

## Proposed Rule

**TITLE 17 PUBLIC UTILITIES AND UTILITY SERVICES**  
**CHAPTER 9 ELECTRIC SERVICES**  
**PART 2 PROCUREMENT REQUIREMENTS FOR INVESTOR OWNED ELECTRIC UTILITIES**

**17.9.2.1 ISSUING AGENCY:** New Mexico Public Regulation Commission.  
[17.9.2.1 NMAC - N, xx/xx2020]

**17.9.2.2 SCOPE:** This rule applies to the procurement of any new, additional or modified resource by an investor-owned electric utility subject to the commission's ratemaking jurisdiction, including for any voluntary renewable energy program.  
[17.9.2.2 NMAC - N, xx/xx2020]

**17.9.2.3 STATUTORY AUTHORITY:** This rule is adopted under the authority vested in this commission by the Public Utility Act Section 62-2-1 et seq. NMSA 1978, the Public Utility Act Section 62-8-1 NMSA 1978, the Public Utility Act Section 62-8-2 NMSA 1978, the Public Utility Act Section 62-9-1 NMSA 1978, the Energy Transition Act Sections 62-18-1, et seq. NMSA 1978 and the Efficient Use of Energy Act Section 62-17-10 NMSA 1978.  
[17.9.2.3 NMAC - N, xx/xx2020]

**17.9.2.4 DURATION:** Permanent.  
[17.9.2.4 NMAC - N, xx/xx2020]

**17.9.2.5 EFFECTIVE DATE:** This rule becomes effective xx/xx/2020, unless a later date is cited at the end of a section.  
[17.9.2.5 NMAC - N, xx/xx2020]

**17.9.2.6 OBJECTIVE:** The objective of this rule is to:

- A.** set forth the commission's requirements for procurements by investor-owned electric utilities of supply- and demand-side resources in order to ensure fair and robust competition for those resources and identify the most cost-effective resource options available to meet the energy needs of their customers and otherwise protect the public interest, and
- B.** streamline the subsequent formal application for a certificate of convenience and necessity by assuring the commission that the competitive procurement process was fair and equitable.

[17.9.2.6 NMAC - N, xx/xx2020]

**17.9.2.7 DEFINITIONS:**

- A.** **Terms beginning with the letter "A": [RESERVED]**
- B.** **Terms beginning with the letter "B": "Blackout period"** means the period starting six months prior to notification of planned procurement until the date on which the utility announces the award of the contract.
- C.** **Terms beginning with the letter "C":**
  - (1)** **"Commission"** means the public regulation commission of New Mexico
  - (2)** **"Competitive procurement process"** means a process conducted by a utility for soliciting and evaluating proposals for any new, additional or amended resource, including but not limited to instructions to bidders, bid specifications, conditions, forms or other requirements included in a request for proposals and all methods, practices and assumptions used by a utility to model or evaluate such proposals or to negotiate with bidders, and that otherwise complies with law.
- D.** **Terms beginning with the letter "D": [RESERVED]**
- E.** **Terms beginning with the letter "E": "Emergency procurement"** means a utility's procurement of a new, additional or modified resource when, prior to the procurement, the utility makes a verified filing supported by affidavit attesting to the existence of a bona fide emergency with the commission demonstrating that such resource is needed immediately to: address a serious threat to public health, welfare, safety or property caused by a flood, fire, epidemic, riot, act of terrorism, equipment failure or similar event; or plan or prepare for the response to a serious threat to public health, welfare, safety or property caused by a flood, fire, epidemic, riot, act of terrorism, equipment failure or similar event; and cannot be procured in a timely manner in accordance with the requirements of this rule.
- F.** **Terms beginning with the letter "F": [RESERVED]**

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**G. Terms beginning with the letter “G”:** [RESERVED]

**H. Terms beginning with the letter “H”:** [RESERVED]

**I. Terms beginning with the letter “I”:** **“Independent monitor”** means a person or entity chosen by the commission to observe a utility’s competitive procurement process and to report to the commission findings and opinions on the sufficiency and completeness of the process. The independent monitor has no authority separate from the commission and may only report to the commission on the conduct of all parties involved in the competitive procurement process during the adjudicatory proceeding for a certificate of convenience and necessity. During this proceeding, the independent monitor shall serve as advisory staff as set out in Public Regulation Commission Act sections 8-8-13 NMSA 1978.

**J. Terms beginning with the letter “J”:** [RESERVED]

**K. Terms beginning with the letter “K”:** [RESERVED]

**L. Terms beginning with the letter “L”:** [RESERVED]

**M. Terms beginning with the letter “M”:** [RESERVED]

**N. Terms beginning with the letter “N”:** **“New, additional or modified resource”** means a new or additional resource that is not included in an utility’s existing resource portfolio or a modification to an existing resource in a utility’s existing resource portfolio for a duration of more than one year needed by a utility to provide adequate, efficient and reliable service to its customers in accordance with the Public Utility Act Sections 62-2-1 et seq. NMSA 1978, comply with the Renewable Energy Act Sections 62-16-1 et seq. NMSA 1978, or the Energy Transition Act Sections 62-18-1, et seq. NMSA 1978, or otherwise comply with applicable law, including but not limited to, electric energy generation, capacity and energy storage resources.

**O. Terms beginning with the letter “O”:** [RESERVED]

**P. Terms beginning with the letter “P”:**

**(1) “Procurement and solicitation process time period”** means the period of time beginning when a utility files with the commission a notification of planned procurement and ending when the utility signs a contract with a bidder that responded to the request for proposals.

**(2) “Purchased power agreement”** means an agreement for the purchase of energy or capacity, or both, including an energy storage agreement, by a utility with a term of one year or more and for the cost of which a utility seeks or intends to seek rate recovery from its New Mexico retail customers, but does not include agreements to purchase energy or capacity from a qualifying facility pursuant to Section 17.9.570 NMAC.

**Q. Terms beginning with the letter “Q”:** [RESERVED]

**R. Terms beginning with the letter “R”:** [RESERVED]

**S. Terms beginning with the letter “S”:** [RESERVED]

**T. Terms beginning with the letter “T”:** [RESERVED]

**U. Terms beginning with the letter “U”:** **“utility”** means an investor owned utility.

**V. Terms beginning with the letter “V”:** [RESERVED]

**W. Terms beginning with the letter “W”:** [RESERVED]

**X. Terms beginning with the letter “X”:** [RESERVED]

**Y. Terms beginning with the letter “Y”:** [RESERVED]

**Z. Terms beginning with the letter “Z”:** [RESERVED]

[17.9.2.7 NMAC - N, xx/xx2020]

**17.9.2.8 NOTIFICATION OF PLANNED PROCUREMENT:** At least 45 days prior to its commencement of a competitive procurement process for a new, additional or modified resource, a utility shall file with the commission a notice of intent to procure and serve a copy of that notice on all persons included in the commission’s latest official service list in the utility’s most recent integrated resource plan and general rate cases, which notice shall include, at a minimum:

**A.** a description of the utility’s proposed competitive procurement process and deadlines;

**B.** a description of the types of resources needed by the utility; and

**C.** the date upon which each described resource needs to be in service.

[17.9.2.8 NMAC - N, xx/xx2020]

**17.9.2.9 PARTICIPANTS IN THE PROCUREMENT PROCESS AND ELIGIBLE BIDDERS:**

**A. Independent monitor:** the independent monitor participates in and advises the commission regarding a utility’s development and implementation of its competitive resource procurement process as provided in this rule.

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**B. Bidders:** the following entities shall be allowed by a utility to submit proposals in response to a utility's competitive procurement process:

(1) any independent power producer or owner or developer of a potential new, additional or modified resource requested by a utility, provided the entity has all licenses required by state law to submit its proposals;

(2) the utility, provided the utility's request for proposals expressly discloses the utility's participation to all interested bidders and complies with the additional requirements in 17.9.2.13 NMAC;

(3) an affiliate of the utility, provided the utility's request for proposals expressly discloses the affiliate's participation to all bidders and complies with the additional requirements in 17.9.2.13 NMAC.

**C. Requirements for utilities and affiliates:** a participating utility or any affiliate shall comply with the following requirements to eliminate any opportunity by the affiliate to obtain any competitively unfair advantage in the utility's competitive procurement process through inter-corporate communications or transactions between a utility and its affiliate:

(1) for every bidding affiliate of a utility that intends to bid, the bidding affiliate shall designate a bid team and the utility shall designate an evaluation team and the names and titles of the members of the bid team and evaluation team, as well as any subsequent personnel changes, shall be publicly disclosed, in writing;

(2) the members of the bid team that develops the affiliate's bid shall not be involved, directly or indirectly, in the evaluation or selection of bids;

(3) no member of an utility's evaluation team that evaluates bids as set out in the utility's request for proposals and selects a successful bidder may participate, directly or indirectly, in the development of a bid by an affiliate of the utility;

(4) each utility and bidding affiliate shall ensure that the bid team and the evaluation team have completely distinct personnel, and that any members of either do not engage in any communications, directly or indirectly, regarding the request for proposals or specific affiliate bid and shall acknowledge that the utility and affiliate have not and will not in the future so communicate;

(5) the bid team and evaluation team may communicate as part of a bidding technical conference at which all potential bidders or actual bidders, are given adequate notice and opportunity to attend;

(6) the utility's evaluation team shall report to the independent monitor any contact or communications by any bidder, including the bid team, and advise the bidder that any future contact must be directed to the independent monitor; and

(7) bidders and the evaluation team may only communicate as part of a bidding technical conference of which all potential bidders, or all actual bidders if bids have already been submitted, are given adequate notice and opportunity to attend.

[17.9.2.9 NMAC - N, xx/xx2020]

### 17.9.2.10 REQUEST FOR PROPOSALS REQUIREMENTS:

**A.** The request for proposals shall be developed by the utility with input from an independent monitor as provided in this rule as soon as possible after being appointed by the commission.

**B.** Interested parties, upon invitation by the commission, may provide advice and recommendations on the request for proposals drafting process for the purpose of ensuring clarity of technical specifications. Such invitations as well as the resulting advice and recommendations will be available to all prospective bidders.

**C.** The response time for submittal of proposals in response to an utility's request for proposals shall be set at 150 days, or, in the event of an emergency procurement, if need is justified as an emergency procurement as defined by this rule, no less than 90 days.

**D.** A utility's competitive procurement processes shall not prevent bidders from proposing, or the utility from considering, a resource owned by an independent power producer through a purchased power agreement at a site owned or controlled by the utility unless, prior to its commencement of such process, the utility shows the commission that it would not be feasible for it to lease or transfer that site to an independent power producer for reasonable compensation.

**E.** Utility real property and facilities which are either owned or controlled by the utility or their affiliate shall be made available to all potential bidders under the same parameters that is made available to any other party.

**F.** The proposed request for proposals shall include:

(1) bid evaluation criteria and bid ranking;

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- (2) the overall amount and duration of power the utility is soliciting and any other details concerning its resource needs;
- (3) reasonable estimates of transmission costs for resources, if relevant, including a detailed description of how the costs of future transmission will likely apply to bid resources;
- (4) the extent and degree to which resources must be dispatchable, including the requirement, if any, that resources be able to operate under automatic dispatch control;
- (5) the utility's proposed contracts for the acquisition of resources;
- (6) proposed contract term lengths;
- (7) the discount rate;
- (8) modeling inputs and assumption as well as general planning assumptions;
- (9) the timing of process, including the solicitation period, the ranking period and the expected selection period;
- (10) all security requirements and the rationale behind them;
- (11) any bidder's notice of communication or non-communication with any commissioner during the blackout period;
- (12) a requirement that the utility cannot unreasonably discriminate between proposals for a utility-owned resource and proposals for a resource owned by an independent power producer through a purchase power agreement; and
- (13) any other information necessary to implement a competitive procurement process.

**G.** The commission shall issue a protective order addressing disclosure of competitively sensitive or other confidential information by persons participating in the development of a utility's request for proposals and bid evaluation processes.

[17.9.2.10 NMAC - N, xx/xx2020]

### 17.9.2.11 EVALUATION OF BIDS RECEIVED IN THE SOLICITATION PROCESS:

**A. Bid ranking:** a utility shall rank bids submitted in response to a request for proposals using the following criteria: resource cost, market-volatility risks, demand-side resource uncertainties, resource dispatchability, resource effect on system operation, credit and financial risks to the utility, the risks imposed on ratepayers, public policies regarding resource preference adopted by the state or federal government and environmental effects including those associated with resources that emit carbon dioxide and create long-term waste disposal issues; differences in relative amounts of risk inherent among different technologies, fuel sources, financing arrangements, and if covered by the Energy Transition Act, must be consistent with the act. Additional criteria used by a utility for ranking may not establish a preference for utility ownership, shall ensure that all feasible resource options are compared and evaluated on a consistent basis that is competitively fair and shall be subject to review by the independent monitor and the commission.

**B. Bid compliance review; provision to independent monitor:** upon the receipt of bids in its competitive procurement process, the utility shall investigate whether each potential resource meets the requirements specified in the resource solicitation and shall perform an initial assessment of the bids. The utility shall provide the independent monitor with all bids when received and shall provide the independent monitor with the utility's initial assessment of bids as soon as that assessment is completed.

**C. Notice of advancement to modeling; provision of modeling inputs and assumptions; confidentiality:** for bids advanced to computer-based modeling, a utility shall also provide to the bidder information to bidders such that modeling errors or omissions may be corrected by the utility before its bid evaluation process is completed. Such information shall explain to the bidder how its facility will be represented in the computer-based modeling and what costs will be assumed with respect to the potential resource. In the event that the utility's modeling information contains confidential information, the utility shall require that the bidder execute an appropriate nondisclosure agreement prior to receiving this information.

**D. Bidders' corrections:** in the event a bidder identifies any errors or omissions by a utility regarding modeling inputs or assumptions that reasonably relate to a bidder's resource proposal or to the transmission of electricity from that proposed resource to the utility that are communicated to a utility, the utility shall promptly report such claims to the independent monitor, investigate such claims and correct such errors or omissions if reasonably shown and shall make and preserve a record of all such claims and the action taken by the utility to address them.

**E. Bid summary:** within 30 days of a utility's receipt of bids in response to its competitive procurement process, the utility shall file a report summarizing the bids received and may contain a preliminary

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ranking of proposed projects. The report shall include an anonymized summary of the bids. The summary shall include the following information:

- (1) number of bids,
- (2) resource type,
- (3) high, low and median levelized costs.

**F. Utility's report:** within 90 days after a utility's receipt of bids, the utility shall file a ranking report of all modeled resource proposals.

**G. Independent monitor's report:** within 30 days after filing of the utility's report, the independent monitor shall separately file a report that contains the independent monitor's analysis of whether the utility conducted a fair bid solicitation and bid evaluation process, with any deficiencies specifically reported. The independent monitor shall provide confidential versions of these reports to the commission. The independent monitor's report to the commission shall address whether the utility's bid evaluation process is reasonable, competitively fair and sufficient to identify the most cost-effective option among all feasible resource alternatives.

**H. Conflicting recommendations:** if the independent monitor's conclusion and final recommendation differ from the utility's conclusion and decision on the winning bid, they shall attempt to resolve such differences as soon as possible. If the differences remain, then in the certificate of convenience and necessity or purchased power agreement proceeding where the utility is seeking commission approval to construct, operate and recover the costs of the proposed resource from ratepayers, the utility is herein put on notice that all work papers, analysis and conclusions of the independent monitor will be placed in the record proper of any certificate of convenience and necessity or purchased power agreement proceeding as a commission exhibit, and the independent monitor will be available for cross examination. The utility shall have the burden to show that the proposed resource is the most cost effective resource among all feasible alternatives.

**I. Execution of contracts for resources:** unless granted a variance for good cause, the utility must execute contracts for new, additional or modified resources for which the utility intends to request commission approval within six months after the utility's receipt of bids in its competitive procurement process.

**J. No utility prohibition of proposals for resources owned by other entities:** a utility's request for proposals or other competitive resource procurement process required by Section 17.9.2 NMAC shall not prevent bidders from proposing, or the utility from considering, a resource that would be owned by another entity and provided to the utility pursuant to a power purchase, energy storage or other agreement at any site owned or controlled by the utility unless the utility demonstrates to the commission, prior to initiating that process, that it is not feasible for it rely on such a resource to meet its service needs or to sell or lease that site to another entity for reasonable compensation and the commission issues an order making such a finding.

**K. Rejection of all proposals:** the utility may reject all project proposals if it finds that no proposal adequately serves ratepayers' interests. The commission will review such a finding together with evidence filed in support of any acquisition in the utility's next general rate case or other cost recovery proceeding.  
[17.9.2.11 NMAC - N, xx/xx2020]

### 17.9.2.12 INDEPENDENT MONITOR'S PARTICIPATION IN THE SOLICITATION PROCESS FROM START TO FINISH:

**A. Purpose of independent monitor:** the commission shall retain an independent monitor to monitor the procurement process from start to finish for all utility's procurement of any supply-side or demand-side electric resource, capacity or energy storage resource.

**B. Role of the independent monitor:** the role of the independent monitor shall be to monitor a utility's development and implementation of its resource procurement processes to assist the commission in ensuring that all such processes are reasonable, competitively fair and designed to identify a utility's most cost-effective options among feasible resource alternatives to meet its service needs in compliance with applicable law and to report to the commission regarding those matters as provided in this rule. The independent monitor may request that the utility's request for proposals contain additional terms or requirements to better fulfill the requirements of all applicable laws.

**C. Independent monitor compensation:** the independent monitor shall be compensated by the utility, either by incorporating such costs into the rate base or by bidder's fees or a combination thereof.

**D. Independent monitor list; appointment committee:** the commission shall establish and maintain a list of qualified independent firms or individuals with expertise in electrical engineering, utility scale acquisitions, or general procurement law to serve as an independent monitor. A committee shall be established to make written recommendations with an analysis of qualifications for whom to place on the list. The committee shall be appointed by the commission and be comprised of:

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- (1) one appointee from commission utility staff;
- (2) one appointee collectively representing the interests of the utilities in the state; and
- (3) one appointee of an interested party with standing to participate in commission

proceedings.

- (a) other interested parties may petition the commission for leave to make

recommendations for inclusion of entities on the independent monitor list;

- (b) The commission shall consider the advice and recommendations of the

appointment committee and place qualified persons or entities on the list.

**E. Independent monitor administrative support:** the commission shall provide administrative support to assist the independent monitor list committee.

**F. Appointment:** when a utility provides the notification of planned procurement to the commission, the commission shall appoint an independent monitor as soon as practicable from the list of qualified firms identified by the independent monitor committee.

**G. Independent monitor contract review by general counsel:** once an independent monitor is appointed, the commission's general counsel shall review the proposed contract between the utility and independent monitor.

**H. Independent monitor minimum contractual duty and prohibition:** the independent monitor contract shall, at a minimum, provide that:

- (1) the independent monitor will act as an advisor to the commission subject to the

commission's exclusive supervision and control;

- (2) the independent monitor shall be prohibited from assisting any entity making future

proposals to the utility for a period of one year from the effective date of the contract approved by the commission; and

- (3) the independent monitor must not have worked for potential bidders or the procuring

utility for three years prior to the date of the contract.

**I. Independent monitor access:** the utility shall provide the independent monitor with prompt and continuing access to all documents, data, assumptions, models, specific model inputs, bidding and weighting criteria used, and any other relevant information reviewed, produced or relied on by the utility in the preparation and conduct of its competitive resource procurement process.

**J. Independent monitor cost reimbursement and recovery:** the independent monitor shall be reimbursed by the utility for the actual costs of services rendered. The utility may seek cost recovery of the actual costs paid to the independent monitor in its next rate case, or next renewable portfolio standard case or through bidders' fees, or from a combination. The final reimbursement amount and the source of such funds is subject to commission approval.

**K. Analysis after identification of tentative bid winner:** after the utility has identified a tentative bid winner, the independent monitor shall provide the independent monitor's report to the commission with utility bid analysis results and modeling runs supporting the utility's decision to award a contract responsive to the requests for proposal, including whether the process reasonably invited and considered all feasible resource options and an independent analysis of the winning bid.

**L. Deficiency:** in the event an independent monitor finds a problem or deficiency at any stage in the utility's procurement process, they shall promptly notify the utility and, after the utility responds to that notice, it will promptly notify the commission in writing of the utility's response to and resolution of that problem or deficiency. Such notice shall be made part of the commission's record in the utility's resource procurement proceeding.

**M. Informational meeting:** the independent monitor may call an informational meeting to answer questions about any aspect of the request for proposals evaluation. Opinions, determinations and statements by the independent monitor may constitute evidence in a proceeding if the commission provides the utility and all parties with a reasonable opportunity to conduct discovery and cross-examine the independent evaluator regarding such matters prior to closure of the record.

**N. Public disclosure of information provided by independent monitor:** all information provided by an independent monitor to the commission shall be made part of the commission's public records in a timely manner, except as follows: a utility shall not disclose any bid information for which a non-winning bidder has requested confidential treatment in a utility's resource procurement process except in accordance with a commission protective order limiting disclosure of such information to persons who execute and file a confidentiality agreement with the commission as provided in that order.

[17.9.2.12 NMAC - N, xx/xx2020]

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**17.9.2.13 VARIANCE:** the commission may grant a utility's request for a variance from the requirements of this Rule upon a showing that extraordinary circumstances exist, that such variance and any alternative method of resource acquisition proposed by the utility are necessary to protect the public interest, and that such request otherwise satisfies the requirements of all applicable Commission rules addressing variances from Commission rules.

[17.9.2.13 NMAC - N, xx/xx2020]

### **17.9.2.14 ADDITIONAL ETHICAL CONSIDERATIONS SPECIFIC TO THE PROCUREMENT PROCESS:**

**A. Disclosure of communications between bidders and commissioners and campaign contributions by bidders to commissioners during blackout period:** before participating in discussion or voting on any matter arising in any utility resource procurement case covered by this rule, a commissioner shall fully disclose all communications that have occurred between the commissioner or the commissioner's assistant and any bidder related, as defined by section 13.1.191.1 NMAC, to any resource procurement covered by this rule during the blackout period.

**B. Disclosure of communications before voting:** commissioners shall fully disclose, before participating in voting, each communication that occurred between a commissioner or a commissioner's assistant and any bidder that is or may be related to any procurement covered by this rule that occurred during blackout period. In the event that a communication occurred the commissioner shall file a written statement at the commission's records division and that statement will be filed in the case record file.

**C. Filing of notice of recusal or non-recusal:** A disclosure by a commissioner of a communication required by this rule shall include a notice stating whether or not the commissioner is recusing herself or himself from further participation in the utility's resource procurement case and all reasons for that decision which shall be filed in the commission's record in that case.

**D. Prohibition of communications between bidders and commissioners or commissioner's assistants:** upon disclosure by a commissioner as required by this rule, a bidder that has engaged in a communication with a commissioner or a commissioner's assistant relating to a resource procurement by a utility during the blackout period shall be prohibited from further participation in the utility's resource procurement process and disqualified from being selected in the utility's resource procurement case.

**E. Disclosure of campaign contributions by bidders:** before participating in discussion or voting on any matter arising in any utility resource procurement case covered by this rule, a commissioner shall fully disclose all campaign contributions (as defined in state law) solicited or received by the commissioner, the commissioner's assistant or the commissioner's campaign for any elected office from a bidder that is participating in a utility's resource procurement process during the blackout. In the event that a contribution was received the commissioner shall file a written statement at the commission's records division and that statement will be filed in the case record file.

**F. Disclosure of campaign contributions prior to voting:** commissioners shall fully disclose, before participating in voting, each campaign contribution (as defined in state law) solicited or received by the commissioner, the commissioner's assistant or the commissioner's campaign from a bidder that is related or may be related to any utility electricity supply procurements.

**G. Filing of notice of recusal or non-recusal:** a disclosure by a commissioner of a campaign contribution required by section of this rule shall include a notice stating whether or not the commissioner is recusing herself or himself from further participation in the utility's resource procurement case and all reasons for that decision which shall be filed in the commission's record in that case.

**H. Campaign contributions discouraged:** to preserve the integrity and competitive fairness of resource procurement processes by utilities covered by this rule, the commission discourages commissioners or their assistants from soliciting or accepting campaign contributions during the blackout period from bidders that intend to participate or are participating in a utility's resource procurement process.

**I. Disqualification of bidder:** in the event that during the blackout period a campaign contribution was solicited or received by a commissioner, a commissioner's assistant or a commissioner's campaign from a potential bidder or a bidder that is related or may be related to any utility electricity supply procurements, then the bidder or potential bidder shall be prohibited from further participation in the procurement process and shall be disqualified from being awarded the bid.

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**J. Requests for proposals development; prohibition and disqualification:** any vendor, entity or person participating in any part of the development of the request for proposals is prohibited from further participation in the procurement process and shall be disqualified from being awarded the bid.  
[17.9.2.14 NMAC - N, xx/xx2020]

**HISTORY OF 17.9.2 NMAC: [RESERVED]**