
WEST VIRGINIA CODE CHAPTER 5
ARTICLE 19

WV Legislature

§5-19-1. Definitions.

Unless the context in which used clearly requires a different meaning, as used in this article:

"Public agency" means the State of West Virginia, counties, municipalities, towns, boards of education, public service districts and other political subdivisions of this state.

"Public works" includes roads, highways, streets, bridges, sidewalks, sewage systems, buildings, engineering and architectural works, and any other structure, facility or improvement constructed or undertaken by a public agency.

"Aluminum, glass and steel products" means products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated, or otherwise similarly processed from aluminum, glass and steel; "domestic aluminum, glass and steel products" means aluminum, glass and steel products made in the United States.

§5-19-2. Preference for domestic aluminum, glass and steel products; mandatory contract provisions; exceptions.

(a) Every state spending unit, as defined in chapter five-a, shall require that every contract or subcontract for the construction, reconstruction, alteration, repair, improvement or maintenance of public works or for the purchase of any item of machinery or equipment to be used at sites of public works contain a provision that, if any aluminum, glass or steel products are to be supplied in the performance of the contract, or subcontract, only domestic aluminum, glass or steel products shall be supplied unless the spending officer, as defined in chapter five-a, determines, in writing, after the receipt of offers or bids, that the cost of domestic aluminum, glass or steel products is unreasonable or inconsistent with the public interest or that domestic aluminum, glass or steel products are not produced in sufficient quantities to meet the contract requirements: Provided, That this article applies to any public works contract awarded in an amount more than \$50,000, and with regard to steel only, this article applies to any public works contract awarded in an amount more than \$50,000 or requiring more than ten thousand pounds of steel products.

(b) The commissioner of finance and administration shall issue rules which provide that, for purposes of this article, the bid or offered price of any aluminum, glass or steel products of domestic origin, as defined in section one of this article (including any applicable duty), is not unreasonable if it does not exceed the sum of a differential of twenty percent of the bid or offered price of the aluminum, glass or steel products of foreign origin: Provided, That if such products are produced in a "substantial labor surplus area" as defined by the United States department of labor, the differential applied under this article shall be thirty percent.

§5-19-3. Contract payments; recovery in cases of violation of article.

A public agency may not authorize or make any payments to a contractor under a contract which contains or should contain the provision required by section two of this article unless such contractor has fully complied with such provision. Prior to such payment, the public agency shall require sworn certificates of compliance from all contractors, subcontractors and suppliers whose work involved the supplying of aluminum, glass or steel products. Payments made by a public agency to any contractor who did not comply with this article may be recovered by such agency.

§5-19-4. Bid or offered price of steel products of foreign origin.

If prior to the award of a contract under this article, the spending officer, as defined in chapter five-a, determines that there exists a bid or offered price of like aluminum, glass or steel products of foreign origin that is reasonable and lower than the lowest bid or offered price of aluminum, glass or steel products of domestic origin, the spending officer, as defined in chapter five-a, may request in writing a reevaluation and reduction in the lowest bid offered price of such products of domestic origin.

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