

Mutual Domestic and Governmental Gross Receipt Tax (GGRT)

Section 7-9-4.3 NMSA states that "political subdivisions" are governmental units and need only collect GGRT - the state tax of 5%. Anything above that is the local portion and Mutual Domestic are not required to collect it. You may refer to your CRS-1 Filer Kit, Instructions for Columns A through H. In Column A you would enter "GGRT" and in Column C enter "55-055" as government agencies. Those items that you have collected tax on in the past would still be subject to tax now, except at the lower rate. This does not apply to engineering consultants and contractors and others who collect local GRT and report to Tax & Rev for the work they perform. It has been suggested for those MDWCAs that have not been operating in this fashion, that they could start effective March 6 when the bill was signed and collect only GGRT from then forward.

The relevant section is -

7-9-4.3. Imposition and rate of tax; denomination as "governmental gross receipts tax".

For the privilege of engaging in certain activities by governments, there is imposed on every agency, institution, instrumentality or political subdivision of the state, except any school district and any entity licensed by the department of health that is principally engaged in providing health care services, an excise tax of five percent of governmental gross receipts. The tax imposed by this section shall be referred to as the "governmental gross receipts tax".

The New Mexico Department of Taxation & Revenue website contains the state statutes as well as information regarding workshops that are held around the state. Mr. Phillip Salazar, Director Audit & Compliance highly recommends attending these workshops to learn specifics and encourages calls to the local offices should there be any questions. His number is 505-827-0357. The workshop information is: <http://www.state.nm.us/tax/oos/2006crswrkshps.pdf> and the general page for public events and publication is: http://www.state.nm.us/tax/trd_pubs.htm.

As Political Subdivisions, Mutual Domestic Water Associations are considered governmental entities and qualify for type 9 Non-taxable Transaction Certificates (NTTCs), which can be executed to sellers by Mutual Domestic for the purchase of tangible personal property tax free. Sellers are allowed a deduction to their taxable gross receipts if they are in receipt of a properly executed type 9 or have documentation demonstrating proof of payment by a governmental agency. Sellers cannot accept type 9's and are liable for gross receipts tax on the sale of services and construction services or material to a governmental agency. For help on obtaining type 9 certificates, MDWCAs can contact Betty Kulp in Santa Fe at 505-827-0036.

Procurement and Disclosure of Campaign Contributions

This legislation (SB 344 - below) applies to non-competitive bid situations, such as engineering, sole source, and small purchase. In these instances the service provider must file the disclosure form. With regard to the solicitation of engineering or architect services, the form must accompany the response to the request for proposals (RFP) prior to any contract negotiations.

Ch. 81

S.B. No. 344

PROCUREMENT--DISCLOSURE OF CAMPAIGN CONTRIBUTIONS

AN ACT RELATING TO PROCUREMENT; REQUIRING DISCLOSURE OF CAMPAIGN CONTRIBUTIONS BY PROSPECTIVE CONTRACTORS FOR CERTAIN CONTRACTS ENTERED INTO PURSUANT TO THE PROCUREMENT CODE; PROHIBITING CAMPAIGN CONTRIBUTIONS OR GIVING OTHER THINGS OF VALUE DURING THE PROCUREMENT PROCESS FOR CERTAIN CONTRACTS.

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

Section 1. A new section of the Procurement Code is enacted to read:

"CAMPAIGN CONTRIBUTION DISCLOSURE AND PROHIBITION.--

A. This section applies to prospective contractors with the state or a local public body.

B. A prospective contractor subject to this section shall disclose all campaign contributions given by the prospective contractor or a family member or representative of the prospective contractor to an applicable public official of the state or a local public body during the two years prior to the date on which a proposal is submitted or, in the case of a sole source or small purchase contract, the two years prior to the date on which the contractor signs the contract, if the aggregate total of contributions given by the prospective contractor or a family member or representative of the prospective contractor to the public official exceeds two hundred fifty dollars (\$250) over the two-year period.

C. The disclosure shall indicate the date, the amount, the nature and the purpose of the contribution. The disclosure statement shall be on a form developed and made available electronically by the department of finance and administration to all state agencies and local public bodies. The form shall be filed with the state agency or local public body as part of the competitive sealed proposal, or in the case of a sole source or small purchase contract, on the date on which the contractor signs the contract.

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D. A prospective contractor submitting a disclosure statement pursuant to this section who has not contributed to an applicable public official, whose family members have not contributed to an applicable public official or whose representatives have not contributed to an applicable public official shall make a statement that no contribution was made.

E. No campaign contribution or other thing of value shall be given by a prospective contractor or a family member or representative of the prospective contractor to an applicable public official or the applicable public official's employees during the pendency of the procurement process or during the pendency of negotiations for a sole source or small purchase contract.

F. A solicitation or proposed award for a proposed contract shall be canceled or a contract that is executed is void if:

(1) a prospective contractor fails to submit a fully completed disclosure statement pursuant to this section; or

(2) a prospective contractor or family member or representative of the prospective contractor gives a campaign contribution or other thing of value to an applicable public official or the applicable public official's employees during the pendency of the procurement process.

G. As used in this section:

(1) "applicable public official" means a person elected to an office or a person appointed to complete a term of an elected office, who has the authority to award or influence the award of the contract for which the prospective contractor is submitting a competitive sealed proposal or who has the authority to negotiate a sole source or small purchase contract that may be awarded without submission of a sealed competitive proposal;

(2) "family member" means spouse, father, mother, child, father-in-law, mother-in-law, daughter-in-law or son-in-law;

(3) "pendency of the procurement process" means the time period commencing with the public notice of the request for proposals and ending with the award of the contract or the cancellation of the request for proposals;

(4) "prospective contractor" means a person who is subject to the competitive sealed proposal process set forth in the Procurement Code or is not required to submit a competitive sealed proposal because that person qualifies for a sole source or small purchase contract; and

(5) "representative of the prospective contractor" means an officer or director of a corporation, a member or manager of a limited liability corporation, a partner of a partnership or a trustee of a trust of the prospective contractor."