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AN ACT

RELATING TO PROCUREMENT; EXEMPTING CERTAIN PURCHASES OF
INSTRUCTIONAL MATERIALS FROM THE PROCUREMENT CODE; EXCLUDING
THE PURCHASES OF INSTRUCTIONAL MATERIALS FROM PROCUREMENT
THROUGH THE STATE PURCHASING AGENT.

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

SECTION 1. A new Section 13-1-63.1 NMSA 1978 is enacted
to read:

"13-1-63.1. DEFINITION--INSTRUCTIONAL MATERIALS.--
"Instructional materials" means school textbooks and other
educational media that are used as the basis for instruction,
including combinations of textbooks, learning kits,
supplementary materials and electronic media."

SECTION 2. Section 13-1-98 NMSA 1978 (being Laws 1984,
Chapter 65, Section 71, as amended by Laws 2019, Chapter 48,
Section 13 and by Laws 2019, Chapter 63, Section 1) is
amended to read:

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

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

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
6 federal courts;

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

10 E. purchases of books, periodicals, instructional
11 materials and training materials in printed, digital or
12 electronic format from the publishers, designated public-
13 education-department-approved instructional material
14 depositories or copyright holders thereof and purchases of
15 print, digital or electronic format library materials by
16 public, school and state libraries for access by the public;

17 F. travel or shipping by common carrier or by
18 private conveyance or to meals and lodging;

19 G. purchase of livestock at auction rings or to
20 the procurement of animals to be used for research and
21 experimentation or exhibit;

22 H. contracts with businesses for public school
23 transportation services;

24 I. procurement of tangible personal property or
25 services, as defined by Sections 13-1-87 and 13-1-93 NMSA

1 1978, by the corrections industries division of the
2 corrections department pursuant to rules adopted by the
3 corrections industries commission, which shall be reviewed by
4 the purchasing division of the general services department
5 prior to adoption;

6 J. purchases not exceeding ten thousand dollars
7 (\$10,000) consisting of magazine subscriptions, web-based or
8 electronic subscriptions, conference registration fees and
9 other similar purchases where prepayments are required;

10 K. municipalities having adopted home rule
11 charters and having enacted their own purchasing ordinances;

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

16 M. contracts entered into by a local public body
17 with a private independent contractor for the operation, or
18 provision and operation, of a jail pursuant to Sections
19 33-3-26 and 33-3-27 NMSA 1978;

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

1 O. contracts and expenditures for services or
2 items of tangible personal property to be paid or compensated
3 by money or other property transferred to New Mexico law
4 enforcement agencies by the United States department of
5 justice drug enforcement administration;

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

8 Q. contracts with professional entertainers;

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

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

21 T. works of art for museums or for display in
22 public buildings or places;

23 U. contracts entered into by a local public body
24 with a person, firm, organization, corporation or association
25 or a state educational institution named in Article 12,

1 Section 11 of the constitution of New Mexico for the
2 operation and maintenance of a hospital pursuant to Chapter
3 3, Article 44 NMSA 1978, lease or operation of a county
4 hospital pursuant to the Hospital Funding Act or operation
5 and maintenance of a hospital pursuant to the Special
6 Hospital District Act;

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

9 W. purchases of promotional goods intended for
10 resale by the tourism department;

11 X. procurement of printing, publishing and
12 distribution services for materials produced and intended for
13 resale by the cultural affairs department;

14 Y. procurement by or through the public education
15 department from the federal department of education relating
16 to parent training and information centers designed to
17 increase parent participation, projects and initiatives
18 designed to improve outcomes for students with disabilities
19 and other projects and initiatives relating to the
20 administration of improvement strategy programs pursuant to
21 the federal Individuals with Disabilities Education Act;
22 provided that the exemption applies only to procurement of
23 services not to exceed two hundred thousand dollars
24 (\$200,000);

25 Z. procurement of services from community

1 rehabilitation programs or qualified individuals pursuant to
2 the State Use Act;

3 AA. purchases of products or services for eligible
4 persons with disabilities pursuant to the federal
5 Rehabilitation Act of 1973;

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

10 CC. contracts for investment advisory services,
11 investment management services or other investment-related
12 services entered into by the educational retirement board,
13 the state investment officer or the retirement board created
14 pursuant to the Public Employees Retirement Act;

15 DD. the purchase for resale by the state fair
16 commission of feed and other items necessary for the upkeep
17 of livestock;

18 EE. contracts entered into by the crime victims
19 reparation commission to distribute federal grants to assist
20 victims of crime, including grants from the federal Victims
21 of Crime Act of 1984 and the federal Violence Against Women
22 Act of 1994;

23 FF. procurement by or through the early childhood
24 education and care department of early pre-kindergarten and
25 pre-kindergarten services purchased pursuant to the Pre-

1 Kindergarten Act;

2 GG. procurement of services of commissioned
3 advertising sales representatives for New Mexico magazine;
4 and

5 HH. procurements exempt from the Procurement Code
6 as otherwise provided by law."

7 SECTION 3. Section 13-1-99 NMSA 1978 (being Laws 1984,
8 Chapter 65, Section 72, as amended) is amended to read:

9 "13-1-99. EXCLUDED FROM CENTRAL PURCHASING THROUGH THE
10 STATE PURCHASING AGENT.--Excluded from the requirement of
11 procurement through the state purchasing agent but not from
12 the requirements of the Procurement Code are the following:

13 A. procurement of professional services;

14 B. small purchases having a value not exceeding
15 one thousand five hundred dollars (\$1,500);

16 C. emergency procurement;

17 D. procurement of highway construction or
18 reconstruction by the department of transportation;

19 E. procurement by the judicial branch of state
20 government;

21 F. procurement by the legislative branch of state
22 government;

23 G. procurement by the boards of regents of state
24 educational institutions named in Article 12, Section 11 of
25 the constitution of New Mexico;

1 H. procurement by the state fair commission of
2 tangible personal property, services and construction under
3 twenty thousand dollars (\$20,000);

4 I. purchases of instructional materials;

5 J. procurement by all local public bodies;

6 K. procurement by regional education cooperatives;

7 L. procurement by charter schools;

8 M. procurement by each state health care
9 institution that provides direct patient care and that is, or
10 a part of which is, medicaid certified and participating in
11 the New Mexico medicaid program; and

12 N. procurement by the public school facilities
13 authority." _____

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