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HOUSE BILL 235

**49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010**

INTRODUCED BY

Danice Picraux

AN ACT

RELATING TO PROCUREMENT; AMENDING THE STATE USE ACT TO ALLOW CERTAIN MATTERS TO BE DECIDED BY THE NEW MEXICO COUNCIL FOR PURCHASING FROM PERSONS WITH DISABILITIES AND TO PROVIDE THAT THE PROCUREMENT CODE IS APPLICABLE TO CERTAIN TYPES OF PROCUREMENT.

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

Section 1. Section 13-1C-1 NMSA 1978 (being Laws 2005, Chapter 334, Section 1) is amended to read:

"13-1C-1. SHORT TITLE.--~~[Sections 1 through 7 of this act]~~ Chapter 13, Article 1C NMSA 1978 may be cited as the "State Use Act"."

Section 2. Section 13-1C-7 NMSA 1978 (being Laws 2005, Chapter 334, Section 7) is amended to read:

"13-1C-7. PROCUREMENT BY STATE AGENCIES AND LOCAL PUBLIC

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1 BODIES--COOPERATIVE AGREEMENTS.--

2 A. Except as provided in Subsection B of this  
3 section, a state agency or local public body intending to  
4 procure a service on a list published by the council shall, in  
5 accordance with rules of the council, procure the service at  
6 the price established by the council if the service is  
7 available within the period required by the state agency or  
8 local public body; provided that, if the state agency or local  
9 public body believes that the available service is not suitable  
10 for the needs of the state agency or local public body or is  
11 available elsewhere for a lower price, the following procedures  
12 shall apply:

13 (1) the state agency or local public body  
14 shall, in writing, request a hearing before the council and  
15 submit documents to the council that support the agency's or  
16 local public body's position;

17 (2) upon receipt of the request, the council  
18 shall notify interested parties and, within thirty days of  
19 receiving the request, the council shall hold a hearing on the  
20 matter at which interested persons may submit evidence or  
21 opinions;

22 (3) within ten days of the hearing, the  
23 council shall report its decision. In its decision, the  
24 council may:

25 (a) decide that the service is not

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1 suitable for the state agency or local public body or cannot be  
2 provided at a fair price, in which case the service shall be  
3 procured pursuant to the Procurement Code;

4 (b) adjust the price of the service or  
5 the components of the service, in which case the service shall  
6 be provided pursuant to the State Use Act; or

7 (c) decide that the established price is  
8 a fair price for the service or that the service is suitable  
9 for the state agency or local public body, in which case the  
10 service shall be provided pursuant to the State Use Act; and

11 (4) the decision of the council is final and  
12 not subject to appeal.

13 B. Sole source procurements or emergency  
14 procurements shall be obtained only through the provisions of  
15 the Procurement Code. A state agency or local public body  
16 seeking to procure professional services, as that term is  
17 defined in the Procurement Code, may, in its discretion, either  
18 follow the provisions of the Procurement Code or the procedures  
19 of the State Use Act.

20 C. Procurement pursuant to the State Use Act is  
21 exempt from the provisions of the Procurement Code.

22 ~~[B.]~~ D. The council and a state agency or local  
23 public body may enter into a cooperative agreement for  
24 effective coordination of the objectives of the State Use Act  
25 and any other law requiring procurement of services from a

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1 state agency or local public body."

2 Section 3. EFFECTIVE DATE.--The effective date of the  
3 provisions of this act is July 1, 2010.

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