

*Goal:* To bolster local business in New Mexico with an effective state government purchasing preference for New Mexican companies. By implementing a straightforward, enforceable preference for all types of New Mexico businesses for all forms of state purchasing, New Mexico can meaningfully encourage and support local businesses from agriculture to IT to professional services to construction.

***Spending New Mexico tax dollars in New Mexico companies has a much greater impact on our economy than giving our tax dollars to out of state firms; it creates jobs, supports entrepreneurship and has multiplier effect in our local economy.***

*Current Challenge:* In the 1990s NM passed a 5% in-state preference law that has had limited impact and is rarely used. In addition to not getting the benefit of the preference, because of reciprocation rules in surrounding states, NM businesses are used against us in other states.

- The current law contains no method for enforcement
- Requires business to only have an office in NM to be a “NM” company (which many out of state companies have taken advantage of),
- Has carveouts for NY headquartered, telecom and bus companies to receive in-state treatment.
- The current law contains over 70 pages of distinctions for types of businesses (manufacturing, agriculture, contractors etc.) and goods (virgin content, recycle etc.) that make the law difficult for small businesses to utilize
- Current law does not apply to any professional services.
- Current law does not include political subdivisions (universities, cities, senior centers, and prisons, etc.).
- Many key agencies that do much of the state procuring are exempt from the preference requirement all together.

*Solution:* Drastically simplify and strengthen our current local procurement preferences with a meaningful, but modest, 5% discount on points or bid value (depending on the type of contract) for companies that are actually “New Mexico” local companies. This program would also utilize best practices from other laws around the country to ensure accountability and enforcement.

*Reciprocation:* “A 5% preference meaningfully helps NM businesses, yet doesn’t make NM an island when competing regionally,” Sherman McCorkle.

*Fiscal Impact:* In-state preferences are already assumed in our budget but are rarely used. To the extent that costs are increased the max would be 5% of the total procurement budget of \$xm. However, the resulting additional jobs and associated taxes paid by new hires and GRT should exceed amount increase. Also, our state spends 1% for the arts, 5% for Colonias and tribes so a general enhancement for all NM business should be an extension of this concept but for a much broader segment of the population

*Components:*

- The 5% preference applies to all prime contractors, any type of business without discriminating one industry or profession from another
- All State of New Mexico entities are affected (including schools, senior centers, prisons ,etc.) and home rule municipalities
- Each type of purchasing and procurement are included. For bids, proposals and public works, a 5% discount to estimated contract price. For point based contracts, a 5% local point discount
  - Out of state and In state Joint proposal in state preference is proportionally based on the % of NM companies legally part of the joint proposal
- There would be no carveouts for any industry or exception type of procurement
- A New Mexico company is defined as: 5 years of property tax or NM lease, and NMTRD taxes for all businesses.
  - Additionally, contractors
    - 5 year NM vehicle certification unemployment compensation on 3 full time resident employees for 5 years
- Firms would have to submit a CPA certification of “in state preference” to be approved by the state Auditor w/in 30 days,
  - 5 year ban state preference for fraud and \$50,000 fine
  - 15 day protest/appeal period
  - Reasonable fee to be charged for the certification and to fund dedicated resources at the auditor to administer the certification
  - Enforcement and confirmation of the usage and application of the in-state preference is the explicit responsibility of the agency or entity making the actual purchase
- A formal petition for exemption process exists for 5 year NM resident entrepreneurs and relocated companies with 80% of total firm personnel residents of NM for 2 years previous
- NM Veteran owned Business would apply as tie breakers in all cases
- The current \$5m in preference limit/cap would be lifted

To date there have been a lot of biz folks who have expressed interested in this legislation or worked with me on it last year. Below is list of the most recent: Mechanical Contractors of New Mexico, National Electrical Contractors Assoc. of NM, House Inc. US Electric, Retail Association, ABQ Chamber, Sherman McCorkle, New Mexico Farmers' Marketing Association, AFSC-New Mexico, TCE, New Mexico Building & Construction Trades Council, NM Food and Ag Policy Council, Suits Unlimited, ABC, Post Tenion Reinforcement Services, NAIOP, SDV Construction, Chile Producers, Sandia Home Remodel/Repair Share Your Care, Yearout Construction, ASA, Manzanita COOP, Jaynes, Dekker Sabatini, Molzen Corbin, Brycon, Titan, NCA, RMCI, Bradbury Stamm, Klinger, EB Richard. Rep. Andy Nunez and Joe Cervantes.

**Government Contractor Spending Anecdotes**

Aging: \$25 million

DOT: \$300m

Prisons: \$5.5 million; cadets (training academy)

Schools: \$17m in food

Cap outlay/STB: \$1B outstanding since 2007

**GSD**

Account	Description	FY09	FY10
544500	Supplies - Food	52,758,762.77	45,516,264.24
548100	Land	11,070,653.73	1,324,437.40
548900	Buildings & Structures	115,444,180.54	106,177,489.55
Grand Total		<u>179,273,597.04</u>	<u>153,018,191.19</u>

Higher Ed: \$3m

GO bonds: \$175m last year

APS Bonds: \$150 million