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AN ACT

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

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

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

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

A. procurement of items of tangible personal
property or services by a state agency or a local public body
from a state agency, a local public body or external
procurement unit except as otherwise provided in Sections
13-1-135 through 13-1-137 NMSA 1978;

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

C. printing and duplicating contracts involving
materials that are required to be filed in connection with
proceedings before administrative agencies or state or

1 federal courts;

2 D. purchases of publicly provided or publicly
3 regulated gas, electricity, water, sewer and refuse
4 collection services;

5 E. purchases of books, periodicals and training
6 materials in printed or electronic format from the publishers
7 or copyright holders thereof and purchases of print, digital
8 or electronic format library materials by public, school and
9 state libraries for access by the public;

10 F. travel or shipping by common carrier or by
11 private conveyance or to meals and lodging;

12 G. purchase of livestock at auction rings or to
13 the procurement of animals to be used for research and
14 experimentation or exhibit;

15 H. contracts with businesses for public school
16 transportation services;

17 I. procurement of tangible personal property or
18 services, as defined by Sections 13-1-87 and 13-1-93 NMSA
19 1978, by the corrections industries division of the
20 corrections department pursuant to rules adopted by the
21 corrections industries commission, which shall be reviewed by
22 the purchasing division of the general services department
23 prior to adoption;

24 J. purchases not exceeding ten thousand dollars
25 (\$10,000) consisting of magazine subscriptions, web-based or

1 electronic subscriptions, conference registration fees and
2 other similar purchases where prepayments are required;

3 K. municipalities having adopted home rule
4 charters and having enacted their own purchasing ordinances;

5 L. the issuance, sale and delivery of public
6 securities pursuant to the applicable authorizing statute,
7 with the exception of bond attorneys and general financial
8 consultants;

9 M. contracts entered into by a local public body
10 with a private independent contractor for the operation, or
11 provision and operation, of a jail pursuant to Sections
12 33-3-26 and 33-3-27 NMSA 1978;

13 N. contracts for maintenance of grounds and
14 facilities at highway rest stops and other employment
15 opportunities, excluding those intended for the direct care
16 and support of persons with handicaps, entered into by state
17 agencies with private, nonprofit, independent contractors who
18 provide services to persons with handicaps;

19 O. contracts and expenditures for services or
20 items of tangible personal property to be paid or compensated
21 by money or other property transferred to New Mexico law
22 enforcement agencies by the United States department of
23 justice drug enforcement administration;

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

1 Q. contracts with professional entertainers;

2 R. contracts and expenditures for legal
3 subscription and research services and litigation expenses in
4 connection with proceedings before administrative agencies or
5 state or federal courts, including experts, mediators, court
6 reporters, process servers and witness fees, but not
7 including attorney contracts;

8 S. contracts for service relating to the design,
9 engineering, financing, construction and acquisition of
10 public improvements undertaken in improvement districts
11 pursuant to Subsection L of Section 3-33-14.1 NMSA 1978 and
12 in county improvement districts pursuant to Subsection L of
13 Section 4-55A-12.1 NMSA 1978;

14 T. works of art for museums or for display in
15 public buildings or places;

16 U. contracts entered into by a local public body
17 with a person, firm, organization, corporation or association
18 or a state educational institution named in Article 12,
19 Section 11 of the constitution of New Mexico for the
20 operation and maintenance of a hospital pursuant to Chapter
21 3, Article 44 NMSA 1978, lease or operation of a county
22 hospital pursuant to the Hospital Funding Act or operation
23 and maintenance of a hospital pursuant to the Special
24 Hospital District Act;

25 V. purchases of advertising in all media,

1 including radio, television, print and electronic;

2 W. purchases of promotional goods intended for
3 resale by the tourism department;

4 X. procurement of printing, publishing and
5 distribution services for materials produced and intended for
6 resale by the cultural affairs department;

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

18 Z. procurement of services from community
19 rehabilitation programs or qualified individuals pursuant to
20 the State Use Act;

21 AA. purchases of products or services for eligible
22 persons with disabilities pursuant to the federal
23 Rehabilitation Act of 1973;

24 BB. procurement, by either the department of
25 health or Grant county or both, of tangible personal

1 property, services or construction that are exempt from the
2 Procurement Code pursuant to Section 9-7-6.5 NMSA 1978;

3 CC. contracts for investment advisory services,
4 investment management services or other investment-related
5 services entered into by the educational retirement board,
6 the state investment officer or the retirement board created
7 pursuant to the Public Employees Retirement Act;

8 DD. the purchase for resale by the state fair
9 commission of feed and other items necessary for the upkeep
10 of livestock;

11 EE. contracts entered into by the crime victims
12 reparation commission to distribute federal grants to assist
13 victims of crime, including grants from the federal Victims
14 of Crime Act of 1984 and the federal Violence Against Women
15 Act of 1994;

16 FF. procurement by or through the early childhood
17 education and care department of early pre-kindergarten and
18 pre-kindergarten services purchased pursuant to the
19 Pre-Kindergarten Act;

20 GG. procurement of services of commissioned
21 advertising sales representatives for New Mexico magazine;

22 HH. contracts entered into by the forestry
23 division of the energy, minerals and natural resources
24 department to distribute federal grants to nongovernmental
25 entities and individuals selected through an application

1 process conducted by the United States department of
2 agriculture, the United States department of the interior or
3 any division or bureau thereof for programs for wildfire
4 prevention or protection, urban forestry, forest and
5 watershed restoration and protection, reforestation or
6 economic development projects to advance the use of trees and
7 wood biomass for hazardous fuel reduction; and

8 II. procurements exempt from the Procurement Code
9 as otherwise provided by law." _____

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