to RCW 39.26.280, Enterprise Services is providing a bid preference in the amount of five percent (5%) per product line item tested to any bidder that provides products or products-in-packaging that do not contain Polychlorinated Biphenyls (PCBs) [; *Provided, however, that there will be a maximum preference of five percent (5%) across all items submitted for this preference*]. Accordingly, all bidders must certify whether they are seeking the Statutory Preference for PCB-Free Products & Products-In-Packaging for [insert applicable goods] in this Competitive Solicitation. Bidders must make the certification on the certification form attached as *Exhibit [] – Statutory Preference for PCB-Free Products & Products-In-Packaging*. Bidders who seek to obtain the five percent (5%) bid preference for PCB-Free Products & Products-In-Packaging must, in regard to the products and products-in-packaging pertaining to this procurement, certify either that (a) all of their products & products-in packaging; or (b) specific products & products-in-packaging are PCB-free. To be deemed to be 'PCB-free,' the applicable product(s) must be tested, within the previous 365 days, by an independent, third-party laboratory using Environmental Protection Agency Analytical Method 1668c, and have been found NOT to contain PCBs above the practical quantification limit. Such test for the applicable products must be attached to the certification. The cost for conducting any such testing is at the bidder's expense.

- **Avoidance of hazardous materials in electronics**

STATUTORY PREFERENCE FOR ELECTRONIC PRODUCTS MEETING ENVIRONMENTAL PERFORMANCE STANDARDS. Pursuant to RCW 39.26.265, Enterprise Services is providing a bid preference in the amount of five percent (5%) per product line item tested to any bidder that provides products that have



achieved Electronic Product Environmental Assessment Tool (EPEAT) Silver or Gold registration. Bidders who seek to obtain the five percent (5%) bid preference in Exhibit C-Bid Price must identify the EPEAT registered products in Exhibit C – Bid Price.

STATUTORY PREFERENCE FOR ELECTRONIC PRODUCTS MEETING ENVIRONMENTAL PERFORMANCE STANDARDS. Pursuant to RCW 39.26.265, Enterprise Services is providing a bid preference in the amount of five percent (5%) per product line item tested to any bidder that provides products that contain the least hazardous materials. Bidders who seek to obtain the five percent (5%) bid preference must identify the amount of identified hazardous material in the products as stated in Exhibit C – Bid Price.

- **Avoidance of mercury**

STATUTORY PREFERENCE FOR NONMERCURY-ADDED PRODUCTS. Pursuant to RCW 70A.230.060, Enterprise Services is providing a bid preference in the amount of five percent (5%) per product line item tested to any bidder that provides products that have the least amount of mercury added to the product necessary for the required performance for products identified in the Interstate Mercury Education and Reduction Clearinghouse Mercury-Added Products Database or where the product containing mercury is designed to reduce electricity consumption by at least 40%. Bidders who seek to obtain the five percent (5%) bid preference in Exhibit C-Bid Price must identify the amount of mercury added to the product or indicate the reduction in electricity consumption for identified products in Exhibit C – Bid Price. **Avoidance of hydrofluorocarbons**

STATUTORY PREFERENCE FOR PRODUCTS CONTAINING HYDROFLUOROCARBONS. Pursuant to RCW 39.26.310, Enterprise Services is providing a bid preference in the amount of five percent (5%) per product line item tested to any bidder that provides products that [do not containing HFCs/contain a low amount of global warming potential refrigerants/are not designed to function only in conjunction with HFCs/are not manufactured using HFCs/are manufactured with a low amount of global warming potential refrigerants] . Bidders who seek to obtain the five percent (5%) bid preference in Exhibit C-Bid Price must identify the products [not containing HFCs/contain a low amount of global warming potential refrigerants/that are not designed to function only in conjunction with HFCs/are not manufactured using HFCs/are manufactured with a low amount of global warming potential refrigerants] as indicated in Exhibit C – Bid Price.



- **State purchasing of recycled-content product**

[Recycled Content Purchasing Preference Policy \(POL-DES-255-00\)](#) states, “In establishing environmental requirements and preferences for products that contain recycled materials, agencies shall reference the current [U.S. Environmental Protection Agency’s Comprehensive Procurement Guidelines \(EPA CPGs\)](#) as the minimum standards for the state of Washington.”

STATUTORY PREFERENCE FOR RECYCLED CONTENT PURCHASING. Pursuant to RCW 39.26.255, Enterprise Services is providing a bid preference in the amount of ten percent (10%) per product line item tested to any bidder that provides products that have exceeded one of the recommended content level percentages or the minimum product specification, as designated by the current EPA’s CPG standard. Bidders who seek to obtain the 10 percent (10%) bid preference in Exhibit C-Bid Price must identify the recycled content level of the product or indicate the product meets product specifications in Exhibit C – Bid Price.

B. Third-party environmental certifications (See [Certifications and Labels Guide](#) - e.g., Biodegradable Products Institute (BPI), Cradle to Cradle, ENERGY STAR, Forest Stewardship Council (FSC), Green Seal, Safer Choice, UL ECOLOGO).

C. Other environmental standards (e.g., the [U.S. Environmental Protection Agency’s Comprehensive Procurement Guidelines \(CPGs\)](#), the [EPEAT Rating System](#), or the [European Union’s Restriction of Hazardous Substances \(RoHS\) Directive](#)).

D. Standards and other guidance adopted by the State Efficiency and Environmental Performance (SEEP) Governing Council (including standards listed in [EO 20-01](#)).

E. Policies adopted by the Washington Department of Enterprise Services ([WA DES Policies](#))

F. Environmental requirements approved by the sourcing team for this contract.



Conventional (non-green) products and services may be offered ONLY when the product or service is NOT in a category that is covered in the EPP Specifications in Attachment __. If the Bidder offers a non-green product when a green product is specified, their bid may be considered non-responsive. Below is a summary of the EPP Specifications for this Contract, which are described in more detail in Attachment __.

Summary of EPP specifications for this contract

Product or Service Category	Required Environmental/ Health Certification(s)	Minimum Percentage of Post-Consumer Recycled Content	Other Environmental or Health Requirements or Desirable Attributes
Cleaning Chemicals (except disinfectants and sanitizers)	Current certification by Green Seal, Safer Choice, UL EcoLogo or Cradle to Cradle (Silver Level or Higher)	N/A	Bidder must offer at least one line of products in closed-loop packaging. Fragrance-free and dye-free products are desirable.

This Contract Proposal has a Green Core/Market Basket List. When submitting offers, Bidders must list in their completed Bid Sheet the third-party environmental certifications and/or standards of each ALTERNATE product or service offered that meets the EPP Specifications in this Contract Proposal. (Sample products already meet the EPP Specifications.) See Sample Bid Sheet, below.

Sample bid sheet for the green market basket list items

Product Description (including Unit of Measure)	Sample Product Manufacturer/ Brand	Sample Product Number	Environmental and Health Specification(s) for ALTERNATES	Product Offered: Manufacturer/Brand and Product Number	Environmental and Health Attributes of This Product (if ALTERNATE)	PRICE (\$..00)
Copy Paper, White, 8.5" X 11", Case of 5000 sheets	Eco100 Copy Paper by Green Paper Company	12345	Product must contain 100% post-consumer recycled content	Vendor input	Vendor input	Vendor input

Bidders may be required to provide documentation that the products and/or services they are offering on this Contract meet the minimum EPP Specifications, at



the request of Washington DES for statewide contracts, or another state agency for departmental contracts. Documentation may include proof that the product or service has the required third-party certification(s), minimum percentage of recycled content, or other environmental, health or sustainability attributes listed the EPP Specifications.

Washington DES or the lead agency for this Contract reserves the right to block products that do not comply with the minimum EPP Specifications or add more EPPs to this Contract (only in categories they were awarded) as long as the products meet the minimum EPP Specifications, are offered with the same percentage discount as similar items on the Contract, and there is mutual agreement of the Procurement Coordinator and the awarded vendor. In addition, over the life of the Contract, the State reserves the right to strengthen its EPP Specifications in order to provide additional protection to human health and the environment or to reflect changes in federal or state environmental laws, third-party certifications or market availability of EPPs. In such cases, the Contractor may be asked to further limit its product offering to goods and/or services meeting the revised EPP Specification(s).

2. Bidders must follow the Federal Trade Commission's (FTC's) Green Marketing Guidelines

Bidders may be required to label environmentally preferable products that are offered on State contracts. In addition, they shall certify in writing that any claims of environmental attributes made about the products and/or or services it is offering on this contract are consistent with [the FTC's Guidelines for the use of Environmental Marketing Terms](#).

3. Bidders are strongly encouraged to offer environmentally preferred products and services (EPPs) that qualify for legally authorized environmental bid preferences.

Polychlorinated biphenyls (PCBs), hydrofluorocarbons (HFCs), mercury, single-use plastics, and burning fossil fuels have adverse effects on human health and the environment. Accordingly, the State of Washington, offers Purchasing Preferences to incentivize vendors to sell products that eliminate or reduce these environmental and human health risks. Bidders are strongly encouraged to offer environmentally preferred products and services (EPPs) that qualify for legally authorized Environmental Bid Preferences. After determining that minimum EPP requirements are met, if products or services listed in this bid solicitation document are eligible for an Environmental Bid Preference, Bidders should be encouraged to review the applicable Environmental Bid Preference



Language and complete the Bidder Certification Form if they have products or services that qualify.

Applicable preferences

Indicated by an [X] below

PCB-free products

Examples: Paints/coatings, traffic marking materials, toner/ink

Recycled-content products

Examples: Construction materials (insulation, wall board), landscaping materials (compost, mulch), janitorial supplies (paper towels, trash bags), office supplies (paper, envelopes, file folders, toner cartridges), sorbents, vehicle supplies (motor oil, tires)

Mercury-free/low-mercury products

Examples: Appliance, batteries, lighting equipment (lamps and luminaires), medical equipment, vehicles

Products that do not contain hydrofluorocarbons (HFCs)

Examples: Refrigeration and air conditioning equipment, refrigerants, foam blowing agents, cleaning solvents, adhesives, coatings, inks, aerosols

Sustainable electronics

Examples: Computers, monitors, imaging equipment (copiers, printers, multifunction devices), mobile phones, servers, TVs

This Contract Proposal does not include any products or services that are eligible for an Environmental Bid Preference.

Bidders must certify (on a Bidder Certification Form provided by the Procurement Coordinator) whether they are seeking an Environmental Bid Preference for specific types of EPPs. In addition, the Contract Proposal must notify Bidders that they will be expected to represent and warrant that any



product(s) for which they sought and were awarded an environmental bid preference shall, over the entire term of this Contract, meet or exceed the EPP standard that enabled it to be awarded such preference (e.g., have a recycled content above the minimum in the EPP Specification, have an EPEAT rating of Silver or Gold, have a relatively low concentration of PCBs or mercury, or have HFCs with a relatively low global warming potential, etc.).

4. The State of Washington reserves the right to award this Contract based on a Best Value analysis.

[RCW 39.26.160: Bid Awards—Considerations](#) gives the authority to award contracts based on factors beyond initial price such as environmental and human health impacts of products that exceed the minimum requirements, experience and past performance of the supplier, additional services offered by the supplier (e.g., training, recycling, etc.) and life-cycle cost when determining the lowest responsive and responsible Bidder.

This Contract Proposal is being awarded based on a Best Value analysis.

[Procurement Coordinator to insert information about how the Best Value analysis will be conducted. Reminder: The [EPP Best Value Survey Questions for Bidders](#) can assist with this.]

This Contract Proposal is NOT being awarded based on a Best Value analysis.

5. Bidders may be required to provide samples of its environmentally preferred products (EPPs) during the bid evaluation process or over the life of the Contract for evaluation or performance testing, at the request of the Procurement Coordinator.

Bidders are required to provide samples of the following types of EPPs for the bid evaluation process: _____

Bidders are NOT required to provide EPP samples for the bid evaluation process.

6. Bidders may be required to provide samples of their company's EPP-related training materials explaining the benefits and proper use of the environmentally preferred products or services (EPPs) that are being offered on this Contract. In addition, they may be required to provide training to Contract users over the life of the Contract.



- Bidders ARE required to provide samples of their EPP-related training materials.
- Bidders are NOT required to provide samples of their EPP-related training materials.

7. Bidders must provide at least one reference of a state or local jurisdiction, business or organization they have helped to successfully transition to using their environmentally preferred products or services (EPPs).

EPP contract award language

EPP contract language is designed to be inserted into the Contract to be signed by each approved vendor that has received an award. This reinforces Contractor’s EPP-related responsibilities over the life of the contract, including, but not limited to adhering to the minimum EPP specifications, clearly and accurately labeling its EPPs, promoting the purchase of EPPs to Contract users, complying with all EPP-related laws and reporting requirements.

The Contractor may only offer products and services that meet the minimum EPP Specifications in the contract proposal.

The Contractor may NOT offer any products or services on this contract that fail to meet the minimum EPP Specifications in this Contract Proposal.

The Contractor’s Price List should include all awarded environmentally preferred products and services (EPPs) as well as all awarded conventional products that are not subject to the State’s EPP standards on this contract. For each product covered by an EPP standard in Attachment A, the Contractor’s Price List must include its sustainability attributes (e.g., third-party environmental certifications and percentage of recycled content) indicating how it meets the Environmental Specification in Attachment A. See Sample Price Sheet Template below.

Sample price sheet template

Product Description	Unit of Measure (UOM)	Minimum EPP Specification(s) for This Product	Product Offered: Manufacturer/ Brand and Product Number	Environmental Certification(s) of This Product	% of Recycled Content and/ or Other Environmental Attributes of this Product	PRICE (\$.00)
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Copy Paper, White, 8.5" X 11"	Case of 5000 sheets	Product must contain 100% post-consumer recycled content	Vendor input	Vendor input	Vendor input	Vendor input
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- The Contractor must clearly and accurately label environmentally preferred products and services (EPPs) on this contract.**

All environmental benefit claims made by the Contractor concerning products or services offered on this Contract must comply with the [Federal Trade Commission’s Guidelines for the use of Environmental Marketing Claims](#). At the request of DES or any user of this Contract, the Contractor must provide documentation of environmental and health claims if it is not publicly available for verification. The State also reserves the right to require the Contractor to remove any environmental claims that it deems to be false, vague, misleading or unsubstantiated in catalogs, websites or marketing materials that are provided to the State under this Contract.

The Contractor must clearly and accurately label the environmental and health attributes of its products and services, including third-party certifications, the percentage of post-consumer recycled content, and other environmental and health attributes in all catalogs, websites or other marketing materials provided to State of Washington employees or any other Contract users. The linked list includes, but is not limited to, **EPP Certifications, Labels & Standards Guide** the state of Washington uses to identify environmentally preferred goods and services (EPPs).

- The Contractor is strongly encouraged to help the State meet its goal of significantly reducing energy consumption and greenhouse gas emissions (GHGs) associated with the State’s procurement of goods and services by using, clearly labeling and promoting the purchase of energy-efficient products over the life of this contract.**

[Chapter 19.27A of the Revised Code of Washington \(RCW\): Energy Related Building Standards](#), established the State’s strong statutory commitment to making public buildings models of energy efficiency. This can be achieved, in part, by increasing the State’s purchases of products or services that are highly energy-efficient, that generate (or are made with) renewable energy (e.g., solar or wind), or that reduce greenhouse gas (GHG) emissions in other ways. The



law states:

The legislature finds that energy efficiency is the cheapest, quickest, and cleanest way to meet rising energy needs, confront climate change, and boost our economy. More than 30% of Washington's greenhouse gas emissions come from energy use in buildings. Making homes, businesses, and public institutions more energy efficient will save money, create good local jobs, enhance energy security, reduce pollution that causes global warming, and speed economic recovery while reducing the need to invest in costly new generation.

Washington can spur its economy and assert its regional and national clean energy leadership by putting efficiency first. Washington can accomplish this by: Promoting super-efficient, low-energy use building codes; requiring disclosure of buildings' energy use to prospective buyers; making public buildings models of energy efficiency; financing energy saving upgrades to existing buildings; and reducing utility bills for low-income households. [Emphasis added.]



Governor Inslee's 2020 [Executive Order 20-01: State Efficiency and Environmental Performance](#) reiterates and reinforces the State's commitment to purchasing energy-efficient products and reducing greenhouse gas (GHG) emissions, stating:

Improving the energy efficiency of state government operations reduces spending on energy, is a wise use of taxpayers' dollars, and allows agencies to redirect funds towards citizens' critical needs [and] improving energy efficiency and accelerating the adoption of renewable energy strengthens Washington's economy in many ways, including: by promoting innovative clean, home-grown energy technologies over the



burning of imported fossil fuels; by expanding employment in the construction trades; and by improving job growth and competitiveness in clean energy businesses and technologies in the state...

Reducing levels of atmospheric greenhouse gases (GHGs) will support Washington's fight against climate change, which is already costing Washington businesses and governments—and harming citizens—through more severe wildfires, droughts, heat waves, damaging storms and flooding, as well as degraded water supplies, rising sea levels, increased damage from invasive species, greater stresses on agricultural and forestry crops, damage to salmon fisheries, and harm to shellfish from ocean acidification, among other costly impacts.

Accordingly, the Contractor shall promote the purchase of products that meet or exceed the energy-efficiency standards listed in the minimum EPP Specifications for this contract. In addition, it must clearly and accurately label, and promote the purchase of highly energy-efficient products in its offering to State employees and other users of this contract. Products that qualify as “energy efficient” include those that meet one of the following standards:

- ENERGY STAR Certified
- DesignLights Consortium (DLC) (LED lighting equipment only)
- EPEAT Registered (covers electronic equipment only)
- NEMA Premium Efficiency Certified (covers electric motors only)
- Green-e Certified (products made with clean renewable energy)
- Compliant with California's Title 20 Appliance Efficiency Standards
- WaterSense Certified (covers toilets, faucets and other products that use water)

Washington Department of Enterprise Service (WA DES) or the lead agency for this Contract, reserves the right to block products that do not comply with the energy-efficiency requirements listed in the minimum EPP Specifications for this Contract.

- **The Contractor shall offer and promote the purchase of products that are made with recycled content, that are reusable, recyclable or compostable, or that reduce waste in other ways, to the greatest extent practicable.**



The State of Washington, through its procurements of goods and services, is committed to maximizing the purchase of products made from recycled content and incentivizing its vendors to sell products and products in packaging made with recycled content.

[RCW 43.19A.995: Recycled Content Procurement](#) established a goal to “substantially increase the procurement of recycled content products by all local and state governmental agencies and public schools, and provide a model to encourage a comparable commitment by Washington state citizens and businesses in their purchasing practices...”

Accordingly, the Contractor shall comply with the EPP Specifications for this contract, which require certain products to have a minimum percentage of recycled content or be reusable, recyclable or certified compostable. The Contractor is required to clearly and accurately label all reusable, recycled-content, and compostable products on this Contract. In addition, the Contractor is strongly encouraged to promote the purchase of these and other environmentally preferable products to the greatest extent practicable. The Contractor should indicate the percentage of both post-consumer recycled content (PCRC) and total recycled content of all products offered on this Contract and indicate whether it complies with the U.S. Environmental Protection Agency’s Comprehensive Procurement Guidelines pursuant to [Recycled Content Purchasing Preference Policy \(POL-DES-255-00\)](#), which states, “In establishing environmental requirements and preferences for products that contain recycled materials, agencies shall reference the current [U.S. Environmental Protection Agency’s Comprehensive Procurement Guidelines \(EPA CPGs\)](#) as the minimum standards for the state of Washington.”

If the Contractor supplies white cut sheet bond paper for printers or copiers for sale on this contract, it must offer products with 100% post-consumer recycled content, pursuant to [RCW 43.19A.022: Recycled Content Paper for Printers and Copiers](#), which states that, “All state agencies shall purchase one hundred percent recycled content white cut sheet bond paper used in office printers and copiers.”

In addition, pursuant to [RCW 43.19A: Recycled Product Procurement](#) contractors should make every effort to deliver products in reusable packaging or recyclable corrugated cardboard packaging with at least 25% post-consumer recycled content (PCRC), which meets the U.S. EPA’s [Comprehensive](#)



[Procurement Guideline \(CPG\)](#) for this type of packaging.

Washington Department of Enterprise Service (WA DES) or the lead agency for this contract, reserves the right to block products that do not comply with the minimum recycled-content and other waste reduction requirements listed in the EPP Specifications for this contract.

- **The Contractor shall use, offer and promote the purchase of low-toxicity products and services to the greatest extent practicable to fulfill this contract.**

[Executive Order 20-01: State Efficiency and Environmental Performance](#)

commits the Washington state agencies to purchasing products that do not contain or generate emissions of toxic chemicals. It states, "...reducing the use of dangerous toxics in the products state agencies purchase will have a direct positive effect on human health, particularly for vulnerable children."

EO 20-01 reinforces [Executive Order 04-01: Persistent Toxic Chemicals](#), which directs each State agency to adopt measures to reduce the use of equipment, supplies, and other products that contain persistent, toxic chemicals." It also directs Washington Department of Environmental Services to "make available for purchase and use by all state agencies equipment, supplies, and other products that do not contain persistent, toxic chemicals unless there is no feasible alternative. In circumstances where a product that does not contain persistent, toxic chemicals is not available, preference shall be given to the purchase of products that contain the least amount of persistent, toxic chemicals. "

Accordingly, the Contractor shall adhere to all EPP specifications for this Contract, which prohibit persistent toxic chemicals and other chemicals of concern in the products or packaging and/or require third-party certification that a product is low-toxicity and/or low-emitting. In addition, the Contractor shall offer, clearly label, and promote the purchase of low-toxicity products, whenever feasible.

Washington Department of Enterprise Service (WA DES) or the lead agency for this Contract reserves the right to block products that do not comply with toxics avoidance requirements listed in the minimum EPP Specifications for this contract.



The Contractor shall make every effort to help State employees comply with State laws designed to prevent Contract users from purchasing products containing chemicals of concern including, but not limited to PCBs, hydrofluorocarbons, mercury and other persistent toxic chemicals. See Contract language relating to specific chemicals of concern, below.

- **Polychlorinated biphenyls (PCBs)**

[RCW 39.26.20: Preference and Limits on Products and Products in Packaging that Does Not Contain Polychlorinated Biphenyls \(PCBs\)](#) states, "No agency may knowingly purchase products or products in packaging containing polychlorinated biphenyls above the practical quantification limit except when it is not cost-effective or technically feasible to do so." In addition, [Procurement Preference for Products and Product Packaging that Do Not Contain Polychlorinated Biphenyls \(PCBs\) \(POL-DES-280-00\)](#) authorizes a minimum 5% bid preference to Bidders offering products (or products in packaging) that have a relatively low amount of PCBs compared to those offered by other Bidders in cases when PCB-free products are unavailable.

Accordingly, to the greatest extent practicable, the Contractor should avoid offering on this Contract any products or packaging that contain detectable levels of PCBs. The Contractor must also notify WA DES if any of its products contain detectable levels of PCBs and provide written confirmation that PCB-free alternatives are neither available nor technically or economically feasible.

In addition, the Contractor must represent and warrant that, during the term of this Contract, for any products (or products in packaging) for which it sought and was awarded a Bid Preference pursuant to RCW 39.26.280 and DES Policy 280-00 such products and/or packaging shall meet or exceed the testing limitations that enabled Contractor to be awarded such preference.

Notwithstanding any provision to the contrary, upon breach of warranty and Contractor's failure to provide satisfactory evidence of compliance within thirty (30) days, Agency may suspend or terminate this Contract. The rights and remedies of the parties under this warranty are in addition to any other rights and remedies of the parties provided by law or equity, including, without limitation, actual damages, and, as applicable and awarded under the law, to a prevailing party, reasonable attorneys' fees and costs.

- **Hydrofluorocarbons (HFCs)**



[RCW 39.26.310: Purchasing and Procurement Policies—Products Containing Hydrofluorocarbons \(HFCs\)](#) and [Policy POL-DES-310-00](#) direct State agencies to give purchasing priority and preference to refrigerants, propellants and other products and equipment that do not contain – or were not manufactured with – hydrofluorocarbons or that contain HFCs with a comparatively low global warming potential (GWP). Accordingly, the Contractor is strongly encouraged to help the State reduce its greenhouse gas emissions by providing products that are HFC-free that do not contain HFCs with a high GWP, that were manufactured without HFCs with a high GWP, or that were not designed to require the use of HFCs with a high GWP during their operational life.

Accordingly, the Contractor shall make every effort to fulfill this contract without providing products that contain HFCs unless there is no economically feasible HFC-free alternative that performs a similar function. In addition, Washington Department of Enterprise Service (WA DES) or the lead agency for this Contract, reserves the right to block products that contain HFCs whenever HCF-free products (or products that contain HFCs with a relatively low global warming potential) are available.

The Contractor must represent and warrant that, during the term of this Contract, for any products for which it sought and was awarded a Bid Preference pursuant to RCW 39.26.310 and DES Policy 310-00 such products shall meet or exceed the HCF-free or low-GWP HFC standard that enabled Contractor to be awarded such preference.

- **Mercury**

[RCW 70A.230: Mercury Education and Reduction Act](#) and [Nonmercury-Added Purchasing Preference Policy \(POL-DES-70.95M.060-00\)](#) prohibit the sale of mercury-containing products (e.g., novelties, thermometers, thermostats, and vehicles containing mercury switches) with limited exceptions for products needed by medical facilities. These policies also state:

Where there are nonmercury-added products commercially available, they must be purchased to the exclusion of products that contain mercury-added compounds or components; unless there is no economically feasible nonmercury-added alternative that performs a similar function.



Accordingly, the Contractor shall make every effort to fulfill this contract without providing products that contain mercury unless there is no economically feasible mercury-free alternative that performs a similar function. Washington Department of Enterprise Service (WA DES) or the lead agency for this Contract reserves the right to block products that contain mercury whenever mercury-free products are available. For example, with respect to lighting equipment, the Contractor may not offer a mercury-containing lamp or luminaire unless it can demonstrate that there are no LED lamps or luminaires available that can serve as a practical replacement.

In cases where there is no economically feasible mercury-free product that serves a similar function to the mercury-added product, the State must offer a bid preference of at least 5% to the Bidder's product that has the lowest mercury content.

In addition, the Contractor must represent and warrant that, during the term of this Contract, for any products for which it sought and was awarded a Bid Preference pursuant to RCW 70A.230 and DES Policy 70.95M.060-00, such products shall meet or exceed the mercury-free or low-mercury standard that enabled Contractor to be awarded such preference.

- **The Contractor must ensure that it will continue to offer equivalent EPPs for which it was awarded an environmental bid preference.**

Below is Environmental Bid Preference Warranty Language that can be inserted into all Contracts for which an Environmental Bid Preference has been awarded.

Statutory Preference Language for Solicitation and Contract

- 1.1. STATUTORY PREFERENCE FOR PCB-FREE PRODUCTS AND PRODUCTS-IN-PACKAGING. Contractor represents and warrants, as previously certified in Contractor's Bidder's Certification, that Contractor qualifies for the Statutory Preference for PCB-Free Products and Products-In-Packaging.
2. NONMERCURY-ADDED PRODUCTS – RCW 70A.230.060
 - 2.1. STATUTORY PREFERENCE FOR NONMERCURY-ADDED PRODUCTS. Contractor represents and warrants that Contractor provides goods that have the least amount of



mercury added to the product necessary for the required performance for products for the Statutory Preference for Nonmercury Added Products.

2.2. STATUTORY PREFERENCE FOR NONMERCURY-ADDED PRODUCTS. Contractor represents and warrants that Contractor provides goods that do not contain mercury added to the product necessary for the required performance for products for the Statutory Preference for Nonmercury Added Products.

3. ELECTRONIC PRODUCTS MEETING ENVIRONMENTAL PERFORMANCE STANDARDS – RCW 39.26.265

3.1. STATUTORY PREFERENCE FOR ELECTRONIC PRODUCTS MEETING ENVIRONMENTAL PERFORMANCE STANDARDS. Contractor represents and warrants that Contractor provides goods that have achieved Electronic Product Environmental Assessment Tool (EPEAT) Silver or Gold registration for the Statutory Preference for Electronic Products Meeting Environmental Performance Standards.

3.2. STATUTORY PREFERENCE FOR ELECTRONIC PRODUCTS MEETING ENVIRONMENTAL PERFORMANCE STANDARDS. Contractor represents and warrants that Contractor provides goods that contain the least hazardous materials for the Statutory Preference for Electronic Products Meeting Environmental Performance Standards.

4. PRODUCTS CONTAINING HYDROFLUOROCARBONS- RCW 39.26.310

4.1. STATUTORY PREFERENCE FOR PRODUCTS CONTAINING HYDROFLUOROCARBONS. Contractor represents and warrants that Contractor provides goods that [not containing HFCs/contain a low amount of global warming potential refrigerants/that are not designed to function only in conjunction with HFCs/are not manufactured using HFCs/are manufactured with a low amount of global warming potential refrigerants] for the Statutory Preference for Electronic Products Meeting Environmental Performance Standards.

- **The Contractor shall offer environmentally preferred packaging to the greatest extent practicable.**

The Contractor must deliver its products in packaging that complies with the State of Washington's Toxics in Packaging Law ([Chapter 70.95G RCW: Packages Containing Metals and Toxic Chemicals](#)), which limits the concentration of lead, mercury, cadmium, and hexavalent chromium in packaging to 100 parts per million. The Contractor shall provide a [certificate of compliance](#) at the request of WA DES or other users of this Contract. View answers to frequently asked questions (FAQs) about [toxics in packaging laws](#), including test procedures.



[Executive Order 20-01: State Efficiency and Environmental Performance \(SEEP\)](#)

states that “cutting harmful pollution caused by the burning of fossil fuels for state facilities and vehicles, and reducing solid waste pollution and the use of dangerous toxics in the products state agencies purchase will all have a direct positive effect on human health, particularly for vulnerable children.”

Accordingly, the Contractor should avoid packaging that consists of polystyrene foam peanuts or blocks. Contractors that were awarded non-cost points because they committed to avoiding polystyrene or other difficult-to-recycle packaging materials, may not use these types of packaging to fulfill this Contract. Purchasers should encourage vendors to use reusable, easily recyclable, or compostable packaging. Find more information on [purchasing strategies to reduce packaging waste](#).

The Contractor is encouraged to minimize packaging by combining orders, whenever possible, and offering incentives to Contract users that do so (e.g., by meeting a minimum dollar threshold).

- **The Contractor must submit a Plan for acquiring Washington Grown Food if it is supplying food under a State of Washington commodity contract or service agreement.**

In 2019, DES adopted policy on [Purchases of Washington Grown Food \(DES-090-09\)](#). This policy, which is consistent with [RCW 39.26.090 \(a-b\)](#), directs State agencies “to purchase Washington grown good to the maximum extent practicable except when it is inconsistent with international trade commitments.” It also states, “All food contracts must include, to the maximum extent practicable, a plan for acquiring Washington grown food except when it is inconsistent with international trade commitments.”

- A Washington Grown Food Plan is required on this Contract.**
- A Washington Grown Food Plan is NOT required on this Contract.**

- **The Contractor may be required to offer training on use of its environmentally preferred products and services (EPPs).**

The Contractor may be required to provide educational materials, onsite training, demonstrations, and/or online training about the proper use of its environmentally preferred products and services (EPPs) to all State of Washington employees and other Contract users that request it.



- EPP Training is REQUIRED within 3 months of award of this Contract.**
- EPP Training is REQUIRED at least once annually over the term of this Contract.**
- The Contractor is not subject to an EPP Training Requirement unless it is requested by WA DES or another Contract user.**
- **The Contractor must comply with all EPP reporting requirements that are described in the contract proposal.**

Washington DES reserves the right to request from the Contractor reports on the sales of environmentally preferred products and services (EPPs) over the life of this Contract. This EPP sales report must include details about the recycled content, third-party sustainability certifications, and other environmental attributes of products and services sold on this Contract per the minimum EPP Specifications. To facilitate consistent EPP sales reporting on selected contracts, the Contractor may be provided with a VENDOR EPP SALES REPORT TEMPLATE by WA DES or the lead agency for this Contract. Note: The EPP reporting requirements should be incorporated into other reporting requirements for this Contract.

- EPP Sales Reports must be provided to WA DES on a QUARTERLY basis.**
- EPP Sales Reports must be provided to WA DES on a SEMI-ANNUAL basis.**
- EPP Sales Reports must be provided to WA DES on an ANNUAL basis.**
- EPP is not a factor at this time, so Contractor is not required to provide an EPP Sales Report unless it is requested by WA DES or another Contract user.**