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HOUSE BILL 455

**48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

INTRODUCED BY

Rick Miera

AN ACT

RELATING TO PROCUREMENT; REQUIRING BIDDERS FOR PUBLIC WORKS  
CONSTRUCTION PROJECTS FOR SCHOOL DISTRICTS AND SCHOOL BOARDS TO  
SUBMIT PROOF WITH COMPETITIVE QUALIFICATIONS-BASED PROPOSALS OF  
THE PROVISION OF MINIMUM WAGES AND FAMILY HEALTH CARE AND OF  
THE REQUIREMENT OF DRUG AND BACKGROUND CHECKS WITH RESPECT TO  
EMPLOYEES OF THE BIDDER AND ITS SUBCONTRACTORS; DECLARING AN  
EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 13-1-111 NMSA 1978 (being Laws 1984,  
Chapter 65, Section 84, as amended) is amended to read:

"13-1-111. COMPETITIVE SEALED PROPOSALS--CONDITIONS FOR  
USE.--

A. Except as provided in Subsection G of Section  
13-1-119.1 NMSA 1978, when a state agency or a local public

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1 body is procuring professional services or a design and build  
2 project delivery system, or when the state purchasing agent, a  
3 central purchasing office or a designee of either officer makes  
4 a written determination that the use of competitive sealed  
5 bidding for items of tangible personal property or services is  
6 either not practicable or not advantageous to the state agency  
7 or a local public body, a procurement shall be effected by  
8 competitive sealed proposals.

9 B. Competitive sealed proposals may also be used  
10 for contracts for construction and facility maintenance,  
11 service and repairs.

12 C. Competitive qualifications-based proposals shall  
13 be used for procurement of professional services of architects,  
14 engineers, landscape architects, construction managers and  
15 surveyors who submit proposals pursuant to Sections 13-1-120  
16 through 13-1-124 NMSA 1978.

17 D. A bidder for a public works construction project  
18 for a school district or a local school board that submits a  
19 competitive qualifications-based proposal to that school  
20 district or local school board shall submit with that proposal:

21 (1) proof that the bidder:

22 (a) provides wages to its employees in  
23 accordance with the Public Works Minimum Wage Act;

24 (b) provides family health care to its  
25 employees; and

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1                   (c) legally and contractually requires  
2 its employees to submit to drug and background tests as a  
3 condition of employment; and

4                   (2) proof that each subcontractor under  
5 contract to the bidder that will perform work or labor or  
6 render service to the bidder for that public works construction  
7 project:

8                   (a) provides wages to that  
9 subcontractor's employees in accordance with the Public Works  
10 Minimum Wage Act;

11                   (b) provides family health care to that  
12 subcontractor's employees; and

13                   (c) legally and contractually requires  
14 that subcontractor's employees to submit to drug and background  
15 tests as a condition of employment.

16                   ~~[D.]~~ E. Competitive sealed proposals shall also be  
17 used for contracts for the design and installation of measures,  
18 the primary purpose of which is to conserve natural resources,  
19 including guaranteed utility savings contracts entered into  
20 pursuant to the Public Facility Energy Efficiency and Water  
21 Conservation Act.

22                   ~~[E.]~~ F. The governor shall appoint an advisory  
23 committee to provide assistance in development of rules for the  
24 implementation of this section. The advisory committee shall  
25 include one representative from the New Mexico building and

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1 construction trades council, American federation of labor and  
2 congress for industrial organizations, and a representative of:

3 (1) the associated general contractors - New  
4 Mexico building branch;

5 (2) the New Mexico chapter of the national  
6 electrical contractors association;

7 (3) the New Mexico sheet metal contractors  
8 association;

9 (4) the mechanical contractors association of  
10 New Mexico;

11 (5) the New Mexico association of counties;

12 (6) the New Mexico municipal league;

13 (7) the public education department;

14 (8) the construction industries commission;

15 (9) the Rio Grande underground contractors  
16 association;

17 (10) the American subcontractors association  
18 of New Mexico;

19 (11) the higher education community; and

20 (12) the general public, who is not associated  
21 with the construction industry and who will serve as chair of  
22 the committee."

23 Section 2. EMERGENCY.--It is necessary for the public  
24 peace, health and safety that this act take effect immediately.