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City of Las Cruces[®]
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Council Action and Executive Summary

Item # 11 Ordinance/Resolution# 2658

For Meeting of July 16, 2012
 (Ordinance First Reading Date)

For Meeting of August 6, 2012
 (Adoption Date)

Please check box that applies to this item:

QUASI JUDICIAL LEGISLATIVE ADMINISTRATIVE

TITLE: AN ORDINANCE AMENDING SECTION 24-1 AND SECTION 24-100 OF THE LAS CRUCES MUNICIPAL CODE TO COMPLY WITH CHANGES TO STATE OF NEW MEXICO STATUTES §13-1-21, §13-1-22, AND §13-4-2 AS AMENDED BY THE 2012 NEW MEXICO LEGISLATURE THROUGH HOUSE BILL 97.

PURPOSE(S) OF ACTION:

Amend Sections 24-1 and 24-100 of the Las Cruces Municipal Code.

COUNCIL DISTRICT: N/A		
<u>Drafter/Staff Contact:</u> Robert Telles	<u>Department/Section:</u> Finance/Purchasing	<u>Phone:</u> 541-2514
<u>City Manager Signature:</u>		

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

The City of Las Cruces is subject to §13-1-21, §13-1-22, and §13-4-2, NMSA, 1978, of New Mexico statutes that stipulate preferences in awarding contracts to New Mexico resident businesses or businesses offering recyclable materials when such businesses respond to competitive procurement solicitations. House Bill 97 passed during the 2012 legislative session and signed by Governor Martinez amended these statutes and had impact upon Chapter 24 of the Las Cruces Municipal Code. A new preference to businesses owned by veterans and a change to how resident preferences are applied makes it necessary to increase the total preference limit authorized in Chapter 24 from 5% to 10% to allow favor to local businesses. Also, a change to the definitions for resident businesses created a need to update and add a new definition for "local business" to Section 24-1. Additional preferences for recyclable materials, New Mexico materials, and Section 3 firms needed to be added to the chapter as well.

SUPPORT INFORMATION:

1. Ordinance.
2. Exhibit "A", Proposed changes to Section 24-1 of the Las Cruces Municipal Code.
3. Exhibit "B", Proposed changes to Section 24-100 of the Las Cruces Municipal Code.
4. Attachment "A", Tracked changes to Section 24-1 of the Las Cruces Municipal Code.

(Continue on additional sheets as required)

- 5. Attachment "B", Tracked changes to Section 24-100 of the Las Cruces Municipal Code.
- 6. Attachment "C", Summary spreadsheet of preferences.

SOURCE OF FUNDING:

Is this action already budgeted? N/A	Yes	<input type="checkbox"/>	See fund summary below
	No	<input type="checkbox"/>	If No, then check one below:
	<i>Budget Adjustment Attached</i>	<input type="checkbox"/>	Expense reallocated from:
	<input type="checkbox"/>	<input type="checkbox"/>	Proposed funding is from a new revenue source (i.e. grant; see details below)
		<input type="checkbox"/>	Proposed funding is from fund balance in the _____ Fund.
Does this action create any revenue? N/A	Yes	<input type="checkbox"/>	Funds will be deposited into this fund: _____ in the amount of \$ _____ for FY _____
	No	<input type="checkbox"/>	There is no new revenue generated by this action.

BUDGET NARRATIVE

N/A

FUND EXPENDITURE SUMMARY

Fund Name(s)	Account Number(s)	Expenditure Proposed	Available Budgeted Funds in Current FY	Remaining Funds	Purpose for Remaining Funds
N/A	N/A	N/A	N/A	N/A	N/A

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will amend Chapter 24, Section 24-1 and 24-100 of the Las Cruces Municipal Code making the City of Las Cruces in compliance to New Mexico statutes.
2. Vote "No"; this will not approve amendments to Chapter 24, Section 24-1 and 24-100 of the Las Cruces Municipal Code and will provide for a halt in City competitive procurement due to inconsistency between Chapter 24 of the Las Cruces Municipal Code and §13-1-21, §13-1-22, and §13-4-2, NMSA, 1978, of New Mexico statutes that the City is subject to.
3. Vote to "Amend"; this could improve or degrade the needed changes to Chapter 24.
4. Vote to "Table"; this could halt City competitive procurement due to inconsistency between Chapter 24 of the Las Cruces Municipal Code and §13-1-21, §13-1-22, and §13-4-2, NMSA, 1978, of New Mexico statutes that the City is subject to.

(Continue on additional sheets as required)

COUNCIL BILL NO. 13-003
ORDINANCE NO. 2658

AN ORDINANCE AMENDING SECTION 24-1 AND SECTION 24-100 OF THE LAS CRUCES MUNICIPAL CODE TO COMPLY WITH CHANGES TO STATE OF NEW MEXICO STATUTES §13-1-21, §13-1-22, AND §13-4-2 AS AMENDED BY THE 2012 NEW MEXICO LEGISLATURE THROUGH HOUSE BILL 97.

The City Council is informed that:

WHEREAS, for the purpose of regenerating economic activity plus promoting growth in the use of recyclable materials through the expenditure of public funds, members of the New Mexico legislative and executive branches enact statutes that establish preferences for businesses residing within New Mexico and for businesses who offer recyclable materials under competitive procurement processes; and

WHEREAS, §13-1-21, §13-1-22, and §13-4-2, NMSA, 1978, of New Mexico statutes stipulate preferences for businesses residing in New Mexico who have been certified by the New Mexico Taxation and Revenue Department as resident businesses, resident contractors, resident veteran businesses, and resident veteran contractors, who respond to competitive procurement solicitations; and

WHEREAS, §13-1-21, §13-1-22, and §13-4-2, NMSA, 1978, of New Mexico statutes also provide for the application of preference for businesses offering recyclable materials in response to competitive procurement solicitations; and

WHEREAS, House Bill 97 passed during the New Mexico 2012 legislative session and signed by the Governor amended §13-1-21, §13-1-22, and §13-4-2, NMSA, 1978; and

WHEREAS, the City of Las Cruces is subject to §13-1-21, §13-1-22, and §13-4-2, NMSA, 1978, of New Mexico statutes as amended; and

WHEREAS, changes to Sections 24-1 and 24-100 of the Las Cruces Municipal Code are necessary to comply to §13-1-21, §13-1-22, and §13-4-2, NMSA, 1978, as amended; and

WHEREAS, Exhibit "A" and "B" attached hereto, incorporate changes to Sections 24-1 and 24-100 of the Las Cruces Municipal Code necessary for complying with New Mexico statutes.

NOW THEREFORE, Be it ordained by the governing body of the City of Las Cruces:

(I)

THAT the Las Cruces Municipal Code, Chapter 24 be modified to incorporate the changes in Exhibit "A" and "B", as attached hereto.

(II)

THAT City staff is hereby authorized to do all deeds necessary in the accomplishment of the herein above.

DONE AND APPROVED this _____ day of _____ 20__.

APPROVED:

Mayor

ATTEST:

City Clerk

(SEAL)

VOTE:

Mayor Miyagishima: _____

Councillor Silva: _____

Councillor Smith: _____

Councillor Pedroza: _____

Councillor Small: _____

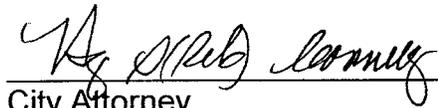
Councillor Sorg: _____

Councillor Thomas: _____

Moved by: _____

Seconded by: _____

APPROVED AS TO FORM:



City Attorney

EXHIBIT A**ARTICLE 1****IN GENERAL****Sec. 24-1. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

All definitions listed within New Mexico statutes Sections 13-1-21, NMSA, 1978, through Section 13-1-199, NMSA, 1978, plus, Sections 13-4-1, NMSA, 1978 through Section 13-4-43, NMSA, 1978, are incorporated herein by reference. Wherever difference exists between such statutory definitions and any definitions within this chapter, the definition of this chapter shall prevail.

Agreement means two or more persons having common understanding about responsibilities, obligations, duties and rights.

Approved equals means approved specifications as established by the industry or the using agency.

Bid means a response to a procurement solicitation issued pursuant to Section 24-91 of this chapter.

Bidder means a person who submits a quote/bid in response to a solicitation for respective, competitive quotes/bids

Blind trust means an independently managed trust in which the employee-beneficiary has no management rights and in which the employee-beneficiary is not given notice of alterations in or other disposition of the property subject to the trust.

Brand name or equal specifications means a specification limited to one or more items by manufacturers' names or catalog numbers to describe the standard of quality, performance, and other salient characteristics needed to meet city requirements, and which provides for the submission of equivalent products.

Business means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity.

Contract means agreement between two or more persons authorized to legally bind their interests by setting forth what each person will or will not do in the procurement of tangible personal property, professional or non-professional services, or construction.

Contract limitations and change orders means a construction related written order pursuant to City Council Resolution 93-211 directing the contractor to make a change, which the contract authorizes with or without the contractor's consent.

Employee means an individual drawing salary or wages from the city, whether elected or not; any uncompensated individual performing personal services for the city or any department, agency, commission, council, board or any other entity established by the executive or legislative branch of the city; and any uncompensated individual serving as an elected official of the city.

Financial interest means:

- (1) Ownership of one percent or more of any property or business; or
- (2) Holding a position in a business such as officer, director, trustee, partner, employee, or the like, or holding any position of management.

Gratuity means anything of value that is presented or promised in anticipation of receiving a consideration, whether or not the consideration is less than, equal to or greater than the value presented or promised.

Invitation for Bid/Invitation to Bid (IFB or ITB) means all documents, whether attached or incorporated by reference, used for soliciting sealed bids whereby award is based upon the lowest price that meets specifications.

Local business means a business that has a valid City Business Certificate issued through the City of Las Cruces Community Development Department.

Offerer (Offeror) means a person submitting a proposal in response to a competitive request for proposals.

Person means any business, individual, union, committee, club, or other organization, or group of individuals.

Pricing data means factual information concerning prices for items substantially similar to those being procured. Prices in this definition refer to offered or proposed selling prices, historical selling prices and current selling prices. The definition refers to data relevant to both prime and subcontract prices.

Procurement means the buying, purchasing, renting, leasing, or otherwise acquiring of any supplies, service, or construction, including needs analysis, specification development, competitive or non-competitive solicitation of sources, contract development, negotiation and execution, and all phases of contract administration.

Proposal means a response to a competitive procurement solicitation issued pursuant to Section 24-92 of this chapter.

Public agency means an administrative division of city, state or federal government

Qualified products list means an approved list of tangible goods, services, or construction items described by model or catalog numbers, which, prior to competitive solicitation, a determination was made that the list met applicable specification requirements.

Quote means a response to a procurement solicitation issued pursuant to Section 24-94 of this chapter.

Request for Proposals (RFP) means a competitive solicitation of proposals conducted for the purchase of goods/services/construction whereby the responses are evaluated considering multiple, weighted criteria and the resulting contract is awarded based upon the response ranked highest considering such criteria...

Request for Quote (RFQ) means a competitive solicitation quotes conducted for the purchase of goods/services/construction whereby award is based upon the lowest price that meets specifications from a local business or non-local business as deemed practical.

Supplies includes tangible goods including but is not limited to equipment, materials, rolling stock, books, fuel, tools, printed media. .

Technical services means research and development (R&D) work, the development and installation of management information systems (MIS), materials requirement planning (MRP) systems, and the development of technical manuals, printing services, and repair services.

Using agency means any department, commission, board, or public agency requiring supplies, services, or construction procured pursuant to this chapter.

ARTICLE III

SOURCE SECTION AND CONTRACT INFORMATION

DIVISION 2

METHODS OF SOURCE SELECTION

Sec. 24-100. Preferences.

(a) *Preference factor.* A preference factor may be applicable to quotes, bids or proposals received in response to procurement solicitations conducted pursuant to Sections 24-91, 24-92 and 24-94 of this chapter.

(1) Except for competitive procurement solicitations that are subject to 53 FR 8033 (Common Rule) as promulgated through the U.S. Office of Management and Budget, a preference factor shall be applicable to local businesses based upon a five percent (5%) deduction from the local business quote or bid, or, five percent (5%) of total evaluation points being added to the score of a proposal from a local business.

(2) Except for competitive procurement solicitations that are subject to 53 FR 8033 (Common Rule) as promulgated through the U.S. Office of Management and Budget, preference factors for resident businesses, resident veteran businesses, resident veteran contractors, resident contractors and for recyclable content goods as defined in §13-1-21, §13-1-22, NMSA, 1978, and §13-4-2, NMSA, 1978, as amended, shall be applicable pursuant to those statutes.

(3) A preference factor for Section 3 firms as defined in the Housing and Urban Development Act of 1968, 12 U.S.C. 17801u (Section 3), as amended, shall be applicable pursuant to that Act whenever a contract resulting from a competitive procurement solicitation is funded through a grant from the U.S. Housing and Urban Development Department.

(b) *New Mexico materials.* Except for competitive procurement solicitations that are subject to 53 FR 8033 (Common Rule) as promulgated through the U.S. Office of Management and Budget, a preference for the use of materials produced, grown, processed or manufactured in New Mexico by citizens or residents of New Mexico shall apply pursuant to §13-4-2, NMSA, 1978, as amended.

(c) *Limitations.* No bidder/offeror entitled to preference pursuant to this section shall receive more than a ten percent preference on any one bid/proposal submitted. Only the principal bidder/offeror or one of the principal bidders/offerors, not a subcontractor, may qualify for a preference.

ARTICLE 1

IN GENERAL

Sec. 24-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

All definitions listed within New Mexico statutes Sections 13-1-21, NMSA, 1978, through Section 13-1-199, NMSA, 1978, plus, Sections 13-4-1, NMSA, 1978 through Section 13-4-43, NMSA, 1978, are incorporated herein by reference. Wherever difference exists between such statutory definitions and any definitions within this chapter, the definition of this chapter shall prevail.

Agreement means two or more persons having common understanding about responsibilities, obligations, duties and rights.

Approved equals means approved specifications as established by the industry or the user agency.

~~Architect-engineer and land surveying services means those professional services within the scope of the practice of architecture, professional engineering, or land surveying, as defined by the laws of the state procurement code.~~

Bid means a response to a procurement solicitation issued pursuant to Section 24-91 of this chapter.

Bidder means a person who submits a quote/bid in response to a solicitation for respective, competitive quotes/bids

Blind trust means an independently managed trust in which the employee-beneficiary has no management rights and in which the employee-beneficiary is not given notice of alterations in or other disposition of the property subject to the trust.

Brand name or equal specifications means a specification limited to one or more items by manufacturers' names or catalog numbers to describe the standard of quality, performance, and other salient characteristics needed to meet city requirements, and which provides for the submission of equivalent products.

~~Brand name specification means a specification limited to one or more items by manufacturers' names or catalog numbers.~~

Business means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity.

~~*Change order* means a written order signed and issued by the purchasing manager, directing the contractor to make changes which the contract authorizes.~~

~~*Confidential information* means any information which is available to an employee only because of the employee's status as an employee of the city and is not a matter of public knowledge or available to the public on request.~~

~~*Construction* means the process of building, altering, improving or demolishing any public structure or building, or other public improvements of any kind to any public real property. It does not include the routine operation, repair, or maintenance of existing structures, buildings, or real property.~~

Contract means agreement between two or more persons authorized to legally bind their interests by setting forth what each person will or will not do in the procurement of tangible personal property, professional or non-professional services, or construction.

~~all types of city agreements, regardless of what they may be called, for the procurement of supplies, services or construction.~~

~~*Contract limitations and change orders* means a construction related written order pursuant to City Council Resolution 93-211 signed and issued as per the contract limitation and change order policy directing the contractor to make a change, which the contract authorizes with or without the contractor's consent.~~

~~*Contract modification (bilateral change)* means any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual action of the parties to the contract.~~

Contractor means an offeror who has been awarded a contract.

~~*Cost analysis* means the evaluation of cost data for the purpose of arriving at costs actually incurred or estimates of costs to be incurred, prices to be paid, and costs to be repaid.~~

~~*Cost data* means factual information concerning the cost of labor, material, overhead, and other cost elements which are expected to be incurred or which have been actually incurred by the contractor in performing the contract.~~

~~*Cost reimbursement contract* means a contract under which a contractor is reimbursed for costs which are allowable and allocable in accordance with the contract terms and this chapter, and a fee or profit, if any.~~

~~*Direct or indirect participation* means involvement through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity.~~

~~*Disadvantaged business* means a small business which is at least 51 percent owned by one or more socially and economically disadvantaged individuals, or for any publicly owned business, at least 51 percent of the stock of which is owned by one or more socially and economically disadvantaged individuals, and whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.~~

~~*Electronic* means electrical, digital, magnetic, optical, electromagnetic, or any other similar technology.~~

Employee means an individual drawing salary or wages from the city, whether elected or not; any uncompensated individual performing personal services for the city or any department, agency, commission, council, board or any other entity established by the executive or legislative branch of the city; and any uncompensated individual serving as an elected official of the city.

~~*External procurement unit* means any procurement organization not located in this state which, if in this state, would qualify as a state agency or a local public body. Any agency of the United States government is an external procurement unit.~~

Financial interest means:

- (1) Ownership of one percent or more of any property or business; or
- (2) Holding a position in a business such as officer, director, trustee, partner, employee, or the like, or holding any position of management.

Gratuity means anything of value that is presented or promised in anticipation of receiving a consideration, whether or not the consideration is less than, equal to or greater than the value presented or promised.

~~*Immediate family* means a spouse, children, parents, brothers, and sisters.~~

Invitation for B-bid/Invitation to Bids (IFB or ITB) means all documents, whether attached or incorporated by reference, used for soliciting sealed bids whereby award is based upon the lowest price that meets specifications.

Local business means a business that has a valid City Business Certificate issued through the City of Las Cruces Community Development Department.

Offerer (Offeror) means a person submitting a proposal in response to a competitive request for proposals.

~~Offeror means the other party's bid/proposal made to enter into a contract that conforms in all material respects to the requirements set forth in the invitation for bids/proposals. Material respects include but are not limited to price, quality, quantity or delivery requirements.~~

Person means any business, individual, union, committee, club, or other organization, or group of individuals.

~~Price analysis means the evaluation of price data, without analysis of the separate cost components and profit as in cost analysis, which may assist in arriving at prices to be paid and cost to be reimbursed.~~

Pricing data means factual information concerning prices for items substantially similar to those being procured. Prices in this definition refer to offered or proposed selling prices, historical selling prices and current selling prices. The definition refers to data relevant to both prime and subcontract prices.

Procurement means the buying, purchasing, renting, leasing, or otherwise acquiring of any supplies, service, or construction, including needs analysis, specification development, competitive or non-competitive solicitation of sources, contract development, negotiation and execution, ~~description of requirements, selection, and solicitation of sources, preparation and award of contract, and all phases of contract administration.~~

~~Professional services means the services of architects, engineers, archaeologists, bond underwriters, financial, computer and insurance consultants, medical arts practitioners, scientists, management and system analysts, certified public accountants, registered public accountants, lawyers, psychologists, planners, researchers and persons or businesses providing similar services.~~

Proposal means a response to a competitive procurement solicitation issued pursuant to Section 24-92 of this chapter.

Public agency means an administrative division of city, state or federal government ~~a public entity subject to or created by the city or the state.~~

Qualified products list means an approved list of tangible goods ~~supplies, services, or construction items described by model or catalog numbers, which, prior to competitive solicitation, a determination was made that the list met the city has determined will meet the applicable specification requirements.~~

Quote means a response to a procurement solicitation issued pursuant to Section 24-94 of this chapter.

Request for Proposals (RFP) means a competitive solicitation of proposals conducted for the purchase of goods/services/construction whereby the responses are evaluated considering multiple, weighted criteria and the resulting contract is awarded based upon the response ranked highest considering such criteria. ~~all documents, whether attached or incorporated by reference, utilized for soliciting proposals.~~

Request for Quote (RFQ) means a competitive solicitation quotes conducted for the purchase of goods/services/construction whereby award is based upon the lowest price that meets specifications from a local business or non-local business as deemed practical.

~~Responsible bidder or offeror~~ means a person who has the capability in all respects to perform fully the contract requirements, and the tenacity, perseverance, experience, integrity, reliability, capacity, facilities, equipment, and credit which will ensure good faith performance.

~~Responsive bidder or offer~~ means a person who has submitted a bid or offer which conforms in all material respects to the requirements set forth in the invitation for bids or request for proposals.

~~Services~~ means the furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports which are merely incidental to the required performance. This term shall not include employment agreements or collective bargaining agreements.

~~Small business~~ means a United States business which is independently owned and which is not dominant in its field of operation or an affiliate or subsidiary of a business dominant in its field of operation.

~~Specification~~ means any description of the physical or functional characteristics or of the nature of a supply, service, or construction item. It may include a description of any requirement for inspecting, testing, or preparing a supply, service, or construction item for delivery.

Supplies includes tangible goods including but is not limited to equipment, materials, rolling stock, books, fuel, tools, printed media, ~~printing and insurance.~~

Technical services means research and development (R&D) work, the development and installation of management information systems (MIS), materials requirement planning (MRP) systems, and the development of technical manuals, printing services, and repair services.

Using agency means any department, commission, board, or public agency requiring supplies, services, or construction procured pursuant to this chapter.

ATTACHMENT "B"

ARTICLE III

SOURCE SECTION AND CONTRACT INFORMATION

DIVISION 2

METHODS OF SOURCE SELECTION

Sec. 24-100. Resident and local preferences.

~~_____ (a) Definitions. For purposes of this section, the following definitions also apply;~~

~~_____ (1) The terms "resident business" and "resident manufacturer" shall be defined as set forth in section 13-1-21 NMSA 1978 and as amended. The term "resident contractor" is defined in section 13-4-2, NMSA 1978 and as amended.~~

~~_____ (2) The terms "local business" and "local manufacturer" shall mean that the business or manufacturer maintains a place of business in the city and that:~~

~~_____ a. Ten or more of its employees are residents of the city or 25 percent or more of its employees are residents of the city, whichever is greater;~~

~~_____ b. If a corporation, 25 percent or of its employees are residents of the city;~~

~~_____ c. If a partnership, its partners owning a majority beneficial interest in the partnership are residents of the city; or~~

~~_____ d. If an individual or sole proprietor, he or she is a resident of the city.~~

~~_____ (ba) Preference factor. The A preference factor for the resident and local preference shall be 0.95 for bids and shall be 1.05 for proposals except for federal funded bids/proposals. Federal funded bids/proposals are not subject to a preference factor. may be applicable to quotes, bids or proposals received in response to procurement solicitations conducted pursuant to Sections 24-91, 24-92 and 24-94 of this chapter.~~

(1) Except for competitive procurement solicitations that are subject to 53 FR 8033 (Common Rule) as promulgated through the U.S. Office of Management and Budget, a preference factor shall be applicable to local businesses based upon a five percent (5%) deduction from the local business quote or bid, or, five percent (5%) of total evaluation points being added to the score of a proposal from a local business.

(2) Except for competitive procurement solicitations that are subject to 53 FR 8033 (Common Rule) as promulgated through the U.S. Office of Management

and Budget, preference factors for resident businesses, resident veteran businesses, resident veteran contractors, resident contractors and for recyclable content goods as defined in §13-1-21, §13-1-22, NMSA, 1978, and §13-4-2, NMSA, 1978, as amended, shall be applicable pursuant to those statutes

(3) A preference factor for Section 3 firms as defined in the Housing and Urban Development Act of 1968, 12 U.S.C. 17801u (Section 3), as amended, shall be applicable pursuant to that Act whenever a contract resulting from a competitive procurement solicitation is funded through a grant from the U.S. Housing and Urban Development Department.

(b) *New Mexico materials.* Except for competitive procurement solicitations that are subject to 53 FR 8033 (Common Rule) as promulgated through the U.S. Office of Management and Budget, a preference for the use of materials produced, grown, processed or manufactured in New Mexico by citizens or residents of New Mexico shall apply pursuant to §13-4-2, NMSA, 1978, as amended.

~~—— (c) *Priority of categories.* The priority of categories for bids and proposals are:~~

~~—— (1) Local manufacturer;~~

~~—— (2) Local business;~~

~~—— (3) Resident manufacturer;~~

~~—— (4) Resident business;~~

~~—— (5) Resident contractor for public works projects.~~

~~—— (d) *Bids for goods and services.* When bids for the purchase of goods or services are received, the lowest bid received from those bidders in the first category listed above shall be multiplied by the preference factor for bids. If the bid receiving the preference is equal to or lower than the lowest bid received, the contract shall be recommended for award to the bidder receiving the preference. If no bids are received from bidders in the first category or if the bid receiving the preference does not qualify for an award after multiplication by the preference factor, the same procedure shall be followed with respect to the next category of bidders listed, and then to the next category until a bid qualifies for recommendation of award. If no bid qualifies for recommendation of award, then the contract shall be recommended for award without regard to resident or local preferences.~~

~~—— (e) *Proposals for goods and services.* When proposals for the purchase of goods or services are received, the evaluation score of the proposal receiving the highest score in the first category listed above shall be multiplied by the preference factor for~~

proposals. If the proposal receiving the preference is equal to or higher than the highest score of all proposals received, the recommendation of award shall be made to the proposer receiving the preference. If no proposals are received from proposers in the first category or if the proposal receiving the preference does not qualify for an award after multiplication by the preference factor, the same procedure shall be followed with respect to the next category of proposers listed above, and then to the next category until a proposal qualifies for recommendation of award. If no proposal qualifies for recommendation of award, then the contract shall be recommended for award without regard to resident or local preferences.

~~_____ (f) *Bids or proposals for public works projects.* Only the resident contractor preferences shall apply to bids or proposals?? for public works projects.~~

~~_____ (g) *Qualification for resident preference.* No resident business or manufacture shall be given any preference in the purchase of goods or services by the city unless it has qualified with the state purchasing agent as a resident business or manufacturer and obtain a certification number as provided in section 13-1-22, NMSA 1978 and as amended. The certification number must be submitted with its bid for an offeror to qualify for this preference. The city purchasing office shall determine if a resident preference is applicable to a particular offer on a case by case basis.~~

~~_____ (h) *Qualification for local preference.* The city purchasing office shall prepare a form to be completed by all the offerors who qualify as a local business or manufacturer. The completed form with the information certified by the offeror must be submitted by the offeror with its bid or proposal for an offeror to qualify for this preference. If the offeror does business within the city limits, it must have a current city business registration.~~

~~_____ (i) *Limitations.* No offeror bidder/offeror entitled to preference pursuant to this section shall receive more than a five-ten percent preference pursuant to this section on any one bid/proposal offer submitted. Only the principal bidder/offeror or one of the principal bidders/offerors, not a subcontractor, may qualify for an offer for a preference.~~

~~_____ (j) *Application.* This section shall not apply to general procurement contracts when bids exceed \$5,000,000.00 and shall not apply to public works projects or federally aided construction projects or when the expenditure of federal funds designed for a specific contract is involved.~~

COMPETITIVE BID/PROPOSAL PREFERENCES			LCMC IMPACT
Description	Preference		
	Before HB97	After HB97	
Local Business	5%	5%	Must update and create new "local business" definition in Section 24-100. Must delete Section 24-100(a)(c)(d)(e)(f)(g)(h) and (j) and replace with new Section 24-100(a)(1)(2) and (3). Must modify Section 24-100(b) specifically for NM Materials preference. Must change Section 24-100(t) to new Section 24-100(c) to increase total preference limit to 10%.
Resident Business <input type="checkbox"/>	5%	5%	
Resident Veteran Business Annual Volume \$1,000,000 or Less Annual Volume \$1,000,000 to \$4,999,999.99 Annual Volume \$5,000,000 or more	DID NOT EXIST	10% 8% 7%	
Resident Contractor <input type="checkbox"/>	5%	5%	
Resident Veteran Contractor Annual Volume \$1,000,000 or Less Annual Volume \$1,000,000 to \$4,999,999.99 Annual Volume \$5,000,000 or more	DID NOT EXIST	10% 8% 7%	
Recyclable Materials from Any Business <input type="checkbox"/>	5%	5%	
Recyclable Materials from Resident Veteran Business Annual Volume \$1,000,000 or Less Annual Volume \$1,000,000 to \$4,999,999.99	DID NOT EXIST	10% 8%	
New Mexico Materials	NOT STATED IN LCMC	0%	
HUD Section 3 Informal Solicitation For Contract \$25,000 or less Quote process Proposal process Formal Sealed Bid Solicitations Contract less than \$100,000 Above \$100,000 but less than \$200,000 \$200,000 but less than \$300,000 \$300,000 but less than \$400,000 \$400,000 but less than \$500,000 \$ 500,000 but less than \$1,000,000 \$1,000,000 but less than \$2,000,000 \$2,000,000 but less than \$4,000,000 \$4,000,000 but less than \$7,000,000 \$7,000,000 or more	NOT STATED IN LCMC	10% 15-25% Lesser of 10% or \$9,000 Lesser of 9% or \$16,000 Lesser of 8% or \$21,000 Lesser of 7% or \$24,000 Lesser of 6% or \$25,000 Lesser of 5% or \$40,000 Lesser of 4% or \$60,000 Lesser of 3% or \$80,000 Lesser of 2% or \$105,000 1.5%	

Resident Business and Veteran Business Preferences cannot be combined.
 Resident Contractor and Veteran Contractor Preferences cannot be combined
 Not subject to OMB "Common Rule" preference restrictions