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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

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(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: 02/27/25 *Check all that apply:*
Bill Number: SB 206/a Original Correction
 Amendment Substitute

Sponsor: Michael Padilla and Patricia A. Lundstrom and Joy Garratt **Agency Name and Code Number:** General Services Department 35000
Short Title: Procurement Code Changes **Person Writing:** Susan Inman
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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:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

As Amended

The Senate Tax, Business and Transportation Committee (STBTC) amendments include:

Page 3, Section 1, and page 4, Section 4 – the amendment keeps the current language related to architectural and engineering services and clarifies that architectural projects may include engineering services. This section is related to Public Works Contracts which is not subject to General Services Department authority. The amendment removes proposed language increasing the amount of public works projects keeping it at \$50,000.

Page 6, Section 5, 13-1-95.2(D) –The amendment provides the State Purchasing Division with the authority to approve of the types of procurement for which a chief procurement officer would receive professional credit for performing a procurement function. The State Purchasing Division retains authority over the chief procurement officer certification and recertification process.

Page 7, Section 6, 13-1-98 – The amendment would ensure public body personnel perform their exempt procurements ethically and subject to the penalties of the Procurement Code.

Page 10, Section 6, 13-1-98(V) – The deleted language maintains the exemption in statute as it currently exists in the Procurement Code.

Page 15, Section 8, 13-1-104(A) – The amendment maintains the publishing term in the statute as it currently exists in the Procurement Code.

Page 23, Section 14, 13-1-138 – The amendment maintains the statutory language as it currently exists in the Procurement Code.

Page 24, Section 15, 13-1-150(A) – The new language excludes public-private partnership agreements for non-professional services from the statutory term limits, which mimics the proposed exclusion under 13-1-150(B)(8).

Original

The bill amends the Procurement Code as follows:

- Increased the minimum amounts for certain local public works projects and certain state public works projects;
- Adds a definition for public-private partnership agreements;
- Requires state and local public bodies to name two chief procurement officers (CPO);
- Requires that the CPO be maintained by the State Purchasing Division;
- Allow approved continue education units to be used for recertification and provide a definition of Continuing Education Units (CEU);
- Increase the exemption maximum for certain purchases;
- Allow the Early Childhood Education and Care Department to contract for childcare services;

- Adds exemptions for information technology capital equipment and software;
- Exempts contracts for digitizing state or federal records and appraisals and surveys for real property;
- Increase small purchase amounts from central purchasing;
- Exclude certain sole source contracts from Central Purchasing for agencies with a CPO and allow terms for longer than one year;
- Change invitation for bid posting and publication requirements and expenditure amounts;
- Provide for modification or withdrawal notices of bids containing mistakes;
- Require professional services contracts be reviewed by the State Purchasing agent or a General Services Department (GSD) designee;
- Identify the responsible individuals for management and negotiations for certain qualifications-based contracts;
- Increase the amount for certain purchases by a Central Purchasing Agent
- Allow state agencies or local public bodies to issue certain direct purchase orders;
- Change certain intent to award sole source contract requirements;
- Require cost of pricing data by prospective contractors for competitive sealed bids or requests for proposals; and
- Increase the maximum terms for professional service contracts to eight years.

FISCAL IMPLICATIONS

No fiscal implications for the General Services Department

SIGNIFICANT ISSUES

As Amended

SB 206 creates necessary changes to the Procurement Code to meet appropriate market costs, reduce unneeded delays in projects and to ensure ethical compliance in procurement.

Original

This is an agency bill endorsed by the General Services Department to improve the procurement process for state agencies and local public bodies.

Sections 1 and 4. The threshold for local and state public works projects is increased from \$50,000 to \$100,000. The bill also increases the amount for landscaping architectural or surveying services to \$100,000, currently \$10,000.

Section 2. The bill includes a definition of a public-private partnership agreement as an agreement between at least one public partner and one private partner in which the public partner accepts a private contribution to the research, development, design, construction, financing, implementation, operation or maintenance of any public asset or public benefit.

Section 3. This section is new and provides a definition of Best Obtainable Price as the price at which services or goods can be purchased at the most advantageous to the purchasing entity. This requires obtaining quotes or other appropriate methods.

Section 5. The State Purchasing Agent is required to maintain a certification program. CPOs are required to pass a recertification exam every two years. The bill includes new language allowing sixteen continuing education units approved by the General Services Department Secretary, in

lieu of the exam.

Section 6. 1)The bill changes the threshold for magazine subscriptions, web-based or electronic subscriptions, conference registration fees from \$10,000 to \$100,000; 2) adds an exemption for software licenses or maintenance agreements; 3) excludes marketing purchases; 4) (a) allows the Early Childhood Education and Care Department (ECECD) to contract with licensed child care businesses, (b) enterprise services, (c) digitization of state or federal records, (d) appraisals or surveys, and (e) slots for child care assistance procured by the ECECD.

Section 7. This section changes the definition of small purchase as having a value not exceeding \$10,000, currently \$1,500.

Section 8. The bill changes the requirement to publish competitive bids to three calendar days in at least two newspapers of general circulation or by posting the notice on the State Purchasing Agent's website. This requirement applies to bids of more than \$100,000.

Section 9. This section is amended to allow bids containing a mistake discovered before bid opening may be modified or withdrawn by electronic notice and specifies that the notice be provided to the procurement manager or the individual identified in the request for proposal.

Section 9 and 10. These sections contain clean-up language.

Section 11. This section adds a definition of "responsible individual" for the award of architect, engineering, landscape architect and surveying contracts to include the Director of the Facilities Management Division of GSD and the Secretary of the Department of Cultural Affairs.

Section 12. This section increases the amount of small purchases from \$60,000 to \$100,000.

Section 13. The amount of time to protest a sole source contract is changed from 30 days to 15 days.

Section 14. The pricing exceeds threshold is increased to \$60,000, from \$25,000 and adds language to include bids or request for proposals.

Section 15. This bill increases the term of professional services contracts to eight years and sole source contracts cannot to four years. Public-private partnerships are added to the definition of multi-term contracts.

Section 16. The effective date of this bill is July 1, 2025.

PERFORMANCE IMPLICATIONS

Original

This bill proactively addresses various procurement obstacles by streamlining the Request for Proposal (RFP) process for projects exceeding \$60,000, facilitating easier access for small businesses to engage with the state. Many small businesses view RFPs as a significant hurdle due to their associated costs and complexities. By increasing the caps, this bill alleviates the burden faced by local public bodies that are currently experiencing challenges with procurement staffing, as this will decrease the volume of RFPs needed for projects above \$60,000.

Further, appointing an additional Chief Procurement Officer (CPO) for entities will help ensure continuous service, even in the absence of the primary CPO.

Public-private partnership agreements provide important pathways for state and local entities to fund, build and maintain public infrastructure, particularly for large projects that cost tens or hundreds of millions of dollars. SB206 will remove a key barrier to advancing public-private partnerships across New Mexico for projects from broadband connectivity and highway maintenance to new or upgraded water, wastewater and energy infrastructure. Positioning state and local entities to enter into public-private partnership agreements that last beyond eight years will open up new opportunities to meet critical infrastructure needs for healthy communities and economic development.

This legislation modernizes decades-old requirements, reflects inflationary impacts on the costs of goods and services, and aims to lower barriers to conducting business with the state while preserving essential safeguards for transparency and due diligence.

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Original

Businesses will continue to face challenges in doing business with the state. The absence of a Chief Procurement Officer (CPO) will continue to create a gap in service and will continue to hinder effective processes and ongoing audit violations.

The procurement code will remain outdated and not aligned with today's market requirements

AMENDMENTS