

1 AN ACT

2 RELATING TO PROCUREMENT; PROVIDING DUTIES OF STATE AGENCIES,
3 LOCAL PUBLIC BODIES AND THE STATE PURCHASING AGENT; PROVIDING
4 EXEMPTIONS FROM THE PROCUREMENT CODE FOR CERTAIN PURCHASES;
5 REVISING SMALL PURCHASE AMOUNTS; DEFINING "CHIEF PROCUREMENT
6 OFFICER"; ESTABLISHING TRAINING REQUIREMENTS.

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

9 SECTION 1. A new section of the Procurement Code is
10 enacted to read:

11 "DEFINITION--CHIEF PROCUREMENT OFFICER.--"Chief
12 procurement officer" means that person within a state
13 agency's or local public body's central purchasing office who
14 is responsible for the control of procurement of items of
15 tangible personal property, services or construction. "Chief
16 procurement officer" includes the state purchasing agent."

17 SECTION 2. Section 13-1-37 NMSA 1978 (being Laws 1984,
18 Chapter 65, Section 10) is amended to read:

19 "13-1-37. DEFINITION--CENTRAL PURCHASING OFFICE.--
20 "Central purchasing office" means that office within a state
21 agency or a local public body responsible for the control of
22 procurement of items of tangible personal property, services
23 or construction. "Central purchasing office" includes the
24 purchasing division of the general services department."

25 SECTION 3. A new section of the Procurement Code is

1 enacted to read:

2 "CHIEF PROCUREMENT OFFICERS--REPORTING REQUIREMENT--
3 TRAINING--CERTIFICATION.--

4 A. On or before January 1 of each year beginning
5 in 2014, and every time a chief procurement officer is hired,
6 each state agency and local public body shall provide to the
7 state purchasing agent the name of the state agency's or
8 local public body's chief procurement officer and information
9 identifying the state agency's or local public body's central
10 purchasing office, if applicable.

11 B. The state purchasing agent shall maintain a
12 list of the names of the chief procurement officers reported
13 to the state purchasing agent by state agencies and local
14 public bodies. The state purchasing agent shall make the
15 list of chief procurement officers available to the public
16 through the web site of the purchasing division of the
17 general services department and in any other appropriate
18 form.

19 C. The state purchasing agent shall offer a
20 certification training program for chief procurement officers
21 each year.

22 D. On or before January 1, 2015, the state
23 purchasing agent shall establish a certification program for
24 chief procurement officers that includes initial
25 certification and recertification every two years for all

1 chief procurement officers. In order to be recertified, a
2 chief procurement officer shall pass a recertification
3 examination approved by the secretary of general services.

4 E. On and after July 1, 2015, only certified chief
5 procurement officers may do the following, except that
6 persons using procurement cards may continue to issue
7 purchase orders and authorize small purchases:

8 (1) make determinations, including
9 determinations regarding exemptions, pursuant to the
10 Procurement Code;

11 (2) issue purchase orders and authorize
12 small purchases pursuant to the Procurement Code; and

13 (3) approve procurement pursuant to the
14 Procurement Code."

15 SECTION 4. Section 13-1-95 NMSA 1978 (being Laws 1984,
16 Chapter 65, Section 68) is amended to read:

17 "13-1-95. PURCHASING DIVISION--CREATION--DIRECTOR IS
18 STATE PURCHASING AGENT--APPOINTMENT--DUTIES.--

19 A. The "purchasing division" is created within the
20 general services department.

21 B. Subject to the authority of the secretary, the
22 state purchasing agent shall be the administrator and
23 director of the purchasing division. The state purchasing
24 agent shall be appointed by the secretary with the approval
25 of the governor.

1 C. The purchasing division and state purchasing
2 agent shall be responsible for the procurement of services,
3 construction and items of tangible personal property for all
4 state agencies except as otherwise provided in the
5 Procurement Code and shall administer the Procurement Code
6 for those state agencies not excluded from the requirement of
7 procurement through the state purchasing agent.

8 D. The state purchasing agent shall have the
9 following additional authority and responsibility to:

10 (1) recommend procurement rules to the
11 secretary;

12 (2) establish and maintain programs for the
13 development and use of procurement specifications and for the
14 inspection, testing and acceptance of services, construction
15 and items of tangible personal property;

16 (3) cooperate with the state budget division
17 of the department of finance and administration in the
18 preparation of statistical data concerning the acquisition
19 and usage of all services, construction and items of tangible
20 personal property by state agencies;

21 (4) require state agencies to furnish
22 reports concerning usage, needs and stocks on hand of items
23 of tangible personal property and usage and needs for
24 services or construction;

25 (5) prescribe, with consent of the

1 secretary, forms to be used by state agencies to requisition
2 and report the procurement of items of tangible personal
3 property, services and construction;

4 (6) provide information to state agencies
5 and local public bodies concerning the development of
6 specifications, quality control methods and other procurement
7 information; and

8 (7) collect information concerning
9 procurement matters, quality and quality control of commonly
10 used services, construction and items of tangible personal
11 property.

12 E. The state purchasing agent shall, upon the
13 request of the central purchasing office of a local public
14 body, procure a price agreement for the requested services,
15 construction or items of tangible personal property. The
16 state purchasing agent may procure a price agreement for
17 services, construction or items of tangible personal property
18 for a state agency or local public body that does not have a
19 chief procurement officer."

20 SECTION 5. Section 13-1-97 NMSA 1978 (being Laws 1984,
21 Chapter 65, Section 70) is amended to read:

22 "13-1-97. CENTRALIZATION OF PROCUREMENT AUTHORITY.--

23 A. All procurement for state agencies shall be
24 performed by the state purchasing agent except as otherwise
25 provided in the Procurement Code.

1 B. All procurement for state agencies excluded
2 from the requirement of procurement through the office of the
3 state purchasing agent shall be performed by a central
4 purchasing office, the chief procurement officer or as
5 otherwise provided in the Procurement Code.

6 C. All procurement for local public bodies shall
7 be performed by a central purchasing office designated by the
8 governing authority of the local public body except as
9 otherwise provided in the Procurement Code. Local public
10 bodies shall identify their designated central purchasing
11 office to the state purchasing agent and shall report their
12 chief procurement officers to the state purchasing agent."

13 SECTION 6. Section 13-1-98 NMSA 1978 (being Laws 1984,
14 Chapter 65, Section 71, as amended) is amended to read:

15 "13-1-98. EXEMPTIONS FROM THE PROCUREMENT CODE.--The
16 provisions of the Procurement Code shall not apply to:

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

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

24 C. printing and duplicating contracts involving
25 materials that are required to be filed in connection with

1 proceedings before administrative agencies or state or
2 federal courts;

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

6 E. purchases of books, periodicals and training
7 materials in printed or electronic format from the publishers
8 or copyright holders thereof;

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

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

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

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

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

1 other similar purchases where prepayments are required;

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

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

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

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

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

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

25 Q. contracts with professional entertainers;

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

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

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

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

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

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

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

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

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

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

23 BB. procurement, by either the department of
24 health or Grant county or both, of tangible personal
25 property, services or construction that are exempt from the

1 Procurement Code pursuant to Section 9-7-6.5 NMSA 1978;

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

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

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

15 SECTION 7. Section 13-1-125 NMSA 1978 (being Laws 1984,
16 Chapter 65, Section 98, as amended) is amended to read:

17 "13-1-125. SMALL PURCHASES.--

18 A. A central purchasing office shall procure
19 services, construction or items of tangible personal property
20 having a value not exceeding sixty thousand dollars
21 (\$60,000), excluding applicable state and local gross
22 receipts taxes, in accordance with the applicable small
23 purchase rules adopted by the secretary, a local public body
24 or a central purchasing office that has the authority to
25 issue rules.

1 B. Notwithstanding the requirements of Subsection
2 A of this section, a central purchasing office may procure
3 professional services having a value not exceeding sixty
4 thousand dollars (\$60,000), excluding applicable state and
5 local gross receipts taxes, except for the services of
6 landscape architects or surveyors for state public works
7 projects or local public works projects, in accordance with
8 professional services procurement rules promulgated by the
9 department of finance and administration, the general
10 services department or a central purchasing office with the
11 authority to issue rules.

12 C. Notwithstanding the requirements of Subsection
13 A of this section, a state agency or a local public body may
14 procure services, construction or items of tangible personal
15 property having a value not exceeding twenty thousand dollars
16 (\$20,000), excluding applicable state and local gross
17 receipts taxes, by issuing a direct purchase order to a
18 contractor based upon the best obtainable price.

19 D. Procurement requirements shall not be
20 artificially divided so as to constitute a small purchase
21 under this section."

22 SECTION 8. EFFECTIVE DATE.--The effective date of the
23 provisions of this act is July 1, 2013. _____