



STATE OF NEW MEXICO
GENERAL SERVICES DEPARTMENT
PURCHASING DIVISION
JOSEPH MONTOYA BUILDING
1100 ST. FRANCIS DRIVE (87505)
PO DRAWER 26110
SANTA FE, NEW MEXICO 87502-0110
(505) 827-0472

APPLICATION FOR PREFERENCE

GENERAL INSTRUCTIONS

The attached Application for Preference has four (4) parts:

- Part I - "General Information" must be completed by all applicants;
- Part II - Must be completed when the applicant is applying for certification as a Resident Business.
- Part III - Must be completed when the applicant is applying for certification as a **Resident Contractor**; and
- Part IV - "Certification" must be completed by all applicants.

Within Laws of New Mexico, there are two related sections of statute which authorize a 5% Bid Preference to qualified New Mexico Businesses/Contractors:

Section 13-1-21 NMSA 1978, authorizes and sets forth the criteria required for a business to qualify as a **Resident Business**. It is important to note, a resident business preference is applicable to contracts, which typically call for, but is not limited to, the furnishing of tangible personal property, i.e. goods, supplies, materials, equipment, printed materials and certain services. It does not apply, however, in public works or like construction contracts.

Section 13-4-2 NMSA 1978, authorizes and sets forth the criteria required for a contractor to qualify as a **Resident Contractor**.

NOTE: Consistent with Sections 13-1-21 and 13-4-2 NMSA 1978, "resident preference" is applicable to COMPETITIVE BID procurements only. It does not apply when the procurement is solicited by means of a Request for Proposals or, in the procurement of Professional Services. Additionally, any person, firm, corporation, or other legal entity must have all required licenses at the time the application for preference is submitted to the State Purchasing Agent for consideration.

Relevant parts of Sections 13-1-21, 13-1-22 and 13-4-2 NMSA 1978 are on the reverse side of this page for your review.

PLEASE NOTE

All certification numbers are subject to revocation in accordance with applicable GSD rules. A certification number does not establish conclusively that the holder of the number is a resident business and/or contractor. Rather, a certification number merely establishes that the state purchasing agent believed, as of the date of issuance, the holder was entitled to treatment as a resident business and/or contractor by state agencies and local public bodies. Whenever a certification number is challenged, the holder of the number has the burden of persuasion on the issue of whether the holder is actually a resident contractor.

13-1-21. Applicant of preferences.

A. For the purposes of this section:

- (1) "resident business" means a New Mexico resident business or a New York state business enterprise;
- (2) "New Mexico resident business" means a business that is authorized to do and is doing business under the laws of this state and:
 - (a) that maintains its principal place of business in the state; or
 - (b) has staffed an office and has paid applicable state taxes for two years prior to the awarding of the bid and has five or more employees who are residents of the state; or
 - (c) is an affiliate of a business that meets the requirements of Subparagraph (a) or (b) of this paragraph. As used in this section, "affiliate" means an entity that directly or indirectly through one or more intermediaries controls, is controlled by or is under common control with the qualifying business through ownership of voting securities representing a majority of the total voting power of the entity;
- (3) "New York state business enterprise" means a business enterprise, including a sole proprietorship, partnership or corporation, that offers for sale or lease or other form of exchange, goods or commodities that are substantially manufactured, produced or assembled in New York state, or services, other than construction services, that are substantially performed within New York state. For purposes of construction services, a New York state business enterprise means a business enterprise, including a sole proprietorship, partnership or corporation, that has its principal place of business in New York state;
- (4) "resident manufacturer" means a person who offers materials grown, produced, processed or manufactured wholly in the state; provided, however, that a New York state business enterprise shall be deemed to be a resident manufacturer solely for the purpose of evaluating the New York state business enterprise's bid against the bid of a resident manufacturer that is not a New York state business enterprise.

13-1-22. Resident business and manufacturer certification; application; information.

No resident business or resident manufacturer, as those terms are defined in Subsection A of Section 13-1 -2 1 NMSA 1978, shall be given any preference in the awarding of contracts for furnishing materials or services to a state agency, unless the resident business or resident manufacturer shall have qualified with the state purchasing agent as a resident business or resident manufacturer, or both, by making application to the state purchasing agent and receiving from him a certification number.

13-4-2. Resident contractor defined; application of preference.

- A. "Resident contractor" means a New Mexico resident contractor or a New York State business enterprise.
- B. "New Mexico resident contractor" means any person, firm, corporation or other legal entity if, at the time the contract is advertised for bids and at the time bids are opened, it has all required licenses and meets the following requirements:
 - (1) if the bidder is a corporation, it shall be incorporated in New Mexico and maintain its principal office and place of business in New Mexico;
 - (2) if the bidder is a partnership, general or limited, or other legal entity, it shall maintain its principal office and place of business in New Mexico;
 - (3) if the bidder is an individual, he shall maintain his principal office and place of business in New Mexico;
 - (4) "New York state business enterprise" means a business enterprise, including a sole proprietorship, partnership or corporation, that offers for sale or lease or other form of exchange, goods or commodities that are substantially manufactured, produced or assembled in New York state, or services, other than construction services, that are substantially performed within New York state. For purposes of construction services, a New York state business enterprise means a business enterprise, including a sole proprietorship, partnership or corporation that has its principal place of business in New York State.



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APPLICATION FOR PREFERENCES

This application for preference is pursuant to Sections 13-1-21, 13-1-22, and 13-4-2 NMSA 1978.

PART I- GENERAL INFORMATION (must be completed by all applicants).

1. Name of Business : _____
2. Street Address : _____
3. Post Office Box (if any) or Mailing Address if different from question 2. _____
4. City : _____ State : _____ Zip: _____
5. Telephone Number: () _____

NOTE: If your company has more than one office in the state that will be utilizing the "Resident Preference number; attach an additional page listing address of each entity.

6. Federal Tax Identification Number : _____ (May be obtained by visiting your local IRS office, or online at WWW.IRS.ORG.) Note: If not required, use your social security number.
7. Nature of Business (e.g., automobile dealer, electrical contractor, etc.): _____
8. New Mexico Construction Industries Division Contractor's License Number (If applicant is applying as a resident contractor only):

9. Type of Business Organization (check one):

<input type="checkbox"/> Sole Proprietorship	<input type="checkbox"/> Partnership (general or limited)
<input type="checkbox"/> Corporation	<input type="checkbox"/> Public Telecommunications Provider
<input type="checkbox"/> Trust	<input type="checkbox"/> Other Legal Entity
10. If the business is a corporation, furnish the name and address of responsible party who can respond to any questions on applicant's behalf.

PART II RESIDENT BUSINESS PREFERENCE (#1-5)

1. Is the business authorized to do business under the laws of the State of New Mexico? _____
2. Revenue:
 - (a) In what State does the business earn the largest percentage of its revenues? _____
 - (b) What percentage is earned in New Mexico? _____
3. Capital Assets:
 - (a) In what State is the largest percentage of the capital assets of the business located? _____
 - (b) What percentage is located in New Mexico? _____
4. Employees (excluding Sole Proprietorships):
 - (a) In what State does the largest percentage of full-time equivalent employees of the business reside permanently? _____
 - (b) What percentage resides permanently in New Mexico? _____
 - (c) How many full-time equivalent employees reside permanently in New Mexico? (Number, not percentage) _____
5. Date business entity established in New Mexico. _____

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PART III - RESIDENT- CONTRACTOR PREFERENCE (#1-8)

1. In what State does the business maintain its principal office? _____
2. Revenue:
 - (a) In what State does the business earn the largest percentage of its revenues? _____
 - (b) What percentage is earned in New Mexico? _____
3. Capital Assets:
 - (a) In what State is the largest percentage of the capital assets of the business located? _____
 - (b) What percentage is located in New Mexico? _____
4. Employees (excluding Sole Proprietorships):
 - (a) In what State does the largest percentage off full-time equivalent employees of the business reside permanently? _____
 - (b) What percentage resides permanently in New Mexico? _____
 - (c) How many full-time equivalent employees reside permanently in New Mexico? (Number, not percentage) _____
5. Are all vehicles owned/leased by the business properly licensed with the New Mexico Motor Vehicles Division? Yes___ No___
6. If the applicant is a corporation, date the entity **Incorporated in New Mexico** or date business was **established in New Mexico** if

unincorporated. _____

7. Name of qualifying party for contractor license: _____

8. If the business is a PUBLIC TELECOMMUNICATIONS PROVIDER as defined in the New Mexico Telecommunications Act, answer the following question:

- (a) Has the business paid unemployment compensation to the Employment Security Department (Department of Labor) at the applicable experience rate for the business pursuant to the New Mexico Unemployment Compensation Law on no less than ten (10) employees who have performed services subject to contributions for the preceding two-year period? ____ Yes ____ No

NOTICE: A business must have all required licenses for a public works contract at the time the contract is advertised for bids and at the time bids are opened.

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PART IV CERTIFICATION (must be completed by all applicants)

I hereby certify that all statements made in this application are true and complete to the best of my knowledge, and I understand that misrepresentation of material facts will cause forfeiture of any right to resident preference. I agree to report to the State Purchasing Agent any changes in the facts which underlie the answers on this form.

Signature of Applicant

Date:

SUBSCRIBED AND SWORN TO BEFORE ME THIS _____ DAY OF _____, 20__.

COUNTY OF _____ STATE OF _____

My Commission Expires: _____

Notary Public

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FOR OFFICE USE ONLY

RECOMMEND APPROVAL _____ APPROVED _____

RECOMMEND REJECTION _____ REJECTED _____

Vendor Registration Officer

State Purchasing Agent

Date