

1 AN ACT

2 RELATING TO PUBLIC PURCHASES; TRANSFERRING PROCUREMENT-
3 RELATED FUNCTIONS FROM THE DEPARTMENT OF FINANCE AND
4 ADMINISTRATION TO THE GENERAL SERVICES DEPARTMENT; REQUIRING
5 NOTICE FOR SOLE SOURCE CONTRACTS AND EMERGENCY PROCUREMENT;
6 REQUIRING STATE AGENCIES TO REPORT INFORMATION ABOUT IN-STATE
7 AND OUT-OF-STATE CONTRACTS; NARROWING AND CLARIFYING
8 PROVISIONS CONCERNING EMERGENCY PROCUREMENT; REPEALING AND
9 ENACTING SECTION 13-1-127 NMSA 1978 (BEING LAWS 1984,
10 CHAPTER 65, SECTION 100, AS AMENDED).

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

13 SECTION 1. A new section of the Procurement Code is
14 enacted to read:

15 "STATE AGENCY--REPORTING REQUIRED--IN-STATE AND
16 OUT-OF-STATE CONTRACTS.--All state agencies shall report
17 annually to the purchasing division of the general services
18 department information on the amount of state agency
19 contracts awarded to in-state contractors and the amount
20 awarded to out-of-state contractors."

21 SECTION 2. Section 13-1-118 NMSA 1978 (being Laws 1984,
22 Chapter 65, Section 91) is amended to read:

23 "13-1-118. COMPETITIVE SEALED PROPOSALS--PROFESSIONAL
24 SERVICES CONTRACTS--CONTRACT REVIEW.--All contracts for
25 professional services with state agencies shall be reviewed

1 as to form, legal sufficiency and budget requirements by the
2 general services department if required by the regulations of
3 the department. This section does not apply to contracts
4 entered into by the legislative branch of state government,
5 the judicial branch of state government or the boards of
6 regents of state educational institutions named in Article
7 12, Section 11 of the constitution of New Mexico."

8 SECTION 3. Section 13-1-125 NMSA 1978 (being Laws 1984,
9 Chapter 65, Section 98, as amended) is amended to read:

10 "13-1-125. SMALL PURCHASES.--

11 A. A central purchasing office shall procure
12 services, construction or items of tangible personal property
13 having a value not exceeding sixty thousand dollars
14 (\$60,000), excluding applicable state and local gross
15 receipts taxes, in accordance with the applicable small
16 purchase rules adopted by the secretary, a local public body
17 or a central purchasing office that has the authority to
18 issue rules.

19 B. Notwithstanding the requirements of Subsection
20 A of this section, a central purchasing office may procure
21 professional services having a value not exceeding sixty
22 thousand dollars (\$60,000), excluding applicable state and
23 local gross receipts taxes, except for the services of
24 landscape architects or surveyors for state public works
25 projects or local public works projects, in accordance with

1 professional services procurement rules promulgated by the
2 general services department or a central purchasing office
3 with the authority to issue rules.

4 C. Notwithstanding the requirements of Subsection
5 A of this section, a state agency or a local public body may
6 procure services, construction or items of tangible personal
7 property having a value not exceeding twenty thousand dollars
8 (\$20,000), excluding applicable state and local gross
9 receipts taxes, by issuing a direct purchase order to a
10 contractor based upon the best obtainable price.

11 D. Procurement requirements shall not be
12 artificially divided so as to constitute a small purchase
13 under this section."

14 SECTION 4. Section 13-1-126.1 NMSA 1978 (being Laws
15 2013, Chapter 40, Section 6) is amended to read:

16 "13-1-126.1. SOLE SOURCE CONTRACTS--NOTICE--PROTEST.--

17 A. At least thirty days before it awards a sole
18 source contract, the state purchasing agent shall post notice
19 of its intent to award the contract on its website. At least
20 thirty days before it awards a sole source contract, a
21 central purchasing office shall post notice of its intent to
22 award the contract on its website, if it maintains one, and
23 shall transmit the notice to the state purchasing agent for
24 posting on the state purchasing agent's website. In each
25 case, the notice shall identify, at a minimum:

- 1 (1) the parties to the proposed contract;
- 2 (2) the nature and quantity of the service,
3 construction or item of tangible personal property being
4 contracted for; and
- 5 (3) the contract amount.

6 B. Any qualified potential contractor that was not
7 selected for a proposed sole source contract may protest the
8 selection in writing, within fifteen calendar days after the
9 notice of intent to award the contract was posted by the
10 state purchasing agent or central purchasing office, by
11 submitting the protest to the state purchasing agent or
12 central purchasing office, as appropriate. The state
13 purchasing agent or central purchasing office shall then
14 reconsider its selection."

15 SECTION 5. Section 13-1-127 NMSA 1978 (being Laws 1984,
16 Chapter 65, Section 100, as amended) is repealed and a new
17 Section 13-1-127 NMSA 1978 is enacted to read:

18 "13-1-127. EMERGENCY PROCUREMENT--REQUIRED
19 CONDITIONS--LIMITATIONS--NOTICE.--

20 A. The state purchasing agent or a central
21 purchasing office may only make an emergency procurement when
22 the service, construction or item of tangible personal
23 property procured:

24 (1) is needed immediately to:

25 (a) control a serious threat to public

1 health, welfare, safety or property caused by a flood, fire,
2 epidemic, riot, act of terrorism, equipment failure or
3 similar event; or

4 (b) plan or prepare for the response to
5 a serious threat to public health, welfare, safety or
6 property caused by a flood, fire, epidemic, riot, act of
7 terrorism, equipment failure or similar event; and

8 (2) cannot be acquired through normal
9 procurement methods.

10 B. The state purchasing agent or a central
11 purchasing office:

12 (1) in making an emergency procurement,
13 shall:

14 (a) employ a competitive process to the
15 extent practicable under the circumstances; and

16 (b) use due diligence in determining
17 the basis for the procurement and in selecting a contractor;
18 and

19 (2) shall not make an emergency procurement
20 for the purchase or lease of heavy road equipment.

21 C. The state purchasing agent or a central
22 purchasing office that makes an emergency procurement shall
23 outline its determination of the basis for the procurement
24 and its selection of the contractor in writing and include
25 the writing in the procurement file. Promptly thereafter:

1 (1) the state purchasing agent shall post
2 notice of the procurement on its website; or

3 (2) the central purchasing office shall post
4 notice of the procurement on its website, if it maintains
5 one, and shall transmit the notice to the state purchasing
6 agent for posting on the state purchasing agent's website.

7 D. The state purchasing agent or a central
8 purchasing office that makes an emergency procurement to plan
9 or prepare for the response to a serious threat to public
10 health, welfare, safety or property caused by a flood, fire,
11 epidemic, riot, act of terrorism, equipment failure or
12 similar event shall account for the money spent in making the
13 procurement and report on that accounting to the legislative
14 finance committee and the department of finance and
15 administration within sixty days after the end of the fiscal
16 year in which the procurement was made."

17 SECTION 6. TEMPORARY PROVISION--TRANSFER OF PERSONNEL,
18 FUNCTIONS, APPROPRIATIONS, MONEY, PROPERTY, CONTRACTUAL
19 OBLIGATIONS, STATUTORY REFERENCES AND RULES.--

20 A. On the effective date of this act, all
21 personnel, functions, appropriations, money, records,
22 furniture, equipment and other property of, or attributable
23 to, the contracts review bureau of the administrative
24 services division of the department of finance and
25 administration are transferred to the purchasing division of

1 the general services department.

2 B. On the effective date of this act, all
3 contractual obligations of the contracts review bureau of the
4 administrative services division of the department of finance
5 and administration become binding on the purchasing division
6 of the general services department.

7 C. On and after the effective date of this act,
8 rules of the department of finance and administration
9 pertaining to the approval of professional services contracts
10 shall be deemed to be the rules of the general services
11 department until amended or repealed by the general services
12 department, and all references in those rules to the
13 department of finance and administration shall be deemed to
14 be references to the general services department.

15 SECTION 7. EFFECTIVE DATE.--The effective date of the
16 provisions of this act is July 1, 2019. _____

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