

1 SENATE BILL 134

2 **51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

3 INTRODUCED BY

4 Joseph Cervantes

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10 AN ACT

11 RELATING TO PUBLIC PURCHASES; AMENDING SECTIONS OF THE
12 PROCUREMENT CODE TO PROVIDE FOR QUALIFICATIONS-BASED SERVICES
13 PROCUREMENT BY ALL PUBLIC BODIES OF SERVICES OF ARCHITECTS,
14 ENGINEERS, LANDSCAPE ARCHITECTS OR SURVEYORS.

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

17 SECTION 1. Section 13-1-98 NMSA 1978 (being Laws 1984,
18 Chapter 65, Section 71, as amended) is amended to read:

19 "13-1-98. EXEMPTIONS FROM THE PROCUREMENT CODE.--The
20 provisions of the Procurement Code shall not apply to:

21 A. procurement of items of tangible personal
22 property or services by a state agency or a local public body
23 from a state agency, a local public body or external
24 procurement unit except as otherwise provided in Sections
25 13-1-135 through 13-1-137 NMSA 1978;

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

3 C. printing and duplicating contracts involving
4 materials that are required to be filed in connection with
5 proceedings before administrative agencies or state or federal
6 courts;

7 D. purchases of publicly provided or publicly
8 regulated gas, electricity, water, sewer and refuse collection
9 services;

10 E. purchases of books and periodicals from the
11 publishers or copyright holders thereof;

12 F. travel or shipping by common carrier or by
13 private conveyance or to meals and lodging;

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

17 H. contracts with businesses for public school
18 transportation services;

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

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1 J. minor purchases not exceeding five thousand
2 dollars (\$5,000) consisting of magazine subscriptions,
3 conference registration fees and other similar purchases where
4 prepayments are required;

5 K. municipalities having adopted home rule charters
6 and having enacted their own purchasing ordinances, except for
7 competitive sealed qualifications-based proposals pursuant to
8 Sections 13-1-120 through 13-1-124 NMSA 1978;

9 L. the issuance, sale and delivery of public
10 securities pursuant to the applicable authorizing statute, with
11 the exception of bond attorneys and general financial
12 consultants;

13 M. contracts entered into by a local public body
14 with a private independent contractor for the operation, or
15 provision and operation, of a jail pursuant to Sections
16 33-3-26 and 33-3-27 NMSA 1978;

17 N. contracts for maintenance of grounds and
18 facilities at highway rest stops and other employment
19 opportunities, excluding those intended for the direct care and
20 support of persons with [~~handicaps~~] disabilities, entered into
21 by state agencies with private, nonprofit, independent
22 contractors who provide services to persons with [~~handicaps~~]
23 disabilities;

24 O. contracts and expenditures for services or items
25 of tangible personal property to be paid or compensated by

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1 money or other property transferred to New Mexico law
2 enforcement agencies by the United States department of justice
3 drug enforcement administration;

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

6 Q. contracts with professional entertainers;

7 R. contracts and expenditures for litigation
8 expenses in connection with proceedings before administrative
9 agencies or state or federal courts, including experts,
10 mediators, court reporters, process servers and witness fees,
11 but not including attorney contracts;

12 S. contracts for [~~service~~] services relating to the
13 design, engineering, financing, construction and acquisition of
14 public improvements undertaken in improvement districts
15 pursuant to Subsection L of Section 3-33-14.1 NMSA 1978 and in
16 county improvement districts pursuant to Subsection L of
17 Section 4-55A-12.1 NMSA 1978;

18 T. works of art for museums or for display in
19 public buildings or places;

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

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1 the Hospital Funding Act or operation and maintenance of a
2 hospital pursuant to the Special Hospital District Act;

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

5 W. purchases of promotional goods intended for
6 resale by the tourism department;

7 X. procurement of printing services for materials
8 produced and intended for resale by the cultural affairs
9 department;

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

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

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

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

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

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

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

17 SECTION 2. Section 13-1-119 NMSA 1978 (being Laws 1984,
18 Chapter 65, Section 92, as amended) is amended to read:

19 "13-1-119. COMPETITIVE SEALED QUALIFICATIONS-BASED
20 PROPOSALS--ARCHITECTS--ENGINEERS--LANDSCAPE ARCHITECTS--
21 SURVEYORS--ADDITIONAL REQUIREMENTS.--

22 A. In addition to compliance with the requirements
23 of Sections 13-1-112 through 13-1-114 and 13-1-116 through
24 13-1-118 NMSA 1978, a [~~state agency or local~~] public body, when
25 procuring the services of architects, landscape architects,

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1 engineers or surveyors, [~~for state public works projects or~~
2 ~~local public works projects~~] shall comply with Sections
3 13-1-120 through 13-1-124 NMSA 1978.

4 B. As used in this section, "public body" means a
5 department, commission, council, board, committee, institution,
6 legislative body, agency, government corporation, educational
7 institution or official of the executive, legislative or
8 judicial branch of the government of the state or a political
9 subdivision of the state and the agencies, instrumentalities
10 and institutions thereof, including two-year post-secondary
11 educational institutions, school districts, local school boards
12 and all municipalities, including home-rule municipalities."