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AN ACT

RELATING TO PROCUREMENT; AMENDING THE RESIDENT VETERAN  
BUSINESS PREFERENCE; REPEALING LAWS 2012, CHAPTER 56, SECTION  
2 AND LAWS 2012, CHAPTER 56, SECTION 6.

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

SECTION 1. Section 13-1-21 NMSA 1978 (being Laws 1979,  
Chapter 72, Section 1, as amended) is amended to read:

"13-1-21. APPLICATION OF PREFERENCES.--

A. For the purposes of this section:

(1) "business" means a commercial enterprise  
carried on for the purpose of selling goods or services,  
including growing, producing, processing or distributing  
agricultural products;

(2) "formal bid process" means a competitive  
bid process;

(3) "formal request for proposals process"  
means a competitive proposal process, including a competitive  
qualifications-based proposal process;

(4) "public body" means a department,  
commission, council, board, committee, institution,  
legislative body, agency, government corporation, educational  
institution or official of the executive, legislative or  
judicial branch of the government of the state or a political  
subdivision of the state and the agencies, instrumentalities

1 and institutions thereof, including two-year post-secondary  
2 educational institutions, school districts, local school  
3 boards and all municipalities, including home-rule  
4 municipalities;

5 (5) "recycled content goods" means supplies  
6 and materials composed twenty-five percent or more of  
7 recycled materials; provided that the recycled materials  
8 content meets or exceeds the minimum content standards  
9 required by bid specifications;

10 (6) "resident business" means a business  
11 that has a valid resident business certificate issued by the  
12 taxation and revenue department pursuant to Section 13-1-22  
13 NMSA 1978 but does not include a resident veteran business;  
14 and

15 (7) "resident veteran business" means a  
16 business that has a valid resident veteran business  
17 certificate issued by the taxation and revenue department  
18 pursuant to Section 13-1-22 NMSA 1978.

19 B. Except as provided in Subsection C of this  
20 section, when a public body makes a purchase using a formal  
21 bid process, the public body shall deem a bid submitted by a:

22 (1) resident business to be five percent  
23 lower than the bid actually submitted; or

24 (2) resident veteran business with annual  
25 gross revenues of up to three million dollars (\$3,000,000) in

1 the preceding tax year to be ten percent lower than the bid  
2 actually submitted.

3 C. When a public body makes a purchase using a  
4 formal bid process and the bids are received for both  
5 recycled content goods and nonrecycled content goods, the  
6 public body shall deem:

7 (1) bids submitted for recycled content  
8 goods from any business, except a resident veteran business,  
9 to be five percent lower than the bids actually submitted; or

10 (2) bids submitted for recycled content  
11 goods from a resident veteran business with annual gross  
12 revenues of up to three million dollars (\$3,000,000) in the  
13 preceding tax year to be ten percent lower than the bids  
14 actually submitted.

15 D. When a public body makes a purchase using a  
16 formal request for proposals process, not including contracts  
17 awarded on a point-based system, the public body shall award  
18 an additional:

19 (1) five percent of the total weight of all  
20 the factors used in evaluating the proposals to a resident  
21 business; and

22 (2) ten percent of the total weight of all  
23 the factors used in evaluating the proposals to a resident  
24 veteran business that has annual gross revenues of up to  
25 three million dollars (\$3,000,000) in the preceding tax year.

1           E. When a public body makes a purchase using a  
2 formal request for proposals process, and the contract is  
3 awarded based on a point-based system, the public body shall  
4 award additional points equivalent to:

5                   (1) five percent of the total possible  
6 points to a resident business; or

7                   (2) ten percent of the total possible points  
8 to a resident veteran business that has annual gross revenues  
9 of up to three million dollars (\$3,000,000) in the preceding  
10 tax year.

11           F. When a joint bid or joint proposal is submitted  
12 by a combination of resident veteran, resident or nonresident  
13 businesses, the preference provided pursuant to Subsection B,  
14 C, D or E of this section shall be calculated in proportion  
15 to the percentage of the contract, based on the dollar amount  
16 of the goods or services provided under the contract, that  
17 will be performed by each business as specified in the joint  
18 bid or proposal.

19           G. A resident veteran business shall not benefit  
20 from the preference pursuant to this section for more than  
21 ten consecutive years. A person that is an owner of a  
22 business that is a resident veteran business shall not  
23 benefit from the preference pursuant to this section for more  
24 than ten consecutive years. A person shall not benefit from  
25 the provisions of this section based on more than one

1 business concurrently.

2 H. A public body shall not award a business both a  
3 resident business preference and a resident veteran business  
4 preference.

5 I. The procedures provided in Sections 13-1-172  
6 through 13-1-183 NMSA 1978 or in an applicable purchasing  
7 ordinance apply to a protest to a public body concerning the  
8 awarding of a contract in violation of this section.

9 J. This section shall not apply when the  
10 expenditure includes federal funds for a specific purchase."

11 SECTION 2. Section 13-4-2 NMSA 1978 (being Laws 1984,  
12 Chapter 66, Section 2, as amended) is amended to read:

13 "13-4-2. APPLICATION OF PREFERENCE.--

14 A. For the purposes of this section:

15 (1) "formal bid process" means a competitive  
16 sealed bid process;

17 (2) "formal request for proposals process"  
18 means a competitive sealed proposal process, including a  
19 competitive sealed qualifications-based proposal process;

20 (3) "public body" means a department,  
21 commission, council, board, committee, institution,  
22 legislative body, agency, government corporation, educational  
23 institution or official of the executive, legislative or  
24 judicial branch of the government of the state or a political  
25 subdivision of the state and the agencies, instrumentalities

1 and institutions thereof, including two-year post-secondary  
2 educational institutions, school districts, local school  
3 boards and all municipalities, including home-rule  
4 municipalities;

5 (4) "public works contract" means a contract  
6 for construction, construction management, architectural,  
7 landscape architectural, engineering, surveying or interior  
8 design services;

9 (5) "resident contractor" means a person  
10 that has a valid resident contractor certificate issued by  
11 the taxation and revenue department pursuant to Section  
12 13-1-22 NMSA 1978 but does not include a resident veteran  
13 contractor; and

14 (6) "resident veteran contractor" means a  
15 person that has a valid resident veteran contractor  
16 certificate issued by the taxation and revenue department  
17 pursuant to Section 13-1-22 NMSA 1978.

18 B. For the purpose of awarding a public works  
19 contract using a formal bid process, a public body shall deem  
20 a bid submitted by a:

21 (1) resident contractor to be five percent  
22 lower than the bid actually submitted; or

23 (2) resident veteran contractor with annual  
24 gross revenues of up to three million dollars (\$3,000,000) in  
25 the preceding tax year to be ten percent lower than the bid

1 actually submitted.

2 C. When a public body awards a contract using a  
3 formal request for proposals process, not including contracts  
4 awarded on a point-based system, the public body shall award  
5 an additional:

6 (1) five percent of the total weight of all  
7 the factors used in evaluating the proposals to a resident  
8 contractor; or

9 (2) ten percent of the total weight of all  
10 the factors used in evaluating the proposals to a resident  
11 veteran contractor that has annual gross revenues of up to  
12 three million dollars (\$3,000,000) in the preceding tax year.

13 D. When a public body makes a purchase using a  
14 formal request for proposals process, and the contract is  
15 awarded based on a point-based system, the public body shall  
16 award an additional of the equivalent of:

17 (1) five percent of the total possible  
18 points to a resident contractor; or

19 (2) ten percent of the total possible points  
20 to a resident veteran contractor that has annual gross  
21 revenues of up to three million dollars (\$3,000,000) in the  
22 preceding tax year.

23 E. When a joint bid or joint proposal is submitted  
24 by a combination of resident veteran, resident or nonresident  
25 contractors, the preference provided pursuant to Subsection

1 B, C or D of this section shall be calculated in proportion  
2 to the percentage of the contract, based on the dollar amount  
3 of the goods or services provided under the contract, that  
4 will be performed by each contractor as specified in the  
5 joint bid or joint proposal.

6 F. A resident veteran contractor shall not benefit  
7 from the preference pursuant to this section for more than  
8 ten consecutive years. A person that is an owner of a  
9 business that is a resident veteran contractor shall not  
10 benefit from the preference pursuant to this section for more  
11 than ten consecutive years. A person shall not benefit from  
12 the provisions of this section based on more than one  
13 business concurrently.

14 G. A public body shall not award a contractor both  
15 a resident contractor preference and a resident veteran  
16 contractor preference.

17 H. The procedures provided in Sections 13-1-172  
18 through 13-1-183 NMSA 1978 or in an applicable purchasing  
19 ordinance apply to a protest to a public body concerning the  
20 awarding of a contract in violation of this section."

21 **SECTION 3.** A new section of the Procurement Code is  
22 enacted to read:

23 "DUTY TO PROMULGATE RULES.--The secretary of general  
24 services shall promulgate rules necessary to implement the  
25 provisions of this 2016 act."



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SECTION 4. REPEAL.--Laws 2012, Chapter 56, Section 2  
and Laws 2012, Chapter 56, Section 6 are repealed.

SECTION 5. EFFECTIVE DATE.--The effective date of the  
provisions of this act is July 1, 2016.\_\_\_\_\_