



Board of Public Works

Nancy K. Kopp, Treasurer **Martin O'Malley, Governor** **Peter Franchot, Comptroller**

Advisory No.: 1995-3 - Revised

Date Issued: August 2011

Subject: Resident Business and Tax Compliance Information

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Executive Secretary

Mary Jo Childs, Esq.
Procurement Advisor

Gregory Bedward
General Counsel

Doldon Moore
Wetlands Administrator

4th Revision

Purpose: To provide guidelines for State agencies to follow when completing the Resident Business and the Tax Clearance fields on Board of Public Works Agenda Items.

RESIDENT BUSINESS

Background: The Board of Public Works, at its September 27, 1995 meeting, adopted a "resident business" definition to be used for certain, primarily reporting, purposes. The term "resident business" is also used in a regulation that implements reciprocal preferences as authorized by statute. The Advisory definition and the statutory definition of "resident business" differ intentionally because they are used for different purposes. This Advisory will refer to the two definitions as the Reporting Definition and the Reciprocal-Preference Definition.

Reporting Definition: For Board of Public Works reporting purposes, a "resident business" is:

A business enterprise:

- that has a Maryland address (i.e., having physical location in Maryland from which it regularly conducts business),
- is registered to do business in the State of Maryland,
- employs Maryland residents (meaning more than one), and
- regularly conducts business within the State.
- The term includes subsidiaries, divisions and branches of businesses headquartered outside of the State of Maryland.

Agencies are to use this definition to:

- Complete Action Agenda Items by inserting Yes or No in the Resident Business field
- Capture and report statistics concerning the State's procurement activities
- Construct bidders' lists for use in the bid/proposal solicitation process





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Reciprocal Preference Definition: The "resident business" term has a different meaning for purposes of applying reciprocal preferences. [For guidance regarding the reciprocal application of other states' resident business preferences, see BPW Advisory 1996-5.] A procurement agency may apply reciprocal preferences against a non-resident bidder in favor of a resident bidder when the non-resident bidder's home state applies preferences against Maryland businesses. NOTE WELL, however, that for purposes of applying reciprocal preferences, COMAR 21.05.01.04A(3) strictly defines a "resident business" as: "A business whose principal office or principal base of operations is located in the State."

TAX CLEARANCE

Before a procurement agency submits a contract to the Board of Public Works for approval to award, the agency must verify that the proposed contractor has been assigned a Tax Clearance number. The Comptroller will provide a Tax Clearance number when the proposed contractor has no known deficiencies in the payment of its Maryland tax obligations. Each Action Agenda Item recommending award of a procurement contract must have a Tax Clearance field containing the Comptroller's assigned Tax Clearance number. The Tax Clearance field is not necessary on Action Agenda Items modifying, or exercising an option on, an existing contract previously approved by the Board.

Questions concerning this Advisory may be addressed to:

Mary Jo Childs
Procurement Advisor
Board of Public Works
410.260.7335

To obtain a tax clearance number:

Office of the State Comptroller
Compliance Division
410.767.1908



Previously Revised November 26, 1996, May 15, 1997 and April 3, 2000.

