

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE
LAST UPDATED 2-2-2006 **HB** _____

SPONSOR Altamirano

SHORT TITLE Protect Certain Small Businesses **SB** 652

ANALYST Dearing

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY06	FY07	FY08		
	NFI			

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Regulation and Licensing Department (RLD)

SUMMARY

Synopsis of Bill

Senate Bill 652 provides for several changes to Section 13-1-21 NMSA 1978, Public Purchases and Property.

Generally, Senate Bill 652 defines “bid,” “disadvantaged-small business,” and “proposal.” The bill cleans language that is currently found within this section relating to New York state business procurement, and defines New York businesses as resident business, removing differential status for the purposes of reciprocity of procurement, necessary due to amendments within the New York statutes. Lastly, this legislation exempts construction industries and contracts, including materials from preferential bidding parameters.

Similarly, new preferential bid limits and parameters are established for disadvantaged small businesses, when these are the sole preference factor, as well as when this category is used in conjunction with other preference factors such as resident business and small business.

FISCAL IMPLICATIONS

*Indeterminate fiscal impact. Potential negative fiscal impact level is determinate upon the volume of preferred bids accepted, as these bids could tend to be slightly more expensive than the actual lowest bid, irrespective of bid (business) category. Preferential bids could increase with the passage of this bill.

SIGNIFICANT ISSUES

As currently written, Section 13-1-21 a.) NMSA 1978 defines “recycled content goods”

As enacted, the Section 13-1-21 a.) 1, 2, & 3 NMSA 1978 is expanded and clauses are inserted to define “bid” according to 13-1-102 NMSA 1978, “disadvantaged small business” as a resident business, one with 51% majority ownership by; females, honorably discharged veterans, to include those disabled, & all others defined to be minority as specified by the minority development agency of the U.S. Department of Commerce, and “proposal” according to Section 13-1-102 NMSA 1978

As currently written, Section 13-1-21 a.) 1) NMSA 1978 defines “resident business” as a New Mexico resident business, or a New York State business authorized to do business within the state, under the applicable laws.

As enacted, Section 13-1-21 a.) 5 NMSA 1978 redefines “resident business” as one which is authorized to do business in the state, and removes New York state-specific language from this subsection.

As currently written, Section 13-1-21 a.) 3) NMSA 1978 defines New York state businesses of all forms, in most industries as one having a principle office within the borders of that state.

As enacted, Section 13-1-21 a.) 3) NMSA 1978 is removed from the statutes.

As currently written, Section 13-1-21 a.) 4) NMSA 1978 defines “resident manufacturer” and includes a stipulation that a New York state business is a resident manufacturer in order to evaluate that business’s bid against the bid of a resident manufacturer, which is not a New York state business.

As enacted, Section 13-1-21 a.) 1) NMSA 1978 the clause that applies to New York state businesses is removed.

As enacted, Section 13-1-21 a.) 7) NMSA 1978 is inserted to define “small business” as a resident business as defined in Section 13-1-21 a.) 5) NMSA 1978.

As enacted, exceptions are created in Section 13-1-21 m.) 1 & 2 NMSA 1978 such that all provisions of this do not apply to construction contracts, construction service contracts, maintenance contracts, or those construction contracts based on unit pricing; as well as those materials used for in these contracts.

As enacted, Section 13-1-21 n.) NMSA 1978 is inserted such that when a bid from a small business is received, and the lowest bid is from either a non-resident or a resident business that is

not defined as small, the bid is awarded to the small business closest to the low bid, as long as the small business bid, when multiplied by .90, is lower than the others. When a bid preference is both small and resident, the preferential award may not exceed 10%.

As enacted, Section 13-1-21 o.) NMSA 1978 is inserted such that when a bid from a disadvantaged small business is received, and the lowest bid is from either a non-resident or a resident business that is not defined as small & disadvantaged, the bid is awarded to the disadvantaged small business closest to the low bid, as long as the disadvantaged small business bid, when multiplied by .85, is lower than the others. When a bid preference is both disadvantaged-small and resident, the preferential award may not exceed 15%.

As enacted, Section 13-1-21 p.) NMSA 1978 is inserted such that price-inclusive proposals from resident businesses are multiplied by .95 before evaluation points are awarded, as outlined in the RFP.

As enacted, Section 13-1-21 q.) NMSA 1978 is inserted such that price-inclusive proposals from small businesses are multiplied by .90 before evaluation points are awarded, as outlined in the RFP. When a bid preference is both small and resident, the preferential award may not exceed 10%.

As enacted, Section 13-1-21 r.) NMSA 1978 is inserted such that price-inclusive proposals from disadvantaged small businesses are multiplied by .85 before evaluation points are awarded, as outlined in the RFP. When a bid preference is both disadvantaged-small and resident, the preferential award may not exceed 15%

As enacted, Section 13-1-21.2 a.) NMSA 1978, Equal Procurement Access for New York Businesses, is amended to be more concise. This section previously referred to prior amendments to New York law that made reciprocity of procurement statutes necessary between NY & NM, however the amendment establishes the same reciprocity of procurement, albeit more concisely.

As enacted, Section 13-1-22 a.), b.), & c.) are amended to include disadvantaged-small and small business language, to the existing resident business language, for the application and submission of certificate of preferred business bids.

Some possible legal implications giving resident businesses versus non resident businesses preference based on the commerce clause of the United States Constitution.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Sections 13-1-21 & 13-1-22 NMSA 1978 will remain as written.

PD/nt