

LFC Requester:	Simon
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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov

(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 2/22/25 *Check all that apply:*
Bill Number: HB550 Original Correction
 Amendment Substitute

Sponsor: Rebecca Dow **Agency Name and Code Number:** General Services/State Purchasing 35000
Short Title: SOLE SOURCE & EMERGENCY CONTRACT INFO **Person Writing:** Natalie Martinez
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
NA	NA	NA	NA

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
NA	NA	NA	NA	NA

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NA	NA	NA	NA	NA	NA

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: SB206 *Procurement Changes*
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: House Bill 550 broadens the scope of distribution of information relating to sole source and emergency procurement contracts.

FISCAL IMPLICATIONS

SIGNIFICANT ISSUES:

The timeline for which information is to be distributed as “prior to” award could be problematic, if provided prior to awardee notification. The period of time to distribute information prior to the award could lead to legal issues. Sole source requests under \$60k, for goods or general services, do not require any contract; therefore limited information would be available through the State Purchasing Division. Additionally, the State Purchasing Division does not have oversight over Emergency Procurements.

PERFORMANCE IMPLICATIONS

Sole source and emergency contracts have no cost limitations for procurements. A contract may be awarded, without a competitive sealed bids or competitive sealed proposals, regardless of the estimated costs. The state purchasing agent, or a central purchasing office, employs due diligence to verify that there is only one source for the required service, construction, or item of tangible personal property.

To implement HB550 the State Purchasing Division would need to develop standard procedures for state purchasing agents and central purchasing offices.

ADMINISTRATIVE IMPLICATIONS

This creates a duplication of work performed by the State Purchasing Division and Executive State Agencies who already post sole source procurements on the Sunshine Portal and the State Purchasing Division Website. The information already provided includes: Vendor Information, Scope of Work/Service to be Procured, Duration of the Contract, and the Dollar Amount of Contract. In addition, the State Purchasing Division provides a direct link to allow protests to be submitted during the first 15 days of posting said information.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP:

SB206 Procurement Changes provides needed changes to the State Procurement Code and requires that a Sole Source contract shall not **exceed four years**, including all extensions and renewals.

In relation to HB550 it is unknown how this would impact performance, should both bills pass and if HB550 requirements for distribution of information would then apply to Sole Source contract extensions and renewals.

TECHNICAL ISSUES

It is unclear, and there is no definition provided, as to who constitutes “persons,” for this purpose, and can be interpreted broadly to mean a business or individual person.

This bill creates the possibility of intrusion on the powers granted under the procurement code. The duty to report information on sole source procurements and emergency procurements to requesters has potential as legislation that would disrupt the balance of delegation to the executive department for the handling of procurements through the state purchasing agent or through the distribution of that authority through agency or local central purchasing officers.

For example, disclosure of potential awardees before an award poses technical challenges in the award process and/or potential for interference in the award process that would open the state of New Mexico to protest and potential sanction. Additionally, the posting of awards prior to award is not a preferred procurement process and could taint awards and subject the state to protests and sanctions. Additionally, the retention of control of the award process in state procurements in the legislature, after delegation to the executive the powers set forth in the procurement code, presents a threshold separation of powers problem (constitutional) and an improper interference in executive authority problem.

It is unclear how the proposed bill will impact provisions of the procurement code related to exemptions or exclusions.

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL:

The public would still be able to utilize IPRA to request information and would still have access to the Sunshine Portal, as well as the State Purchasing Division website, to review posted information.

AMENDMENTS