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AN ACT

RELATING TO PROCUREMENT; REQUIRING A PROCURING STATE AGENCY OR LOCAL PUBLIC BODY TO INDICATE THE APPLICABLE PUBLIC OFFICIALS FOR WHICH DISCLOSURE OF CAMPAIGN CONTRIBUTIONS BY PROSPECTIVE CONTRACTORS IS REQUIRED PURSUANT TO THE PROCUREMENT CODE; PROVIDING FOR THE ISSUANCE OF CAMPAIGN CONTRIBUTION DISCLOSURE FORMS AS PART OF REQUESTS FOR COMPETITIVE SEALED PROPOSALS; ALLOWING REMEDIES PROVIDED BY THE PROCUREMENT CODE TO BE USED FOR VIOLATIONS OF THE CAMPAIGN CONTRIBUTION DISCLOSURE REQUIREMENTS FOR PROSPECTIVE CONTRACTORS.

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

Section 1. Section 13-1-112 NMSA 1978 (being Laws 1984, Chapter 65, Section 85, as amended) is amended to read:

"13-1-112. COMPETITIVE SEALED PROPOSALS--REQUEST FOR PROPOSALS.--

A. Competitive sealed proposals, including competitive qualifications-based proposals, shall be solicited through a request for proposals that shall be issued and shall include:

(1) the specifications for the services or items of tangible personal property to be procured;

(2) all contractual terms and conditions applicable to the procurement;

1 (3) the form for disclosure of campaign
2 contributions given by prospective contractors to applicable
3 public officials pursuant to Section 13-1-191.1 NMSA 1978;
4 and

5 (4) the location where proposals are to be
6 received and the date, time and place where proposals are to
7 be received and reviewed.

8 B. A request for proposals may, pursuant to
9 Section 13-1-95.1 NMSA 1978, require that all or a portion of
10 a responsive proposal be submitted electronically.

11 C. In the case of requests for competitive
12 qualifications-based proposals, price shall be determined by
13 formal negotiations related to scope of work."

14 Section 2. Section 13-1-191.1 NMSA 1978 (being Laws
15 2006, Chapter 81, Section 1) is amended to read:

16 "13-1-191.1. CAMPAIGN CONTRIBUTION DISCLOSURE AND
17 PROHIBITION.--

18 A. This section applies to prospective contractors
19 with the state or a local public body.

20 B. A prospective contractor subject to this
21 section shall disclose all campaign contributions given by
22 the prospective contractor or a family member or
23 representative of the prospective contractor to an applicable
24 public official of the state or a local public body during
25 the two years prior to the date on which a proposal is

1 submitted or, in the case of a sole source or small purchase
2 contract, the two years prior to the date on which the
3 contractor signs the contract, if the aggregate total of
4 contributions given by the prospective contractor or a family
5 member or representative of the prospective contractor to the
6 public official exceeds two hundred fifty dollars (\$250) over
7 the two-year period.

8 C. The disclosure shall indicate the date, the
9 amount, the nature and the purpose of the contribution. The
10 disclosure statement shall be on a form developed and made
11 available electronically by the department of finance and
12 administration to all state agencies and local public bodies.
13 The state agency or local public body that procures the
14 services or items of tangible personal property shall
15 indicate on the form the name or names of every applicable
16 public official, if any, for which disclosure is required by
17 a prospective contractor for each competitive sealed
18 proposal, sole source or small purchase contract. The form
19 shall be filed with the state agency or local public body as
20 part of the competitive sealed proposal, or in the case of a
21 sole source or small purchase contract, on the date on which
22 the contractor signs the contract.

23 D. A prospective contractor submitting a
24 disclosure statement pursuant to this section who has not
25 contributed to an applicable public official, whose family

1 members have not contributed to an applicable public official
2 or whose representatives have not contributed to an
3 applicable public official shall make a statement that no
4 contribution was made.

5 E. A prospective contractor or a family member or
6 representative of the prospective contractor shall not give a
7 campaign contribution or other thing of value to an
8 applicable public official or the applicable public
9 official's employees during the pendency of the procurement
10 process or during the pendency of negotiations for a sole
11 source or small purchase contract.

12 F. A solicitation or proposed award for a proposed
13 contract may be canceled pursuant to Section 13-1-181 NMSA
14 1978 or a contract that is executed may be ratified or
15 terminated pursuant to Section 13-1-182 NMSA 1978 if:

16 (1) a prospective contractor fails to submit
17 a fully completed disclosure statement pursuant to this
18 section; or

19 (2) a prospective contractor or family
20 member or representative of the prospective contractor gives
21 a campaign contribution or other thing of value to an
22 applicable public official or the applicable public
23 official's employees during the pendency of the procurement
24 process.

25 G. As used in this section:

1 (1) "applicable public official" means a
2 person elected to an office or a person appointed to complete
3 a term of an elected office, who has the authority to award
4 or influence the award of the contract for which the
5 prospective contractor is submitting a competitive sealed
6 proposal or who has the authority to negotiate a sole source
7 or small purchase contract that may be awarded without
8 submission of a sealed competitive proposal;

9 (2) "family member" means a spouse, father,
10 mother, child, father-in-law, mother-in-law, daughter-in-law
11 or son-in-law of:

12 (a) a prospective contractor, if the
13 prospective contractor is a natural person; or

14 (b) an owner of a prospective
15 contractor;

16 (3) "pendency of the procurement process"
17 means the time period commencing with the public notice of
18 the request for proposals and ending with the award of the
19 contract or the cancellation of the request for proposals;

20 (4) "prospective contractor" means a person
21 or business that is subject to the competitive sealed
22 proposal process set forth in the Procurement Code or is not
23 required to submit a competitive sealed proposal because that
24 person or business qualifies for a sole source or small
25 purchase contract; and

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(5) "representative of the prospective contractor" means an officer or director of a corporation, a member or manager of a limited liability corporation, a partner of a partnership or a trustee of a trust of the prospective contractor."

Section 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007. _____