

1 SENATE BILL 490

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

4 Mimi Stewart

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9  
10 AN ACT

11 RELATING TO PUBLIC PURCHASES; AMENDING THE PROCUREMENT CODE TO  
12 PROVIDE FOR GENDER EQUITY.

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

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

17 "13-1-21. APPLICATION OF PREFERENCES.--

18 A. For the purposes of this section:

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

23 (2) "formal bid process" means a competitive  
24 sealed bid process;

25 (3) "formal request for proposals process"

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1 means a competitive sealed proposal process, including a  
2 competitive sealed qualifications-based proposal process;

3 (4) "gender equity of wages and salaries"  
4 means a compilation of data from a business seeking to provide  
5 goods or services to a public body that includes information  
6 sufficient to determine if the business's wages and salaries  
7 paid to its employees are equitable in terms of gender;

8 [~~(4)~~] (5) "public body" means a department,  
9 commission, council, board, committee, institution, legislative  
10 body, agency, government corporation, educational institution  
11 or official of the executive, legislative or judicial branch of  
12 the government of the state or a political subdivision of the  
13 state and the agencies, instrumentalities and institutions  
14 thereof, including two-year post-secondary educational  
15 institutions, school districts, local school boards and all  
16 municipalities, including home-rule municipalities;

17 [~~(5)~~] (6) "recycled content goods" means  
18 supplies and materials composed twenty-five percent or more of  
19 recycled materials; provided that the recycled materials  
20 content meets or exceeds the minimum content standards required  
21 by bid specifications;

22 [~~(6)~~] (7) "resident business" means a business  
23 that has a valid resident business certificate issued by the  
24 taxation and revenue department pursuant to Section 13-1-22  
25 NMSA 1978 but does not include a resident veteran business; and

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1                    [~~7~~] (8) "resident veteran business" means a  
2 business that has a valid resident veteran business certificate  
3 issued by the taxation and revenue department pursuant to  
4 Section 13-1-22 NMSA 1978.

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

8                    (1) resident business to be five percent lower  
9 than the bid actually submitted;

10                    (2) resident veteran business with annual  
11 revenues of one million dollars (\$1,000,000) or less to be ten  
12 percent lower than the bid actually submitted;

13                    (3) resident veteran business with annual  
14 revenues of more than one million dollars (\$1,000,000) but less  
15 than five million dollars (\$5,000,000) to be eight percent  
16 lower than the bid actually submitted subject to the limitation  
17 provided in Subsection [~~G~~] H of this section; and

18                    (4) resident veteran business with annual  
19 revenues of five million dollars (\$5,000,000) or more to be  
20 seven percent lower than the bid actually submitted subject to  
21 the limitation provided in Subsection [~~G~~] H of this section.

22                    C. When a public body makes a purchase using a  
23 formal bid process and the bids are received for both recycled  
24 content goods and nonrecycled content goods, the public body  
25 shall deem:

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

4 (2) bids submitted for recycled content goods  
5 from a resident veteran business with annual revenues of one  
6 million dollars (\$1,000,000) or less to be ten percent lower  
7 than the bids actually submitted;

8 (3) bids submitted for recycled content goods  
9 from a resident veteran business with annual revenues of more  
10 than one million dollars (\$1,000,000) but less than five  
11 million dollars (\$5,000,000) to be eight percent lower than the  
12 bids actually submitted subject to the limitation provided in  
13 Subsection [G] H of this section; and

14 (4) bids submitted for recycled content goods  
15 from a resident veteran business with annual revenues of five  
16 million dollars (\$5,000,000) or more to be seven percent lower  
17 than the bids actually submitted subject to the limitation  
18 provided in Subsection [G] H of this section.

19 D. When a public body makes a purchase using a  
20 formal request for proposals process, not including contracts  
21 awarded on a point-based system, the public body shall award an  
22 additional:

23 (1) five percent of the total weight of all  
24 the factors used in evaluating the proposals to a resident  
25 business;

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1 (2) ten percent of the total weight of all the  
2 factors used in evaluating the proposals to a resident veteran  
3 business that has annual revenues of one million dollars  
4 (\$1,000,000) or less;

5 (3) eight percent of the total weight of all  
6 the factors used in evaluating the proposals to a resident  
7 veteran business that has annual revenues of more than one  
8 million dollars (\$1,000,000) but less than five million dollars  
9 (\$5,000,000) subject to the limitation provided in Subsection  
10 [G] H of this section; and

11 (4) seven percent of the total weight of all  
12 the factors used in evaluating the proposals to a resident  
13 veteran business that has annual revenues of five million  
14 dollars (\$5,000,000) or more subject to the limitation provided  
15 in Subsection [G] H of this section.

16 E. When a public body makes a purchase using a  
17 formal request for proposals process, and the contract is  
18 awarded based on a point-based system, the public body shall  
19 award ~~an~~ additional ~~[of the]~~ points equivalent ~~[of]~~ to:

20 (1) five percent of the total possible points  
21 to a resident business;

22 (2) ten percent of the total possible points  
23 to a resident veteran business that has annual revenues of one  
24 million dollars (\$1,000,000) or less;

25 (3) eight percent of the total possible points

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1 to a resident veteran business that has annual revenues of more  
2 than one million dollars (\$1,000,000) but less than five  
3 million dollars (\$5,000,000) subject to the limitation provided  
4 in Subsection [G] H of this section; and

5 (4) seven percent of the total possible points  
6 to a resident veteran business that has annual revenues of five  
7 million dollars (\$5,000,000) or more subject to the limitation  
8 provided in Subsection [G] H of this section.

9 F. When a public body makes a purchase using a  
10 formal request for proposals process, the public body shall  
11 award an additional equivalent of five percent of the total  
12 possible points to a business that demonstrates gender equity  
13 in its payment of wages and salaries to its employees.

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

22 [~~G-~~] H. The preference pursuant to Paragraphs (3)  
23 and (4) of Subsection B of this section, Paragraphs (3) and (4)  
24 of Subsection C of this section, Paragraphs (3) and (4) of  
25 Subsection D of this section and Paragraphs (3) and (4) of

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1 Subsection E of this section shall be limited, in any calendar  
2 year, to an aggregate of ten million dollars (\$10,000,000) in  
3 purchases by public bodies from all resident veteran businesses  
4 receiving preferences pursuant to the provisions of those  
5 paragraphs.

6 ~~[H.]~~ I. A public body shall not award a business  
7 both a resident business preference and a resident veteran  
8 business preference.

9 ~~[I.]~~ J. The procedures provided in Sections  
10 13-1-172 through 13-1-183 NMSA 1978 or in an applicable  
11 purchasing ordinance apply to a protest to a public body  
12 concerning the awarding of a contract in violation of this  
13 section.

14 ~~[J.]~~ K. This section shall not apply when the  
15 expenditure includes federal funds for a specific purchase."

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