

EXECUTIVE DEPARTMENT

STATE OF CALIFORNIA

EXECUTIVE ORDER W-27-92

WHEREAS, California state government takes an active role in encouraging the development of new industry and supports existing in-state firms to ensure a stable employment base and future employment growth opportunities; and

WHEREAS, a number of in-state firms conduct export sales business with foreign countries, many of whom impose offset requirements on U.S. firms as a condition of sale; and

WHEREAS, offsets are defined as an obligation, assumed as a result of a sale of products or services to a foreign customer, whereby a percentage of the contract price is returned to that country through a range of industrial and commercial compensation programs; and

WHEREAS, the State of California, by virtue of its purchase of goods and services containing foreign content, has the opportunity to claim foreign purchase offset credits for assignment to companies engaged in export sales; and

WHEREAS, foreign purchase offset credits generated by the State can reduce offset obligations by firms, thereby providing the opportunity to keep work and employment within the state;

NOW, THEREFORE, I, PETE WILSON, Governor of the State of California, by virtue of the power and authority vested in me by the Constitution and statutes of the State of California, do hereby issue this order to become effective immediately:

A. PROGRAM STRUCTURE

1. Executive Order W-19-91 established the California State Offset Program. This order supersedes Executive Order W-19-91.
2. The California State Offset Program is hereby established and will be administered by the California Department of Commerce (Commerce) and will be supported by all California state purchasing agencies. The program was established to obtain offset credits for products and services with foreign content procured by the State of California. The offset credits will be allocated by Commerce to California companies with potential or existing offset obligations.
3. The State's purchasing agencies, led by the Department of General Services, shall request potential vendors to identify the foreign content of their goods and services. Such information shall be sought but have "no preferences, no penalty" on procurement decisions.
4. Commerce, working with state purchasing agencies, shall develop language to be inserted into all procurement documents which shall request that state contractors donate to Commerce the foreign content of any goods or services purchased by the State. The Department of Commerce shall also develop guidelines to establish minimum thresholds at which offset requests will be triggered.

5. Commerce will match offset credits donated by state contractors with California companies having existing or potential offset obligations. Commerce shall assign the offset credit to the California company which scores the most points, based upon the criteria below.

B. CALIFORNIA CONTRACTOR INFORMATION DATA BASE

1. Commerce will establish and maintain an information_data base containing all relevant information necessary for Commerce to allocate offset credits.
2. Each participating company shall be responsible for ensuring that the information they supply for the data base is current and correct. Information to be provided will include:
 - (a) Name, address, and phone number of company requesting the offset (Company), contact person and title;
 - (b) Country where the offset is needed;
 - (c) An identification of the Company as a prime contractor or subcontractor;
 - (d) Date by which the offset must be satisfied or fulfilled;
 - (e) Information as to whether the Company has submitted a bid or received a contract from a contracting country;
 - (f) Number of employees employed in California;
 - (g) Original amount of obligation for which offset credits are being requested from Commerce, amount of offset credits still required, and the time remaining to fulfill the obligation;
 - (h) Number of California person-years employed on the program; and
 - (i) Any other items required by Commerce.

C. STATE ALLOCATION FOR INTENDED PROCUREMENT

The State shall assign foreign offset credits to eligible California businesses in accordance with the following:

1. The Company has an existing or potential offset obligation.
2. Those eligible California businesses with existing obligations shall take precedence over California businesses with potential obligations.
3. Allocation of offset credits to contractors shall be based on criteria such as: date by which obligation must be met; California program employment, value of the obligation compared to available offset; whether a Company has received other offsets from the State for the same program offset requirements; and other criteria as determined by Commerce.

D. FOREIGN NEGOTIATIONS

It is the responsibility of the Company to negotiate with the foreign government as to the acceptability of the State's offset credit.

E. OFFSET CREDIT CONFIREATION/DERIAL

The Company will report the foreign government's acceptance or denial of state-generated offset credits to Commerce, as well as any other information required by Commerce. Failure to comply with the requirements established by Commerce may result in suspension from the program.

F. GOVERNOR'S OFFSET ADVISORY BOARD

The Governor shall appoint the Chair and Members of the Offset Program Advisory Board to assist Commerce in implementing the California State Offset Program.

Advisory Board members will include representatives of the California purchasing agencies, the California business community engaged in foreign sales that generate offset obligations and, as an ex-officia member, the Governor's Trade Representative. The Board shall aid Commerce in formulating policies and discussing problems related to the administration of this executive order.

G. ASSISTANCE OF STATE PROCUREMENT AGENCIES

The Departments of Finance and General Services are instructed to issue Management Memos and include provisions in the State Administrative Manual which implement this order. Further, these departments are to ensure that all state contracts, Invitations for Bids, and Requests for Proposal over the Commerce-determined threshold dollar amount shall include the following language:

"The State of California, in cooperation with California industry, has developed a program whereby the State of California intends to assign the offset credits associated with the foreign content of their purchases to a California company which has offset commitments in that foreign country, for use as full or partial satisfaction of the California company's offset obligation in that country. The supplier agrees to support the California company in its claim for offset credit and provide assistance to the California company, provided that the supplier does not plan to utilize the credits for its own benefit."

IN WITNESS WHEREOF I have hereunto set my hand
and caused the Great Seal of the State of
California to be affixed this 9th day of
April 1992.

Governor of California

ATTEST:

Secretary of State