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HOUSE BILL 115

42ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1996

INTRODUCED BY

CISCO MCSORLEY

FOR THE COURTS, CORRECTIONS AND CRIMINAL JUSTICE COMMITTEE

AN ACT

RELATING TO CORRECTIONS; REQUIRING A PRIVATE CONTRACTOR
OPERATING A CORRECTIONAL FACILITY TO PROVIDE VOCATIONAL AND
REHABILITATIVE PROGRAMMING TO INMATES INCARCERATED IN THE
FACILITY; AMENDING A SECTION OF THE NMSA 1978.

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

Section 1. Section 33-1-17 NMSA 1978 (being Laws 1985,
Chapter 149, Section 1, as amended) is amended to read:

"33-1-17. PRIVATE CONTRACT. --

A. The corrections department may contract for the
operation of any adult female facility or for housing adult
female inmates in a private facility with a person or entity in
the business of providing correctional or jail services to
government entities.

B. The corrections department may contract with a

Underscored material = new
[bracketed material] = delete

1 person or entity in the business of providing correctional or
2 jail services to government entities for:

3 (1) a correctional facility in Guadalupe county
4 of not less than five hundred fifty and not more than two
5 thousand two hundred beds;

6 (2) a correctional facility in Lea, Chaves or
7 Santa Fe county of not less than one thousand two hundred and
8 not more than two thousand two hundred beds;

9 (3) design and construction of a support
10 services building, a laundry and an infirmary at the
11 penitentiary of New Mexico in Santa Fe; or

12 (4) construction of a public facility to house
13 a special incarceration alternative program for adult male and
14 adult female felony offenders.

15 C. The authorization in Subsection B of this section
16 for a correctional facility in Guadalupe county and a
17 correctional facility in Lea, Chaves or Santa Fe county is
18 contingent upon construction of both facilities, so that one of
19 the facilities shall not be constructed unless both of the
20 facilities are constructed, as nearly as practicable,
21 simultaneously.

22 D. The corrections department shall solicit
23 proposals and award any contract under this section in
24 accordance with the provisions of the Procurement Code. The
25 contract shall include such terms and conditions as the

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Underscored material = new
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1 corrections department may require after consultation with the
2 general services department; provided that the terms and
3 conditions shall include provisions:

4 (1) setting forth comprehensive standards for
5 conditions of incarceration;

6 (2) requiring that vocational and
7 rehabilitative programming be provided to inmates incarcerated
8 in the facility;

9 [~~(2)~~] (3) that the contractor assumes all
10 liability caused by or arising out of all aspects of the
11 provision or operation of the facility;

12 [~~(3)~~] (4) for liability insurance or other
13 proof of financial responsibility acceptable to the general
14 services department covering the contractor and its officers,
15 employees and agents in an amount sufficient to cover all
16 liability caused by or arising out of all aspects of the
17 provision or operation of the facility;

18 [~~(4)~~] (5) for termination for cause upon ninety
19 days' notice to the contractor for failure to meet contract
20 provisions when such failure seriously affects the availability
21 or operation of the facility;

22 [~~(5)~~] (6) that venue for the enforcement of the
23 contract shall be in the district court for Santa Fe county;

24 [~~(6)~~] (7) that continuation of the contract is
25 subject to the availability of funds; and

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[bracketed material] = delete

1 [~~(7)~~] (8) that compliance with the contract
2 shall be monitored by the corrections department and the
3 contract may be terminated for noncompliance.

4 E. When the contractor begins operation of a
5 facility for which private contractor operation is authorized,
6 his employees performing the functions of correctional officers
7 shall be deemed correctional officers for the purposes of
8 Sections 33-1-10 and 33-1-11 NMSA 1978 but for no other purpose
9 of state law, unless specifically stated.

10 F. Any contract awarded pursuant to this section may
11 include terms to provide for the renovation of the facility or
12 for the construction of new buildings. Work performed pursuant
13 to such terms and conditions shall not be considered a capital
14 project as defined in Section 15-3-23.3 NMSA 1978 or a state
15 public works project as defined in Section 13-1-91 NMSA 1978 nor
16 shall it be subject to the requirements of Section 13-1-150 NMSA
17 1978 or of the Capital Program Act, review by the staff
18 architect of the property control division of the general
19 services department pursuant to Section 15-3-20 NMSA 1978 or
20 regulation by the director of that division pursuant to Section
21 15-3-11 NMSA 1978.

22 G. Any contract entered into by the corrections
23 department with a private contractor to operate an existing
24 facility shall include a provision securing the right of all
25 persons employed by that facility prior to the effective date of

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[bracketed material] = delete

1 that contract to be employed by that contractor in any position
2 for which they qualify before that position is offered to any
3 person not employed by that facility prior to that date."

4 Section 2. EFFECTIVE DATE. -- The effective date of the
5 provisions of this act is July 1, 1996.

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