

1 SENATE BILL 206

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

4 Carrie Hamblen and Matthew McQueen and Pat Woods

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10 AN ACT

11 RELATING TO PROCUREMENT; PROVIDING AN EXEMPTION FROM THE
12 PROCUREMENT CODE FOR CONTRACTS ENTERED INTO BY THE FORESTRY
13 DIVISION OF THE ENERGY, MINERALS AND NATURAL RESOURCES
14 DEPARTMENT TO DISTRIBUTE FEDERAL GRANTS TO NONGOVERNMENTAL
15 ENTITIES AND INDIVIDUALS SELECTED BY THE FEDERAL GOVERNMENT FOR
16 PROGRAMS RELATING TO FORESTRY.

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

19 SECTION 1. Section 13-1-98 NMSA 1978 (being Laws 1984,
20 Chapter 65, Section 71, as amended by Laws 2019, Chapter 48,
21 Section 13 and by Laws 2019, Chapter 63, Section 1) is amended
22 to read:

23 "13-1-98. EXEMPTIONS FROM THE PROCUREMENT CODE.--The
24 provisions of the Procurement Code shall not apply to:

25 A. procurement of items of tangible personal

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1 property or services by a state agency or a local public body
2 from a state agency, a local public body or external
3 procurement unit except as otherwise provided in Sections
4 13-1-135 through 13-1-137 NMSA 1978;

5 B. procurement of tangible personal property or
6 services for the governor's mansion and grounds;

7 C. printing and duplicating contracts involving
8 materials that are required to be filed in connection with
9 proceedings before administrative agencies or state or federal
10 courts;

11 D. purchases of publicly provided or publicly
12 regulated gas, electricity, water, sewer and refuse collection
13 services;

14 E. purchases of books, periodicals and training
15 materials in printed or electronic format from the publishers
16 or copyright holders thereof and purchases of print, digital or
17 electronic format library materials by public, school and state
18 libraries for access by the public;

19 F. travel or shipping by common carrier or by
20 private conveyance or to meals and lodging;

21 G. purchase of livestock at auction rings or to the
22 procurement of animals to be used for research and
23 experimentation or exhibit;

24 H. contracts with businesses for public school
25 transportation services;

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1 I. procurement of tangible personal property or
2 services, as defined by Sections 13-1-87 and 13-1-93 NMSA 1978,
3 by the corrections industries division of the corrections
4 department pursuant to rules adopted by the corrections
5 industries commission, which shall be reviewed by the
6 purchasing division of the general services department prior to
7 adoption;

8 J. purchases not exceeding ten thousand dollars
9 (\$10,000) consisting of magazine subscriptions, web-based or
10 electronic subscriptions, conference registration fees and
11 other similar purchases where prepayments are required;

12 K. municipalities having adopted home rule charters
13 and having enacted their own purchasing ordinances;

14 L. the issuance, sale and delivery of public
15 securities pursuant to the applicable authorizing statute, with
16 the exception of bond attorneys and general financial
17 consultants;

18 M. contracts entered into by a local public body
19 with a private independent contractor for the operation, or
20 provision and operation, of a jail pursuant to Sections 33-3-26
21 and 33-3-27 NMSA 1978;

22 N. contracts for maintenance of grounds and
23 facilities at highway rest stops and other employment
24 opportunities, excluding those intended for the direct care and
25 support of persons with handicaps, entered into by state

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1 agencies with private, nonprofit, independent contractors who
2 provide services to persons with handicaps;

3 O. contracts and expenditures for services or items
4 of tangible personal property to be paid or compensated by
5 money or other property transferred to New Mexico law
6 enforcement agencies by the United States department of justice
7 drug enforcement administration;

8 P. contracts for retirement and other benefits
9 pursuant to Sections 22-11-47 through 22-11-52 NMSA 1978;

10 Q. contracts with professional entertainers;

11 R. contracts and expenditures for legal
12 subscription and research services and litigation expenses in
13 connection with proceedings before administrative agencies or
14 state or federal courts, including experts, mediators, court
15 reporters, process servers and witness fees, but not including
16 attorney contracts;

17 S. contracts for service relating to the design,
18 engineering, financing, construction and acquisition of public
19 improvements undertaken in improvement districts pursuant to
20 Subsection L of Section 3-33-14.1 NMSA 1978 and in county
21 improvement districts pursuant to Subsection L of Section
22 4-55A-12.1 NMSA 1978;

23 T. works of art for museums or for display in
24 public buildings or places;

25 U. contracts entered into by a local public body

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1 with a person, firm, organization, corporation or association
2 or a state educational institution named in Article 12, Section
3 11 of the constitution of New Mexico for the operation and
4 maintenance of a hospital pursuant to Chapter 3, Article 44
5 NMSA 1978, lease or operation of a county hospital pursuant to
6 the Hospital Funding Act or operation and maintenance of a
7 hospital pursuant to the Special Hospital District Act;

8 V. purchases of advertising in all media, including
9 radio, television, print and electronic;

10 W. purchases of promotional goods intended for
11 resale by the tourism department;

12 X. procurement of printing, publishing and
13 distribution services for materials produced and intended for
14 resale by the cultural affairs department;

15 Y. procurement by or through the public education
16 department from the federal department of education relating to
17 parent training and information centers designed to increase
18 parent participation, projects and initiatives designed to
19 improve outcomes for students with disabilities and other
20 projects and initiatives relating to the administration of
21 improvement strategy programs pursuant to the federal
22 Individuals with Disabilities Education Act; provided that the
23 exemption applies only to procurement of services not to exceed
24 two hundred thousand dollars (\$200,000);

25 Z. procurement of services from community

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1 rehabilitation programs or qualified individuals pursuant to
2 the State Use Act;

3 AA. purchases of products or services for eligible
4 persons with disabilities pursuant to the federal
5 Rehabilitation Act of 1973;

6 BB. procurement, by either the department of health
7 or Grant county or both, of tangible personal property,
8 services or construction that are exempt from the Procurement
9 Code pursuant to Section 9-7-6.5 NMSA 1978;

10 CC. contracts for investment advisory services,
11 investment management services or other investment-related
12 services entered into by the educational retirement board, the
13 state investment officer or the retirement board created
14 pursuant to the Public Employees Retirement Act;

15 DD. the purchase for resale by the state fair
16 commission of feed and other items necessary for the upkeep of
17 livestock;

18 EE. contracts entered into by the crime victims
19 reparation commission to distribute federal grants to assist
20 victims of crime, including grants from the federal Victims of
21 Crime Act of 1984 and the federal Violence Against Women Act of
22 1994;

23 FF. procurement by or through the early childhood
24 education and care department of early pre-kindergarten and
25 pre-kindergarten services purchased pursuant to the Pre-

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1 Kindergarten Act;

2 GG. procurement of services of commissioned
3 advertising sales representatives for New Mexico magazine;
4 [~~and~~]

5 HH. contracts entered into by the forestry division
6 of the energy, minerals and natural resources department to
7 distribute federal grants to nongovernmental entities and
8 individuals selected through an application process conducted
9 by the United States department of agriculture, the United
10 States department of the interior or any division or bureau
11 thereof for programs for wildfire prevention or protection,
12 urban forestry, forest and watershed restoration and
13 protection, reforestation or economic development projects to
14 advance the use of trees and wood biomass for hazardous fuel
15 reduction; and

16 [~~HH.~~] II. procurements exempt from the Procurement
17 Code as otherwise provided by law."