

THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY

ORDINANCE NO. 2012- 4

**AN ORDINANCE ESTABLISHING A FIVE PERCENT SANTA FE COUNTY
PROCUREMENT PREFERENCE; REQUIRING A SANTA FE COUNTY
PREFERENCE CERTIFICATE TO ESTABLISH ELIGIBILITY FOR THE
PREFERENCE; ESTABLISHING APPLICATION REQUIREMENTS; PROVIDING
FOR PROTEST OF DENIAL OF CERTIFICATES; ESTABLISHING PENALTIES.**

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
SANTA FE COUNTY THAT:**

Section One. Short Title. This Ordinance may be cited as the "Santa Fe County Procurement Preference Ordinance," or the "Procurement Preference."

Section Two. Applicability. This Ordinance shall apply to procurement by Santa Fe County under State law and the County's Procurement Regulations. This Ordinance shall not apply to a procurement by Santa Fe County that is governed, pursuant to a grant agreement, by the federal acquisition regulations, 48 CFR Part I *et seq.*

Section Three. Definitions.

A. The phrase "Santa Fe County Business" shall mean a business that holds a current Santa Fe County Business Certificate at the time of application for a preference certificate pursuant to this Ordinance (or the appropriate municipal business license, if located within a municipality) that has its primary and permanent office or business location within the exterior boundaries of Santa Fe County, which has had its primary and permanent office or business location within the exterior boundaries of Santa Fe County for at least one (1) year preceding the submission of an application for a Santa Fe County procurement preference, and which, if a foreign corporation, has filed a unitary return pursuant to the Corporate Income and Franchise Tax Act and NMSA 1978, § 7-2A-8.3.

B. The phrase "Santa Fe County Business Certificate" or "Business Certificate" shall mean the certificate issued to a business engaged in business within the unincorporated limits of Santa Fe County.

C. The phrase "Santa Fe County Preference Certificate" or "Preference Certificate" shall refer to the certificate authorized pursuant to Section Five of this Ordinance.

D. The phrase "Santa Fe County Procurement Manager" or "Procurement Manager" shall mean the person appointed to serve as the County's Procurement Manager pursuant to the Santa Fe County Procurement Regulations, Resolution No. 2006-60, as amended.

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Section Four. Santa Fe County Procurement Preference Established.

A. A Santa Fe County procurement preference is hereby established, as described in this Ordinance.

B. When Santa Fe County procures services using competitive sealed proposals pursuant to NMSA 1978, Sec. 13-1-111 (1975), an offer submitted by a Santa Fe County Business shall be deemed to receive five percent (5%) of the overall total points awarded in connection with the evaluation of the proposals.

C. In applying the preference provided in this Ordinance, the Santa Fe County Procurement Preference shall be applied in addition to any other preference required by Law.

Section Five. Eligibility for the Santa Fe County Procurement Preference. A Santa Fe County Business shall be eligible to claim the preference established in this Ordinance only when presenting, prior to or at the time established in the solicitation for receipt of proposals, a Santa Fe County Preference Certificate issued by the Procurement Manager.

Section Six. Obtaining a Preference Certificate; Application Required.

A. A Santa Fe County Business may obtain a Preference Certificate by filing an application with the Procurement Manager.

B. The application shall be completed on a form provided by the Procurement Manager that contains a sworn affidavit from the president or owner of the business setting forth each of the following:

1. The name, address, telephone number and name of the business and its registered agent (if applicable);
2. If a corporation, information that the corporation is registered to do business in the State of New Mexico and is in good standing;
3. If the business is a foreign corporation, information that the business is registered to do business in the State of New Mexico and is in good standing;
4. A copy of a valid business registration to do business in Santa Fe County (or a copy of the appropriate municipal business license, if located within a municipality within Santa Fe County);
5. A statement that the business has maintained its primary and permanent office or business location within the exterior boundaries of Santa Fe County for at least one (1) year preceding the submission of the application; and
6. If a foreign corporation, copies of the most recent State and federal tax returns applicable to the business.

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C. The Procurement Manager shall issue a Preference Certificate if the application demonstrates, to the satisfaction of the Procurement Manager, that the business holds a current Business Certificate at the time of application for a preference certificate pursuant to this Ordinance (or the appropriate municipal business license, if located within a municipality), that the business has its primary and permanent office or business location within the exterior boundaries of Santa Fe County and has maintained its primary and permanent office or business location within the exterior boundaries of Santa Fe County for at least one (1) consecutive year preceding the submission of the application and if a foreign corporation, has filed a unitary return pursuant to the Corporate Income and Franchise Tax Act and NMSA 1978, § 7-2A-8.3

Section Seven. Denial of Certificate; Protest; Revocation.

A. If the Purchasing Manager determines that an applicant is not eligible for certification, the Purchasing Manager shall deny the application and shall issue a notice of denial.

B. A business whose application for a Preference Certificate is denied may protest the denial to the Procurement Manager in conformity with the protest procedures of the Purchasing Regulations.

C. If facts are developed by the Procurement Manager that information provided by an applicant seeking a Preference Certificate has provided inaccurate or misleading information that resulted in the issuance of a certificate, the Procurement Manager shall revoke the certificate and notify the applicant.

Section Eight. Expiration of Certificate. A Preference Certificate shall be valid for two (2) years from the date of its issuance.

Section Nine. Penalties. Knowingly providing false or misleading information on an application for a Procurement Preference shall constitute a violation of this Ordinance and shall be punished as set forth in NMSA 1978, Sec. 4-37-3 (1975); knowingly providing false or misleading information on an application for a Procurement Preference may also expose the person providing such information to additional criminal penalties as provided by State law.

PASSED AND ENACTED THIS 10th DAY OF APRIL, 2012.

THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY, NEW MEXICO

By: *Liz Stefanios*
Liz Stefanios, Chair

ATTEST:
Valerie Espinoza
Valerie Espinoza
Santa Fe County Clerk



APPROVED AS TO FORM:
[Signature]
Stephen C. Ross
Santa Fe County Attorney

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COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss
BCC ORDINANCE
PAGES: 4
I Hereby Certify That This Instrument Was Filed for
Record On The 13TH Day Of April, 2012 at 04:17:02 PM
And Was Duly Recorded as Instrument # 1666235
Of The Records Of Santa Fe County



Deputy *Marcella Callejas* Witness My Hand And Seal Of Office
Valerie Espinoza
County Clerk, Santa Fe, NM