

1 SENATE BILL 480

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

4 Sander Rue

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10 AN ACT

11 RELATING TO PROCUREMENT; ADDING THE REQUIREMENT THAT THE STATE
12 PURCHASING AGENT DEVELOP STANDARDIZED CLASSIFICATION CODES FOR
13 EXPENDITURES.

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

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

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

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

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1 governor.

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

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

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

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

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

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

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1 (5) prescribe, with consent of the secretary,
2 forms to be used by state agencies to requisition and report
3 the procurement of items of tangible personal property,
4 services and construction;

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

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

12 (8) develop standardized classification codes
13 for each expenditure by state agencies and local public bodies.

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

22 **SECTION 2.** Section 13-1-98 NMSA 1978 (being Laws 1984,
23 Chapter 65, Section 71, as amended by Laws 2013, Chapter 40,
24 Section 1 and by Laws 2013, Chapter 70, Section 6 and also by
25 Laws 2013, Chapter 71, Section 1) is amended to read:

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1 "13-1-98. EXEMPTIONS FROM THE PROCUREMENT CODE.--Except
2 for the provisions of Paragraph (8) of Subsection D of Section
3 13-1-95 NMSA 1978, the provisions of the Procurement Code shall
4 not apply to:

5 A. procurement of items of tangible personal
6 property or services by a state agency or a local public body
7 from a state agency, a local public body or external
8 procurement unit except as otherwise provided in Sections
9 13-1-135 through 13-1-137 NMSA 1978;

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

12 C. printing and duplicating contracts involving
13 materials that are required to be filed in connection with
14 proceedings before administrative agencies or state or federal
15 courts;

16 D. purchases of publicly provided or publicly
17 regulated gas, electricity, water, sewer and refuse collection
18 services;

19 E. purchases of books, periodicals and training
20 materials in printed or electronic format from the publishers
21 or copyright holders thereof;

22 F. travel or shipping by common carrier or by
23 private conveyance or to meals and lodging;

24 G. purchase of livestock at auction rings or to the
25 procurement of animals to be used for research and

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1 experimentation or exhibit;

2 H. contracts with businesses for public school
3 transportation services;

4 I. procurement of tangible personal property or
5 services, as defined by Sections 13-1-87 and 13-1-93 NMSA 1978,
6 by the corrections industries division of the corrections
7 department pursuant to rules adopted by the corrections
8 industries commission, which shall be reviewed by the
9 purchasing division of the general services department prior to
10 adoption;

11 J. purchases not exceeding ten thousand dollars
12 (\$10,000) consisting of magazine subscriptions, web-based or
13 electronic subscriptions, conference registration fees and
14 other similar purchases where prepayments are required;

15 K. municipalities having adopted home rule charters
16 and having enacted their own purchasing ordinances;

17 L. the issuance, sale and delivery of public
18 securities pursuant to the applicable authorizing statute, with
19 the exception of bond attorneys and general financial
20 consultants;

21 M. contracts entered into by a local public body
22 with a private independent contractor for the operation, or
23 provision and operation, of a jail pursuant to Sections
24 33-3-26 and 33-3-27 NMSA 1978;

25 N. contracts for maintenance of grounds and

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1 facilities at highway rest stops and other employment
2 opportunities, excluding those intended for the direct care and
3 support of persons with handicaps, entered into by state
4 agencies with private, nonprofit, independent contractors who
5 provide services to persons with handicaps;

6 O. contracts and expenditures for services or items
7 of tangible personal property to be paid or compensated by
8 money or other property transferred to New Mexico law
9 enforcement agencies by the United States department of justice
10 drug enforcement administration;

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

13 Q. contracts with professional entertainers;

14 R. contracts and expenditures for legal
15 subscription and research services and litigation expenses in
16 connection with proceedings before administrative agencies or
17 state or federal courts, including experts, mediators, court
18 reporters, process servers and witness fees, but not including
19 attorney contracts;

20 S. contracts for service relating to the design,
21 engineering, financing, construction and acquisition of public
22 improvements undertaken in improvement districts pursuant to
23 Subsection L of Section 3-33-14.1 NMSA 1978 and in county
24 improvement districts pursuant to Subsection L of Section
25 4-55A-12.1 NMSA 1978;

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1 T. works of art for museums or for display in
2 public buildings or places;

3 U. contracts entered into by a local public body
4 with a person, firm, organization, corporation or association
5 or a state educational institution named in Article 12, Section
6 11 of the constitution of New Mexico for the operation and
7 maintenance of a hospital pursuant to Chapter 3, Article 44
8 NMSA 1978, lease or operation of a county hospital pursuant to
9 the Hospital Funding Act or operation and maintenance of a
10 hospital pursuant to the Special Hospital District Act;

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

13 W. purchases of promotional goods intended for
14 resale by the tourism department;

15 X. procurement of printing services for materials
16 produced and intended for resale by the cultural affairs
17 department;

18 Y. procurement by or through the public education
19 department from the federal department of education relating to
20 parent training and information centers designed to increase
21 parent participation, projects and initiatives designed to
22 improve outcomes for students with disabilities and other
23 projects and initiatives relating to the administration of
24 improvement strategy programs pursuant to the federal
25 Individuals with Disabilities Education Act; provided that the

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1 exemption applies only to procurement of services not to exceed
2 two hundred thousand dollars (\$200,000);

3 Z. procurement of services from community
4 rehabilitation programs or qualified individuals pursuant to
5 the State Use Act;

6 AA. purchases of products or services for eligible
7 persons with disabilities pursuant to the federal
8 Rehabilitation Act of 1973;

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

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

18 DD. the purchase for resale by the state fair
19 commission of feed and other items necessary for the upkeep of
20 livestock;

21 EE. contracts entered into by the crime victims
22 reparation commission to distribute federal grants to assist
23 victims of crime, including grants from the federal Victims of
24 Crime Act of 1984 and the federal Violence Against Women Act of
25 1994; [~~and~~]

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FF. procurement by or through the children, youth
and families department of pre-kindergarten services purchased
pursuant to the Pre-Kindergarten Act; and

~~[FF.]~~ GG. procurements exempt from the Procurement
Code as otherwise provided by law."