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## FISCAL IMPACT REPORT

SPONSOR Trujillo, L. ORIGINAL DATE 3/01/17  
 LAST UPDATED 3/02/17 HB 391

SHORT TITLE Publication of Sole Source Contracts SB \_\_\_\_\_

ANALYST Hanika-Ortiz/McIntyre

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		Minimal			Recurring	Various

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

New Mexico Municipal League (NMML)  
 Administrative Office of the Courts (AOC)

#### No Response Received From

General Services Department (GSD)

### SUMMARY

#### Synopsis of Bill

House Bill 391 (HB 391) amends Section 13-1-126.1 NMSA 1978 to add local public bodies to the list of public institutions that are required to post notice online of intent to enter into sole source contracts for 30 days prior to award. It also requires executive, legislative and judicial branches of state government to post the notice on the state purchasing agent’s website.

### FISCAL IMPLICATIONS

The bill imposes an additional step in the award of a sole source contract for local public bodies and depending upon the volume of contracts, should not be difficult to accomplish with existing staff and resources.

AOC notes the bill will have no fiscal impact because the office complies with NMAC rules and the policy memo issued by the state purchasing agent regarding posting of sole source procurements.

## **SIGNIFICANT ISSUES**

The 2016 LFC Program Evaluation *Obtaining Value in State Procurement and Issues with Non-Competitive Methods* found that procurement through non-competitive methods, such as sole source procurement, are more likely to provide lower value than procurement through competitive methods. The report found that sole source use significantly declined after a 2014 rule change requiring procurements be publicly posted for 30 days. However, LFC staff found that it was not possible to effectively track all sole source use because public postings were not required to be to a single forum. The report went on to recommend requiring that all sole source procurements be posting and maintained in a single database like on the sunshine portal.

AOC notes that Sole Source Contract or Amendment to Sole Source Contract 2.40.2.12 NMAC states a contract may be awarded without competitive sealed proposals, regardless of cost, when a central purchasing office of a contracting state agency makes a written determination that a good faith review of available sources has been conducted and there is only one source available.

In addition to NMAC rules, GSD issued POLICY MEMO #FY13-004 specifying that prior to the award of a sole source procurement, the state purchasing agent or central purchasing office shall provide certain information as listed in the form available from GSD, such information is to be posted on the Department of Information Technology's sunshine portal as well as being forwarded to LFC. This posting must be for 30 days and is required for all sole source procurement requests without exception, including subscriptions, dues, etc. that are sole sourced.

## **ADMINISTRATIVE IMPLICATIONS**

Information and instructions regarding the posting of sole source procurements can be found on the sunshine portal and the GSD's state purchasing website. The GSD website is open to all public entities including those that are not necessarily required to receive approval from GSD.

AHO/sb