

LFC Requester:

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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

[AgencyAnalysis.nmlegis.gov](https://www.legis.nm.gov/AgencyAnalysis) and email to billanalysis@dfa.nm.gov*(Analysis must be uploaded as a PDF)***SECTION I: GENERAL INFORMATION***{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*Date Prepared: 2/27/2025

Check all that apply:

Bill Number: _____

Original Correction Amendment Substitute Sponsor: Michael Padilla, Patricia
Lundstrom and Joy GarrattAgency Name
and Code
Number:Office of Broadband Access and
Expansion - 36100

Person Writing

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Title: Procurement Code ChangesPhone: 505-479-1093 :Email Drew.Roybal-
Chavez@connect.nm.**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
N/A	N/A		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
N/A	N/A	N/A		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	N/A	N/A	N/A			

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: HB276
Duplicates/Relates to Appropriation in the General Appropriation Act: No

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

SB 206 contains changes to the New Mexico Procurement Code. This bill would add several new exemptions to the Procurement Code.

Additionally, the bill would reduce or alleviate some procurement restrictions:

- Increase the maximum time for professional services contracts from four to eight years;
- Exempt-public private partnerships agreements from any contractual time limitations;
- Increase the small purchase procurement exception to the use of competitive, sealed bids from \$60,000 to \$100,000;
- Increase the dollar threshold to procure goods or services via a direct purchase order from \$20,000 to \$60,000;
- Increase the dollar threshold of small purchases not subject to procurement officer review from \$1,500 to \$10,000;
- Allows the state purchasing division to advertise invitations to bid (ITB) notices on its website or to publish in two state newspapers rather than in three;
- Increase the dollar threshold for alerting interested businesses to posted ITBs from \$20,000 to \$100,000;
- Decrease the amount of time required to post sole-source contracts on an agency's website from 30 days to 15 days;
- Increase the dollar threshold for the procurement exemption for magazine or other subscriptions, conference registration fees, and other similar purchases from \$10,000 to \$100,000; and
- Limits sole source contracts to four years including all extension and renewals.

SB 206 also makes changes to internal procurement processes for both General Services Division, and Chief Procurement Officers for other agencies.

FISCAL IMPLICATIONS

There would be several positive fiscal implications if this bill.

OBAE has unique projects that require uncommon procurements, especially within the Statewide Education Network (SEN) where we purchase equipment for all school districts statewide. This equipment is high cost and very specialized, having the ability to utilize a professional service contract for eight years as opposed to four years would mean direct cost savings with that vendor, and would also save staff time having to put together new procurements every four years.

Increasing the small purchase procurement exception to the use of competitive, sealed bids from \$60,000 to \$100,000 will assist OBAE in having the ability to contract directly with highly sought-

out broadband and telecommunications experts. Currently these experts are in high demand nationwide, and charge anywhere from \$100 to \$200 per hour, which means a \$60,000 dollar contract gets you two to three weeks of work on a multi-year infrastructure project. This means OBAE must contract this type of work through staffing service agencies which charge 15-20% administrative fees on top of the contractor's fee. OBAE has seen an increase of up to 25% per year for contract costs for these highly sought after telecommunications and broadband experts.

OBAE was awarded \$670 million of federal funding for broadband expansion and deployment statewide. This award will result in multimillion dollar broadband infrastructure grants statewide. With the change in the small purchase threshold from \$60,000 to \$100,000, this should allow staff to spend more time getting these high priority infrastructure grants completed, rather than obtaining quotes for small purchase contracts.

Allowing OBAE to post ITBs on the state purchasing division's website or in two papers rather than in three newspapers will save staff time, and agency budgets, as advertising costs have dramatically increased in recent years.

SIGNIFICANT ISSUES

There are several changes in this bill that will be positive for the OBAE, such as:

- The ability to have a professional service contract for eight years as opposed to four years could mean cost savings as vendors are usually willing to apply discounts if you contract with them for longer periods of time.
- Increasing the threshold for small purchases from \$60,000 to \$100,000 will greatly speed up the process for small purchases. Due to increasing inflation, \$60,000 is not a realistic threshold for a "small" purchase.
- Allowing GSD/SPD to post ITBs on its website or on two newspapers rather than three newspapers will also speed up the ITB process and possibly result in cost savings.
- Decreasing the amount of day from 30 days to 15 days to post sole source purchases on our website will also speed up procurements that are sole source related.
- Increasing the dollar threshold for the procurement exemption for magazine or other subscriptions, conference registration fees, and other similar purchases from \$10,000 to \$100,000 will also be helpful as the cost of advertising and for conference registrations have increased over the years.
- The explicit exemption for public-private partnership agreements from time limitations on agreements will provide OBAE with the necessary flexibility to enter into long-term agreements to operate and maintain broadband infrastructure throughout the state.

PERFORMANCE IMPLICATIONS

OBAE has received just under \$1 billion in state and federal funding to implement broadband infrastructure projects throughout the New Mexico. Despite this significant investment, the New Mexico Broadband Strategic Plan estimates that the state requires between \$2.2 billion and \$5.5 billion dollars of capital investment to achieve complete connectivity.

In addition to the shortfall to achieve complete broadband connectivity initially, OBAE currently receives no funding for long-term operations and maintenance of the broadband infrastructure.

Removing time restrictions on public private partnership agreements will enable OBAE to enter long-term leases of middle mile broadband fiber, known as Indefeasible Rights of Use (IRUs). In situations where the State owns the fiber in question, it allows the State to exchange long-term use of excess capacity with a private partner in exchange for operation, maintain, and upgrade of said fiber. In situations where a private partner owns the fiber, it allows the State to enter into secure long-term arrangements that ensure government agencies and public schools have access to quality high speed broadband.

ADMINISTRATIVE IMPLICATIONS

Under current processes, timelines to complete procurement are burdensome on OBAE and our grant awardees, who must also comply with the procurement code while utilizing state funds.

- The small purchase agreement process takes between two weeks and one month to complete;
- The Request for Proposal (RFP) agreement process takes between three and nine months to complete;
- Adding entities to the Statewide Price Agreement (SPA) is a minimum nine-month process, but can often last a year.

OBAE and our grantees have been burdened by these timelines. State and Federal grant projects have strict reversion deadlines, and such a prolonged procurement process can make it impossible to complete broadband infrastructure projects before funding reverts.

SB206 addresses this in two ways.

First, by raising the cutoff amounts to be considered a “small” purchase, this will allow more procurements to be completed in the shortened time frame. This will decrease the administrative burden, in agency staff time and administrative overheads costs for grants awardees, for more projects.

Additionally, SB206 proposes multiple minor administrative process changes that could shorten the timelines on the RFP and SPA processes. Making these processes more efficient will lessen the chance that federal or state funding will revert due to administrative delay, and allow OBAE grantees to maximize the federal or state funding available to them to complete infrastructure projects.

In short, the increased efficiency enabled by SB206 will maximize OBAE’s ability to draw down federal and state funding and build the essential broadband infrastructure our state so badly needs.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB276, the Public Private Partnership Fund.

TECHNICAL ISSUES

SB206, read in conjunction with HB276, will create multiple public-private partnership agreement exemptions from procurement code. These exemptions will allow OBAE to strategically and efficiently utilize funds to expand broadband that are currently not possible simply due

technicalities in the procurement code.

For example, if both bills are made law, OBAE will be able to execute dig once projects, by entering into public-private partnership agreements where a private entity is actively opening trenches. OBAE could take the necessary steps to add broadband to open trenches, thus saving on construction costs in the future, and avoiding additional inconvenience to the public when trenches are re-opened on the same stretch of road. Currently, OBAE cannot simply join an active construction project in this manner, no matter how beneficial to the taxpayer, as there is a nine-month RFP delay that precludes such time-sensitive project participation.

OTHER SUBSTANTIVE ISSUES

Increasing dollar thresholds should decrease the time it takes to get a contract in place, due to many contracts not having to go through the official sealed bid ITB or RFP process. This will help OBAE execute infrastructure agreements quickly so grantees can spend down funding and avoid reversions to the state or federal government.

The decrease in time to get a contract executed will also result in cost savings, as the sooner a grantee is able to purchase materials for a broadband project, the less they will be impacted by future inflation and tariffs.

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Not enacting this bill will leave the procurement code in the same state it has been in for several years. This would mean thresholds that are not realistic for the cost of procuring goods and services due to rampant inflation.

AMENDMENTS