

1 HOUSE BILL 217

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

3 INTRODUCED BY

4 Randal S. Crowder and Bob Wooley and George Dodge, Jr.

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10 AN ACT

11 RELATING TO PROCUREMENT; INCREASING THE CAP FOR RESIDENT
12 VETERAN CONTRACTORS TO QUALIFY FOR A BIDDING PREFERENCE.

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

15 SECTION 1. Section 13-4-2 NMSA 1978 (being Laws 1984,
16 Chapter 66, Section 2, as amended) is amended to read:

17 "13-4-2. APPLICATION OF PREFERENCE.--

18 A. For the purposes of this section:

19 (1) "formal bid process" means a competitive
20 sealed bid process;

21 (2) "formal request for proposals process"
22 means a competitive sealed proposal process, including a
23 competitive sealed qualifications-based proposal process;

24 (3) "public body" means a department,
25 commission, council, board, committee, institution, legislative

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1 body, agency, government corporation, educational institution
2 or official of the executive, legislative or judicial branch of
3 the government of the state or a political subdivision of the
4 state and the agencies, instrumentalities and institutions
5 thereof, including two-year post-secondary educational
6 institutions, school districts, local school boards and all
7 municipalities, including home-rule municipalities;

8 (4) "public works contract" means a contract
9 for construction, construction management, architectural,
10 landscape architectural, engineering, surveying or interior
11 design services;

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

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

21 B. For the purpose of awarding a public works
22 contract using a formal bid process, a public body shall deem a
23 bid submitted by a:

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

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1 (2) resident veteran contractor with annual
2 gross revenues of up to [~~three million dollars (\$3,000,000)~~]
3 ten million dollars (\$10,000,000) in the preceding tax year to
4 be ten percent lower than the bid actually submitted.

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

9 (1) five percent of the total weight of all
10 the factors used in evaluating the proposals to a resident
11 contractor; or

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

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

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

23 (2) ten percent of the total possible points
24 to a resident veteran contractor that has annual gross revenues
25 of up to [~~three million dollars (\$3,000,000)~~] ten million

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1 dollars (\$10,000,000) in the preceding tax year.

2 E. When a joint bid or joint proposal is submitted
3 by a combination of resident veteran, resident or nonresident
4 contractors, the preference provided pursuant to Subsection B,
5 C or D of this section shall be calculated in proportion to the
6 percentage of the contract, based on the dollar amount of the
7 goods or services provided under the contract, that will be
8 performed by each contractor as specified in the joint bid or
9 joint proposal.

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

18 G. A public body shall not award a contractor both
19 a resident contractor preference and a resident veteran
20 contractor preference.

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

25 SECTION 2. EFFECTIVE DATE.--The effective date of the
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1 provisions of this act is July 1, 2017.

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