

1 SENATE BILL 153

2 **57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026**

3 INTRODUCED BY

4 Michael Padilla

10 AN ACT

11 RELATING TO PROCUREMENT; REDUCING THE NUMBER OF TAXPAYING YEARS
12 REQUIRED FOR CERTAIN RESIDENT BUSINESSES AND CONTRACTORS;
13 ADDING THE DEFINITION OF "BEST OBTAINABLE PRICE"; CLARIFYING
14 THE DEFINITION OF "CENTRAL PURCHASING OFFICE"; ADDING THE
15 DEFINITION OF "NOTICE OF INVITATION FOR SOLICITATION"; ADDING
16 THE DEFINITION OF "NOTICE OF REQUEST FOR PROPOSALS"; AMENDING
17 THE DEFINITION OF "SMALL BUSINESS" TO CONFORM TO THE DEFINITION
18 IN FEDERAL LAW; REQUIRING THAT SEALED BIDS BE OPENED IN
19 ACCORDANCE WITH SECTION 13-1-107 NMSA 1978 (BEING LAWS 1984,
20 CHAPTER 65, SECTION 80); REQUIRING STATE AGENCIES AND LOCAL
21 PUBLIC BODIES TO PROVIDE UP TO TWO NAMES FOR CHIEF PROCUREMENT
22 OFFICERS; REQUIRING THAT A CHIEF PROCUREMENT OFFICER
23 CERTIFICATION PROGRAM BE MAINTAINED BY THE STATE PURCHASING
24 AGENT; ALLOWING APPROVED CONTINUING EDUCATION UNITS TO BE USED
25 FOR RECERTIFICATION; DEFINING "CONTINUING EDUCATION UNITS";

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1 REQUIRING EXEMPTION DETERMINATIONS TO INCLUDE THE FACTS RELIED
2 UPON IN THE DETERMINATION; INCREASING EXEMPTION MAXIMUM AMOUNTS
3 FOR CERTAIN PURCHASES; INCREASING SMALL PURCHASES AMOUNTS
4 EXCLUDED FROM REQUIRED PROCUREMENT BY THE STATE PURCHASING
5 AGENT; CHANGING INVITATION FOR BIDS POSTING AND PUBLICATION
6 REQUIREMENTS AND EXPENDITURE AMOUNTS; CLARIFYING HOW IDENTICAL
7 COMPETITIVE SEALED BIDS ARE AWARDED; REQUIRING THAT
8 PROFESSIONAL SERVICES CONTRACTS BE REVIEWED BY THE STATE
9 PURCHASING AGENT OR A GENERAL SERVICES DEPARTMENT DESIGNEE;
10 INCREASING THE AMOUNT FOR CERTAIN PURCHASES BY A CENTRAL
11 PURCHASING AGENT; LIMITING SOLE SOURCE CONTRACTS TO A TERM OF
12 FOUR YEARS, INCLUDING ALL EXTENSIONS AND RENEWALS; CHANGING
13 CERTAIN INTENT TO AWARD SOLE SOURCE CONTRACT REQUIREMENTS;
14 REQUIRING COST OR PRICING DATA BY PROSPECTIVE CONTRACTORS;
15 INCREASING MAXIMUM TERMS FOR PROFESSIONAL SERVICES CONTRACTS TO
16 EIGHT YEARS; PROVIDING PROCUREMENT PROCESS EXCEPTIONS FOR
17 CERTAIN DISASTER-RELATED CONTRACTS PROCURED DURING A DECLARED
18 STATE OF EMERGENCY; PROVIDING FOR PREPAYMENT OF CERTAIN CHILD
19 CARE ASSISTANCE SERVICES CONTRACTS.

20
21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

22 SECTION 1. Section 13-1-22 NMSA 1978 (being Laws 2012,
23 Chapter 56, Section 4, as amended) is amended to read:

24 "13-1-22. RESIDENT BUSINESS AND RESIDENT CONTRACTOR
25 CERTIFICATION--NATIVE AMERICAN RESIDENT BUSINESS AND NATIVE

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1 AMERICAN RESIDENT CONTRACTOR CERTIFICATES--RESIDENT VETERAN
2 BUSINESS AND RESIDENT VETERAN CONTRACTOR CERTIFICATES.--

3 A. To receive a resident business, Native American
4 resident business, resident veteran business or Native American
5 resident veteran business preference pursuant to Section
6 13-1-21 NMSA 1978 or a resident contractor, Native American
7 resident contractor, resident veteran contractor or Native
8 American resident veteran contractor preference pursuant to
9 Section 13-4-2 NMSA 1978, a business or contractor shall submit
10 with its bid or proposal a copy of a valid resident business,
11 Native American resident business, resident veteran business or
12 Native American resident veteran business certificate or valid
13 resident contractor, Native American resident contractor,
14 resident veteran contractor or Native American resident veteran
15 contractor certificate issued by the taxation and revenue
16 department.

17 B. An application for a resident business
18 certificate shall include an affidavit from a certified public
19 accountant setting forth that the business is licensed to do
20 business in this state and that:

21 (1) the business has paid property taxes or
22 rent on real property in the state and paid at least one other
23 tax administered by the state, excluding the motor vehicle
24 excise tax, in ~~[each of the three years]~~ the year immediately
25 preceding the submission of the affidavit;

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(2) if the business is a new business, the owner or majority of owners has paid property taxes or rent on real property in the state and has paid at least one other tax administered by the state, excluding the motor vehicle excise tax, in ~~each of the three years~~ the year immediately preceding the submission of the affidavit and has not applied for a resident business or resident contractor certificate pursuant to this section during that time period;

(3) if the business is a relocated business, at least eighty percent of the total personnel of the business in the year immediately preceding the submission of the affidavit were residents of the state and that, prior to the submission of the affidavit, the business either leased real property for ten years or purchased real property greater than one hundred thousand dollars (\$100,000) in value in the state; or

(4) if the business is a previously certified business or was eligible for certification, the business has changed its name, has reorganized into one or more different legal entities, was purchased by another legal entity but operates in the state as substantially the same commercial enterprise or has merged with a different legal entity but operates in the state as substantially the same commercial enterprise.

C. An application for a resident veteran business

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certificate shall include the affidavit required by Subsection B of this section and:

(1) verification by the United States department of veterans affairs as being either a veteran-owned small business or a service-disabled veteran-owned small business; or

(2) verification of veteran status as indicated by the United States department of defense DD form 214 of release or discharge from active duty with an honorable discharge or of service-disabled veteran status by the United States department of veterans affairs and proof that a veteran or veterans own a majority of the business.

D. An application for a resident contractor certificate shall include an affidavit from a certified public accountant setting forth that the contractor is currently licensed as a contractor in this state and that:

(1) the contractor has:

(a) registered with the state at least one vehicle; and

(b) in ~~[each of the five years]~~ the year immediately preceding the submission of the affidavit: 1) paid property taxes or rent on real property in the state and paid at least one other tax administered by the state, excluding the motor vehicle excise tax; and 2) paid unemployment insurance on at least three full-time employees who are residents of the

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state; provided that if a contractor is a legacy contractor, the requirement of at least three full-time employees who are residents of the state is waived;

(2) if the contractor is a new contractor, the owner or majority of owners has paid property taxes or rent on real property in the state and has paid at least one other tax administered by the state, excluding the motor vehicle excise tax, in ~~[each of the five years]~~ the year immediately preceding the submission of the affidavit and has not applied for a resident business or resident contractor certificate pursuant to this section during that time period;

(3) if the contractor is a relocated business, at least eighty percent of the total personnel of the business in the year immediately preceding the submission of the affidavit were residents of the state and that, prior to the submission of the affidavit, the contractor either leased real property for ten years or purchased real property greater than one hundred thousand dollars (\$100,000) in value in the state; or

(4) if the contractor is a previously certified contractor or was eligible for certification, the contractor has changed its name, has reorganized into one or more different legal entities, was purchased by another legal entity but operates in the state as substantially the same enterprise or has merged with a different legal entity but

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1 operates in the state as substantially the same commercial
2 enterprise.

3 E. An application for a resident veteran contractor
4 certificate shall include the affidavit required by Subsection
5 D of this section and:

6 (1) verification by the United States
7 department of veterans affairs as being either a veteran-owned
8 small business or a service-disabled veteran-owned small
9 business; or

10 (2) verification of veteran status as
11 indicated by the United States department of defense DD form
12 214 of release or discharge from active duty with an honorable
13 discharge or of service-disabled veteran status by the United
14 States department of veterans affairs and proof that a veteran
15 or veterans own a majority of the business.

16 F. An application for a Native American resident
17 business certificate or a Native American resident contractor
18 certificate shall include an affidavit from a notary public
19 setting forth that the business is:

20 (1) operating on lands located on an Indian
21 nation, tribe or pueblo located in whole or in part on land
22 within New Mexico; and

23 (2) at least fifty-one percent owned by an
24 Indian nation, tribe or pueblo located in whole or in part on
25 land within New Mexico; provided that:

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(a) the Indian nation, tribe or pueblo receives at least a majority of the net income from the business; and

(b) the management and daily operation of the business are controlled by one or more individuals who are members of a New Mexico Indian nation, tribe or pueblo; or

(3) at least fifty-one percent owned by one or more New Mexico residents who are members of a federally recognized Indian nation, tribe or pueblo located in whole or in part on land within New Mexico and that is established for the purpose of profit; provided that:

(a) the Native American owners receive at least a majority of the net income from the business; and

(b) the management and daily operation of the business are controlled by one or more individuals who are members of a New Mexico Indian nation, tribe or pueblo.

G. An application for a Native American resident veteran business certificate or a Native American resident veteran contractor certificate shall include the affidavit required by Subsection F of this section and, if the business is not owned by an Indian nation, tribe or pueblo:

(1) verification by the United States department of veterans affairs that the business is either a veteran-owned small business or a service-disabled veteran-owned small business;

(2) verification of veteran status of a majority of the owners of the business as indicated by the United States department of defense DD form 214 of release or discharge from active duty with an honorable discharge or of service-disabled veteran status by the United States department of veterans affairs; or

(3) verification of veteran status of the contractor as indicated by the United States department of defense DD form 214 of release or discharge from active duty with an honorable discharge or of service-disabled veteran status by the United States department of veterans affairs.

H. The taxation and revenue department shall prescribe the form and content of the application and required affidavit. The taxation and revenue department shall examine the application and affidavit and, if necessary, may seek additional information to ensure that the business or contractor is eligible to receive the certificate pursuant to the provisions of this section. If the taxation and revenue department determines that an applicant is eligible, the department shall issue a certificate pursuant to the provisions of this section. If the taxation and revenue department determines that the applicant is not eligible, the department shall issue notification within thirty days. If no notification is provided by the department, the certificate is deemed approved. A certificate is valid for three years from

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the date of its issuance; provided that if there is a change of ownership of more than fifty percent, a resident business or resident contractor shall reapply for a certificate.

I. A business or contractor whose application for a certificate is denied has fifteen days from the date of the taxation and revenue department's decision to file an objection with the taxation and revenue department. The person filing the objection shall submit evidence to support the objection. The taxation and revenue department shall review the evidence and issue a decision within fifteen days of the filing of the objection.

J. If, following a hearing and an opportunity to be heard, the administrative hearings office finds that a business or contractor provided false information to the taxation and revenue department in order to obtain a certificate or that a business or contractor used a certificate to obtain a resident business or resident contractor preference for a bid or proposal and the resident business or contractor did not perform the percentage of the contract specified in the bid or proposal, the business or contractor:

(1) is not eligible to receive a certificate or a preference pursuant to Section 13-1-21 or 13-4-2 NMSA 1978 for a period of five years from the date on which the taxation and revenue department became aware of the submission of the false information or the failure to perform the contract as

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specified in the bid or proposal; and

(2) is subject to an administrative penalty of up to fifty thousand dollars (\$50,000) for each violation.

K. In a decision issued pursuant to Subsection I or J of this section, the taxation and revenue department or the administrative hearings office shall state the reasons for the action taken and inform an aggrieved business or contractor of the right to judicial review of the determination pursuant to the provisions of Section 39-3-1.1 NMSA 1978.

L. The taxation and revenue department may assess a reasonable fee for the issuance of a certificate not to exceed the actual cost of administering the taxation and revenue department's duties pursuant to this section.

M. The state auditor may audit or review the issuance or validity of certificates.

N. For purposes of this section:

(1) "new business" means a person that did not exist as a business in any form and that has been in existence for less than three years;

(2) "new contractor" means a person that did not exist as a business in any form and that has been in existence for less than five years;

(3) "legacy contractor" means a construction business that has been licensed in this state for ten consecutive years; and

(4) "relocated business" means a business that moved eighty percent of its total domestic personnel from another state to New Mexico in the past five years."

SECTION 2. A new section of the Procurement Code, Section 13-1-31.1 NMSA 1978, is enacted to read:

"13-1-31.1. [NEW MATERIAL] DEFINITION--BEST OBTAINABLE PRICE.--"Best obtainable price" means the price at which services or goods can be purchased that is most advantageous to the purchasing entity. The "best obtainable price" can be found by obtaining quotes; provided that if only one quote is received, negotiations between the vendor and the procuring entity shall be documented and approved by the central purchasing office."

SECTION 3. A new section of the Procurement Code, Section 13-1-70.2 NMSA 1978, is enacted to read:

"13-1-70.2. [NEW MATERIAL] DEFINITION--NOTICE OF INVITATION FOR SOLICITATION.--"Notice of invitation for solicitation" means a public announcement of a solicitation for a procurement that shall be published at least once in no less than two newspapers of general circulation or posted on the central purchasing office's website."

SECTION 4. A new section of the Procurement Code, Section 13-1-70.3 NMSA 1978, is enacted to read:

"13-1-70.3. [NEW MATERIAL] DEFINITION--NOTICE OF REQUEST FOR PROPOSALS.--"Notice of request for proposals" means a

1 public announcement made by a central purchasing office to
2 solicit detailed proposals from potential offerors, including
3 suppliers, contractors or service providers, for a specific
4 project, product or service."

5 **SECTION 5.** Section 13-1-88 NMSA 1978 (being Laws 1984,
6 Chapter 65, Section 61) is amended to read:

7 "13-1-88. DEFINITION--SMALL BUSINESS.--"Small business"
8 means a business ~~[not a subsidiary or division of another~~
9 ~~business, having an average annual volume for the preceding~~
10 ~~three fiscal years which does not exceed one million five~~
11 ~~hundred thousand dollars (\$1,500,000)] as defined in the~~
12 federal Small Business Act."

13 **SECTION 6.** Section 13-1-95.1 NMSA 1978 (being Laws 2001,
14 Chapter 292, Section 7, as amended) is amended to read:

15 "13-1-95.1. ELECTRONIC TRANSMISSIONS.--

16 A. The state purchasing agent shall develop
17 guidelines for central purchasing offices to use electronic
18 media, including distribution of solicitations and acceptance
19 of sealed bids and competitive sealed proposals that include
20 electronic signatures. The guidelines shall include:

21 (1) appropriate security to prevent
22 unauthorized access to electronically submitted bids or
23 proposals prior to the date and time set for opening of bids or
24 the deadline set for receipt for proposals, including the
25 electronic bidding, approval and award process; and

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(2) accurate retrieval or conversion of electronic forms of information into a medium that permits inspection and copying.

B. A central purchasing office, in an invitation for bids or a request for proposals, may require all or any part of a sealed bid or a competitive sealed proposal to be submitted electronically if the office determines that an electronic submission will be advantageous to the procurement process. If electronic submission is required:

(1) no hard copy documentation shall be submitted to the central purchasing office prior to the award of the contract, except as specifically identified in the invitation for bids or the request for proposals;

(2) the invitation for bids or request for proposals shall specify an opening date and time, a fixed closing date and time and an email account or other secure electronic location to which the electronic bid or proposal shall be submitted;

(3) sealed bids submitted electronically shall be opened [publicly] in [the presence of one or more witnesses at the time and place designated in the invitation for bids. The amount of each bid and each bid item, if appropriate, and such other relevant information as may be specified by the state purchasing agent or a central purchasing office, together with the name of each bidder, shall be recorded, and the record

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1 and each bid shall be open to public inspection] accordance
2 with Section 13-1-107 NMSA 1978; and

3 (4) for sealed proposals, the proposals shall
4 be opened, evaluated and the contract awarded as required in
5 the request for proposals and as otherwise provided in the
6 Procurement Code."

7 SECTION 7. Section 13-1-95.2 NMSA 1978 (being Laws 2013,
8 Chapter 70, Section 3) is amended to read:

9 "13-1-95.2. CHIEF PROCUREMENT OFFICERS--REPORTING
10 REQUIREMENT--TRAINING--CERTIFICATION.--

11 A. [On or before January 1 of each year beginning
12 in 2014] Each year prior to certification expiration, and every
13 time a chief procurement officer is hired, each state agency
14 and local public body shall [provide] submit to the state
15 purchasing agent [~~the name of~~] no more than two names of
16 certified chief procurement officers for the state agency's or
17 local public body's [~~chief procurement officer and information~~
18 ~~identifying the state agency's or local public body's~~] central
19 purchasing office [~~if applicable~~].

20 B. The state purchasing agent shall maintain a list
21 of the names of the chief procurement officers reported to the
22 state purchasing agent by state agencies and local public
23 bodies. The state purchasing agent shall make the list of
24 chief procurement officers available to the public through the
25 [~~web site~~] website of the purchasing division of the general

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1 services department and in any other appropriate form.

2 C. The state purchasing agent shall offer a
3 certification training program for chief procurement officers
4 each year.

5 D. [On or before January 1, 2015] The state
6 purchasing agent shall [establish] maintain a certification
7 program for chief procurement officers that includes initial
8 certification and recertification every two years for all chief
9 procurement officers. In order to be recertified, a chief
10 procurement officer shall pass a recertification examination
11 approved by the secretary of general services.

12 E. [On and after July 1, 2015] Only certified chief
13 procurement officers may do the following, except that persons
14 using procurement cards may continue to issue purchase orders
15 and authorize small purchases:

16 (1) make determinations pursuant to the
17 Procurement Code, including determinations regarding
18 exemptions; [pursuant to the Procurement Code] provided that
19 the findings in an exemption determination shall include the
20 facts relied upon in the making of the determination;

21 (2) issue purchase orders and authorize small
22 purchases pursuant to the Procurement Code; and

23 (3) approve procurement pursuant to the
24 Procurement Code."

25 SECTION 8. Section 13-1-98 NMSA 1978 (being Laws 1984,

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1 Chapter 65, Section 71, as amended by Laws 2023, Chapter 149,
2 Section 2 and by Laws 2023, Chapter 174, Section 1) is amended
3 to read:

4 "13-1-98. EXEMPTIONS FROM THE PROCUREMENT CODE.--The
5 state purchasing agent or the central purchasing office that
6 makes an exemption determination shall include in the
7 determination the facts relied upon in the making of the
8 determination. The provisions of the Procurement Code shall
9 not apply to:

10 A. procurement of items of tangible personal
11 property or services by a state agency or a local public body
12 from a state agency, a local public body or external
13 procurement unit except as otherwise provided in Sections
14 13-1-135 through 13-1-137 NMSA 1978;

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

17 C. printing and duplicating contracts involving
18 materials that are required to be filed in connection with
19 proceedings before administrative agencies or state or federal
20 courts;

21 D. purchases of publicly provided or publicly
22 regulated gas, electricity, water, sewer and refuse collection
23 services;

24 E. purchases of books, periodicals, instructional
25 materials and training materials in printed, digital or

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1 electronic format from the publishers, designated public-
2 education-department-approved instructional material
3 depositories or copyright holders thereof and purchases of
4 print, digital or electronic format library materials by
5 public, school and state libraries for access by the public;

6 F. travel or shipping by common carrier or by
7 private conveyance or to meals and lodging;

8 G. purchase of livestock at auction rings or to the
9 procurement of animals to be used for research and
10 experimentation or exhibit;

11 H. contracts with businesses for public school
12 transportation services;

13 I. procurement of tangible personal property or
14 services, as defined by Sections 13-1-87 and 13-1-93 NMSA 1978,
15 by the corrections industries division of the corrections
16 department pursuant to rules adopted by the corrections
17 industries commission, which shall be reviewed by the
18 purchasing division of the general services department prior to
19 adoption;

20 J. purchases not exceeding ~~ten thousand dollars~~
21 ~~(\$10,000)~~ one hundred thousand dollars (\$100,000) consisting
22 of magazine subscriptions, web-based or electronic
23 subscriptions, conference registration fees and other similar
24 purchases where prepayments are required;

25 K. municipalities having adopted home rule charters

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1 and having enacted their own purchasing ordinances;

2 L. the issuance, sale and delivery of public
3 securities pursuant to the applicable authorizing statute, with
4 the exception of bond attorneys and general financial
5 consultants;

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

10 N. contracts for maintenance of grounds and
11 facilities at highway rest stops and other employment
12 opportunities, excluding those intended for the direct care and
13 support of persons with handicaps, entered into by state
14 agencies with private, nonprofit, independent contractors who
15 provide services to persons with handicaps;

16 O. contracts and expenditures for services or items
17 of tangible personal property to be paid or compensated by
18 money or other property transferred to New Mexico law
19 enforcement agencies by the United States department of justice
20 drug enforcement administration;

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

23 Q. contracts with professional entertainers;

24 R. contracts and expenditures for legal
25 subscription and research services and litigation expenses in

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connection with proceedings before administrative agencies or state or federal courts, including experts, mediators, court reporters, process servers and witness fees, but not including attorney contracts;

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

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

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

V. purchases of advertising in all media, including radio, television, print and electronic, but not including purchases for marketing services that are broad strategic activities, including market research, branding, campaign planning or content development;

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1 W. purchases of promotional goods intended for
2 resale by the tourism department;

3 X. procurement of printing, publishing and
4 distribution services for materials produced and intended for
5 resale by the cultural affairs department;

6 Y. procurement by or through the public education
7 department from the federal department of education relating to
8 parent training and information centers designed to increase
9 parent participation, projects and initiatives designed to
10 improve outcomes for students with disabilities and other
11 projects and initiatives relating to the administration of
12 improvement strategy programs pursuant to the federal
13 Individuals with Disabilities Education Act; provided that the
14 exemption applies only to procurement of services not to exceed
15 two hundred thousand dollars (\$200,000);

16 Z. procurement of services from community
17 rehabilitation programs or qualified individuals pursuant to
18 the State Use Act;

19 AA. purchases of products or services for eligible
20 persons with disabilities pursuant to the federal
21 Rehabilitation Act of 1973;

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

1 CC. contracts for investment advisory services,
2 investment management services or other investment-related
3 services entered into by the educational retirement board, the
4 state investment officer or the retirement board created
5 pursuant to the Public Employees Retirement Act;

6 DD. the purchase for resale by the state fair
7 commission of feed and other items necessary for the upkeep of
8 livestock;

9 EE. contracts entered into by the crime victims
10 reparation commission to distribute federal grants to assist
11 victims of crime, including grants from the federal Victims of
12 Crime Act of 1984 and the federal Violence Against Women Act of
13 1994;

14 FF. procurement by or through the early childhood
15 education and care department of early pre-kindergarten and
16 pre-kindergarten services purchased pursuant to the Pre-
17 Kindergarten Act;

18 GG. procurement of services of commissioned
19 advertising sales representatives for New Mexico magazine;

20 HH. contracts entered into by the forestry division
21 of the energy, minerals and natural resources department to
22 distribute federal grants to nongovernmental entities and
23 individuals selected through an application process conducted
24 by the United States department of agriculture, the United
25 States department of the interior or any division or bureau

1 thereof for programs for wildfire prevention or protection,
2 urban forestry, forest and watershed restoration and
3 protection, reforestation or economic development projects to
4 advance the use of trees and wood biomass for hazardous fuel
5 reduction; and

6 II. procurements exempt from the Procurement Code
7 as otherwise provided by law."

8 SECTION 9. Section 13-1-99 NMSA 1978 (being Laws 1984,
9 Chapter 65, Section 72, as amended) is amended to read:

10 "13-1-99. EXCLUDED FROM CENTRAL PURCHASING THROUGH THE
11 STATE PURCHASING AGENT.--Excluded from the requirement of
12 procurement through the state purchasing agent but not from the
13 requirements of the Procurement Code are the following:

14 A. procurement of professional services;
15 B. small purchases having a value not exceeding
16 ~~one thousand five hundred dollars (\$1,500)~~ ten thousand
17 dollars (\$10,000);

18 C. emergency procurement;
19 D. procurement of highway construction or
20 reconstruction by the department of transportation;

21 E. procurement by the judicial branch of state
22 government;

23 F. procurement by the legislative branch of state
24 government;

25 G. procurement by the boards of regents of state

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1 educational institutions named in Article 12, Section 11 of the
2 constitution of New Mexico;

3 H. procurement by the state fair commission of
4 tangible personal property, services and construction under
5 twenty thousand dollars (\$20,000);

6 I. purchases of instructional materials;

7 J. procurement by all local public bodies;

8 K. procurement by regional education cooperatives;

9 L. procurement by charter schools;

10 M. procurement by each state health care
11 institution that provides direct patient care and that is, or a
12 part of which is, medicaid certified and participating in the
13 New Mexico medicaid program; and

14 N. procurement by the public school facilities
15 authority."

16 SECTION 10. Section 13-1-104 NMSA 1978 (being Laws 1984,
17 Chapter 65, Section 77, as amended) is amended to read:

18 "13-1-104. COMPETITIVE SEALED BIDS--PUBLIC NOTICE.--

19 A. An invitation for bids or a notice thereof shall
20 be published not less than ten calendar days prior to the date
21 set forth for the opening of bids. In the case of purchases
22 made by the state purchasing agent or a central purchasing
23 office, the invitation or notice shall be published at least
24 once in [at least three] no less than two newspapers of general
25 circulation in this state; in addition, an invitation or notice

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1 may be published electronically on the state purchasing agent's
2 [web site that is maintained for that purpose. In the case of
3 purchases made by other central purchasing offices, the
4 invitation or notice shall be published at least once in a
5 newspaper of general circulation in the area in which the
6 central purchasing office is located. These requirements of
7 publication are in addition to any other procedures that may be
8 adopted by central purchasing offices to notify prospective
9 bidders that bids will be received, including publication in a
10 trade journal, if available. If there is no newspaper of
11 general circulation in the area in which the central purchasing
12 office is located, such other notice may be given as is
13 commercially reasonable] website.

14 B. Each central purchasing [offices] office shall
15 send copies of the notice or invitation for bids involving the
16 expenditure of more than [twenty thousand dollars (\$20,000)]
17 one hundred thousand dollars (\$100,000) to those businesses
18 that have signified in writing an interest in submitting bids
19 for particular categories of items of tangible personal
20 property, construction and services and that have paid any
21 required fees. A central purchasing office may set different
22 registration fees for different categories of services,
23 construction or items of tangible personal property, but such
24 fees shall be related to the actual, direct cost of furnishing
25 copies of the notice or invitation for bids to the prospective

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1 bidders. The fees shall be used exclusively for the purpose of
2 furnishing copies of the notice or invitation for bids of
3 proposed procurements to prospective bidders.

4 C. A central purchasing office may satisfy the
5 requirement of sending copies of a notice or invitation for
6 bids by distributing the documents to prospective bidders
7 through electronic media. Central purchasing offices shall not
8 require that prospective bidders receive a notice or invitation
9 for bids through electronic media.

10 D. As used in this section, "prospective bidders"
11 includes persons considering submission of a bid as a general
12 contractor for the construction contract and persons who may
13 submit bids to a general contractor for work to be
14 subcontracted pursuant to the construction contract. Central
15 purchasing offices shall make copies of invitations for bids
16 for construction contracts available to prospective bidders. A
17 central purchasing office may require prospective bidders who
18 have requested documents for bid on a construction contract to
19 pay a deposit for a copy of the documents for bid. The deposit
20 shall equal the full cost of reproduction and delivery of the
21 documents for bid. The deposit, less delivery charges, shall
22 be refunded if the documents for bid are returned in usable
23 condition within the time limits specified in the documents for
24 bid, which time limits shall be no less than ten calendar days
25 from the date of the bid opening. All forfeited deposits shall

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1 be credited to the funds of the applicable central purchasing
2 office."

3 **SECTION 11.** Section 13-1-110 NMSA 1978 (being Laws 1984,
4 Chapter 65, Section 83) is amended to read:

5 "13-1-110. COMPETITIVE SEALED BIDS--IDENTICAL BIDS.--When
6 competitive sealed bids are used and two or more of the bids
7 submitted are identical in price and are the low bid, the state
8 purchasing agent or a central purchasing office may:

9 A. award pursuant to the multiple source award
10 provisions of Sections ~~[126 and 127 of the Procurement Code]~~
11 13-1-153 and 13-1-154 NMSA 1978;

12 B. award to a resident business pursuant to Section
13 13-1-21 NMSA 1978 if the identical low bids are submitted by a
14 resident business and a nonresident business;

15 ~~C. award to a resident manufacturer if the~~
16 ~~identical low bids are submitted by a resident manufacturer and~~
17 ~~a resident business;~~

18 D.] C. award by lottery to one of the identical low
19 bidders; or

20 [E.] D. reject all bids and resolicit bids or
21 proposals for the required services, construction or items of
22 tangible personal property."

23 **SECTION 12.** Section 13-1-118 NMSA 1978 (being Laws 1984,
24 Chapter 65, Section 91, as amended) is amended to read:

25 "13-1-118. COMPETITIVE SEALED PROPOSALS--PROFESSIONAL

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1 SERVICES CONTRACTS--CONTRACT REVIEW.--[All] If required,
2 contracts for professional services with state agencies shall
3 be reviewed as to form, legal sufficiency and budget
4 requirements by the state purchasing agent or the state
5 purchasing agent's designee [the general services department if
6 required by the regulations of the department]. This section
7 does not apply to contracts entered into by the legislative
8 branch of state government, the judicial branch of state
9 government or the boards of regents of state educational
10 institutions named in Article 12, Section 11 of the
11 constitution of New Mexico."

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

14 "13-1-125. SMALL PURCHASES.--

15 A. A central purchasing office shall procure
16 services, construction or items of tangible personal property
17 having a value not exceeding [~~sixty thousand dollars (\$60,000)~~]
18 one hundred thousand dollars (\$100,000), excluding applicable
19 state and local gross receipts taxes, in accordance with the
20 applicable small purchase rules adopted by the secretary, a
21 local public body or a central purchasing office that has the
22 authority to issue rules.

23 B. Notwithstanding the requirements of Subsection A
24 of this section, a central purchasing office may procure
25 professional services having a value not exceeding [~~sixty~~

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1 thousand dollars (\$60,000)] one hundred thousand dollars

2 (\$100,000), excluding applicable state and local gross receipts

3 taxes, except for the services of landscape architects or

4 surveyors for state public works projects or local public works

5 projects, in accordance with professional services procurement

6 rules promulgated by the general services department or a

7 central purchasing office with the authority to issue rules.

8 C. Notwithstanding the requirements of Subsection A

9 of this section, a state agency or a local public body may

10 procure services, construction or items of tangible personal

11 property having a value not exceeding [~~twenty thousand dollars~~

12 ~~(\$20,000)~~] sixty thousand dollars (\$60,000), excluding

13 applicable state and local gross receipts taxes, by issuing a

14 direct purchase order to a contractor based upon the best

15 obtainable price.

16 D. Procurement requirements shall not be

17 artificially divided so as to constitute a small purchase under

18 this section."

19 **SECTION 14.** Section 13-1-126 NMSA 1978 (being Laws 1984,

20 Chapter 65, Section 99, as amended) is amended to read:

21 **"13-1-126. SOLE SOURCE PROCUREMENT--**

22 A. A contract may be awarded without competitive

23 sealed bids or competitive sealed proposals regardless of the

24 estimated cost when the state purchasing agent or a central

25 purchasing office determines, in writing, that:

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(1) there is only one source for the required service, construction or item of tangible personal property;

(2) the service, construction or item of tangible personal property is unique and this uniqueness is substantially related to the intended purpose of the contract; and

(3) other similar services, construction or items of tangible personal property cannot meet the intended purpose of the contract.

B. The state purchasing agent or a central purchasing office shall use due diligence in determining the basis for the sole source procurement, including reviewing available sources and consulting the using agency, and shall include its written determination in the procurement file.

C. The state purchasing agent or a central purchasing office shall conduct negotiations, as appropriate, as to price, delivery and quantity in order to obtain the price most advantageous to the state agency or a local public body.

D. A contract for the purchase of research consultant services by institutions of higher learning constitutes a sole source procurement.

E. The state purchasing agent or a central purchasing office shall not circumvent this section by narrowly drafting specifications so that only one predetermined source would satisfy those specifications.

1 F. A sole source contract shall not exceed a term
2 of four years, including all extensions and renewals."

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

5 "13-1-126.1. SOLE SOURCE CONTRACTS--NOTICE--PROTEST.--

6 A. At least [~~thirty~~] fifteen days before it awards
7 a sole source contract, the state purchasing agent shall post
8 notice of its intent to award the contract on its website. At
9 least [~~thirty~~] fifteen days before it awards a sole source
10 contract, a central purchasing office shall post notice of its
11 intent to award the contract on its website, if it maintains
12 one, and shall transmit the notice to the state purchasing
13 agent for posting on the state purchasing agent's website. In
14 each case, the notice shall identify, at a minimum:

15 (1) the parties to the proposed contract;
16 (2) the nature and quantity of the service,
17 construction or item of tangible personal property being
18 contracted for; and
19 (3) the contract amount.

20 B. Any qualified potential contractor that was not
21 selected for a proposed sole source contract may protest the
22 selection in writing, within fifteen calendar days after the
23 notice of intent to award the contract was posted by the state
24 purchasing agent or central purchasing office, by submitting
25 the protest to the state purchasing agent or central purchasing

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1 office, as appropriate. The state purchasing agent or central
2 purchasing office shall then reconsider its selection."

3 **SECTION 16.** Section 13-1-138 NMSA 1978 (being Laws 1984,
4 Chapter 65, Section 111) is amended to read:

5 "13-1-138. COST OR PRICING DATA REQUIRED.--When required
6 by the state purchasing agent or a central purchasing office, a
7 prospective contractor shall submit cost or pricing data [when
8 the contract is expected to exceed twenty-five thousand dollars
9 (\$25,000) and is to be awarded by a method other than
10 competitive sealed bids]."

11 **SECTION 17.** Section 13-1-150 NMSA 1978 (being Laws 1984,
12 Chapter 65, Section 123, as amended) is amended to read:

13 "13-1-150. MULTI-TERM CONTRACTS--SPECIFIED PERIOD.--

14 A. A multi-term contract for items of tangible
15 personal property, construction or services except for
16 professional services, in an amount under twenty-five thousand
17 dollars (\$25,000), may be entered into for any period of time
18 deemed to be in the best interests of the state agency or a
19 local public body not to exceed [four] eight years; provided
20 that the term of the contract and conditions of renewal or
21 extension, if any, are included in the specifications and funds
22 are available for the first fiscal period at the time of
23 contracting. If the amount of the contract is twenty-five
24 thousand dollars (\$25,000) or more, the term shall not exceed
25 ten years, including all extensions and renewals, except that

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for a contract entered into pursuant to the Public Facility Energy Efficiency and Water Conservation Act, the term shall not exceed twenty-five years, including all extensions and renewals. Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds therefor. If the contract is pursuant to a public-private partnership agreement pursuant to the Trade Ports Development Act, the contract term shall not exceed thirty years, including all extensions and renewals.

B. A contract for professional services may not exceed [four] eight years, including all extensions and renewals, except for the following:

(1) services required to support or operate federally certified medicaid, financial assistance and child support enforcement management information or payment systems;

(2) services to design, develop or implement the taxation and revenue information management systems project authorized by Laws 1997, Chapter 125;

(3) a multi-term contract for the services of trustees, escrow agents, registrars, paying agents, letter of credit issuers and other forms of credit enhancement and other similar services, excluding bond attorneys, underwriters and financial advisors with regard to the issuance, sale and delivery of public securities, may be for the life of the securities or as long as the securities remain outstanding;

(4) services relating to the implementation, operation and administration of the Education Trust Act;

(5) services relating to measurement and verification of conservation-related cost savings and utility cost savings pursuant to the Public Facility Energy Efficiency and Water Conservation Act;

(6) services relating to the design and engineering of a state public works project:

(a) for a period not to exceed the requisite time for project completion and a subsequent warranty period; and

(b) upon approval of the secretary of finance and administration;

(7) services relating to the design and engineering of a regional water project with an estimated cost of more than five hundred million dollars (\$500,000,000);

(a) for a period not to exceed the requisite time for project completion and a subsequent warranty period; and

(b) upon approval of the secretary of finance and administration; and

(8) a contract for services pursuant to a public-private partnership agreement pursuant to the Trade Ports Development Act, which contract shall not exceed thirty years, including all extensions and renewals."

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1 SECTION 18. Section 13-1-154.1 NMSA 1978 (being Laws
2 2007, Chapter 312, Section 1, as amended) is amended to read:
3 "13-1-154.1. MULTIPLE SOURCE CONTRACTS--ARCHITECTURAL AND
4 ENGINEERING SERVICES CONTRACTS--INDEFINITE QUANTITY
5 CONSTRUCTION CONTRACTS.--

6 A. A state agency or local public body may procure
7 multiple architectural or engineering services contracts for
8 multiple projects under a single qualifications-based request
9 for proposals; provided that the total amount of multiple
10 contracts and all renewals for a single contractor does not
11 exceed seven million five hundred thousand dollars (\$7,500,000)
12 over [four] eight years and that a single contract, including
13 any renewals, does not exceed two million dollars (\$2,000,000).

14 B. A state agency or local public body may procure
15 multiple indefinite quantity construction contracts pursuant to
16 a price agreement for multiple projects under a single request
17 for proposals; provided that the total amount of all contracts
18 and all renewals does not exceed thirty million dollars
19 (\$30,000,000) in a period of no more than ten years and the
20 contract provides that any one purchase order under the
21 contract may not exceed seven million dollars (\$7,000,000).

22 C. A state agency or local public body may make
23 procurements in accordance with the provisions of Subsection A
24 or B of this section if:

25 (1) the advertisement and request for

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1 proposals states that multiple contracts may or will be
2 awarded, states the number of contracts that may or will be
3 awarded and describes the services or construction to be
4 performed under each contract;

5 (2) there is a single selection process for
6 all of the multiple contracts, except that for each contract
7 there may be a separate final list and a separate negotiation
8 of contract terms; and

9 (3) each of the multiple contracts for
10 architectural or engineering services has a term not exceeding
11 [four] eight years, or for construction, has a term not
12 exceeding [three] ten years, each including all extensions and
13 renewals.

14 D. A contract to be awarded pursuant to this
15 section to a firm that is currently performing under a contract
16 issued pursuant to this section shall not cause the total
17 amount of all contracts issued pursuant to this section to that
18 firm to exceed:

19 (1) fifteen million dollars (\$15,000,000) in
20 any [four-year] eight-year period for architectural or
21 engineering services; or

22 (2) thirty million dollars (\$30,000,000) in
23 any ten-year period for construction.

24 E. Procurement pursuant to this section is subject
25 to the limitations of Sections 13-1-150 through 13-1-154 NMSA

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2 F. A state agency and a local public body, not
3 including an agency of the legislative or judicial branch of
4 state government, shall report to the legislative finance
5 committee on an annual basis and to the purchasing division of
6 the general services department on, at minimum, a quarterly
7 basis the aggregate amount of contracts for each contractor and
8 the corresponding amounts to be spent under each multiple
9 source contract pursuant to this section. The general services
10 department may promulgate rules regarding reporting to the
11 department pursuant to this subsection.

12 G. Notwithstanding the provisions of Subsections A
13 through F of this section:

14 (1) a state agency or local public body may
15 exceed the monetary limitations for multiple source contracts,
16 architectural and engineering services contracts or indefinite
17 quantity construction contracts when:

18 (a) the governor has declared a state of
19 emergency or disaster pursuant to the Public Health Emergency
20 Response Act, the All Hazard Emergency Management Act or other
21 applicable law or executive powers;

22 (b) the procurement is directly related
23 to disaster response, recovery or relief efforts, including
24 infrastructure repair, temporary facilities, essential public
25 services or mitigation measures; and

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(c) the state agency or local public body documents the necessity for exceeding statutory limits, obtains written approval from the state purchasing agent prior to executing a contract pursuant to this subsection and reports the procurement to the state purchasing agent within thirty days of executing the contract; and

(2) unless otherwise authorized by law,
contracts executed under this subsection shall remain in effect
only for the duration of the declared emergency and the
emergency's recovery period, not to exceed twenty-four months
following the termination of the emergency declaration."

SECTION 19. Section 13-1-155 NMSA 1978 (being Laws 1984, Chapter 65, Section 128, as amended) is amended to read:

"13-1-155. PROCUREMENT OF USED ITEMS--APPRAISAL
REQUIRED--[COUNTY] ROAD EQUIPMENT EXCEPTION FOR AUCTIONS.--

A. A central purchasing office, when procuring used items of tangible personal property the estimated cost of which exceeds five thousand dollars (\$5,000), shall request bids as though the items were new, adding specifications that permit used items under conditions to be outlined in the bid specifications, including but not limited to requiring a written warranty for at least ninety days after date of delivery and an independent "certificate of working order" by a qualified mechanic or appraiser.

B. Notwithstanding the provisions of Subsection A

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of this section, [~~the~~] a purchasing office [~~for a county~~] may purchase, at public or private auctions conducted by established, recognized commercial auction companies, used heavy equipment having an estimated cost that exceeds five thousand dollars (\$5,000) for use in construction and maintenance of [~~county~~] streets, roads and highways, subject to the following provisions:

(1) the commercial auction company shall have been in business for at least three years preceding the date of purchase and shall conduct at least five auctions annually;

(2) the value of each piece of equipment shall be appraised prior to the auction by a qualified disinterested appraiser retained and paid by the [~~county~~] central purchasing office, who shall make a written appraisal report stating the basis for the appraisal, including the age, condition and comparable sales, and stating that the appraiser has exercised [~~his~~] independent judgment without prior understanding or agreement with any person as to a target value or range of value;

(3) an independent "certificate of working condition" shall be obtained prior to the auction from a qualified mechanic who shall have made a detailed inspection of each major working or major functional part and certified the working condition of each; and

(4) the price paid, including all auction fees

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1 and buyer's surcharges, shall not exceed the appraised value."

2 **SECTION 20.** Section 13-1-158 NMSA 1978 (being Laws 1984,
3 Chapter 65, Section 131, as amended by Laws 1997, Chapter 104,
4 Section 1 and by Laws 1997, Chapter 222, Section 1) is amended
5 to read:

6 "13-1-158. PAYMENTS FOR PURCHASES.--

7 A. No warrant, check or other negotiable instrument
8 shall be issued in payment for any purchase of services,
9 construction or items of tangible personal property:

10 (1) unless the central purchasing office or
11 the [using agency] chief procurement officer certifies that the
12 services, construction or items of tangible personal property
13 have been received and meet specifications; [or]

14 (2) unless prepayment is permitted under
15 Section 13-1-98 NMSA 1978 by exclusion of the purchase from the
16 Procurement Code; or

17 (3) unless the purchase is for child care
18 assistance services and the central purchasing office or the
19 chief procurement officer certifies in writing that, due to
20 customary business practices or specific facts demonstrating
21 undue hardship or special operational needs of the person
22 providing the child care assistance services prepayment is
23 necessary because the services cannot be reasonably obtained
24 without prepayment. Any contract requiring prepayment pursuant
25 to this paragraph shall:

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(a) include provisions to protect state money, including refund provisions or other contractual remedies appropriate to the nature of the services;

(b) be applied uniformly to any similarly situated person; and

(c) not be used to confer a competitive advantage or preference.

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1 After the thirtieth day from the date that written
2 certification of acceptance is issued, late payment charges
3 shall be paid on the unpaid balance due on the contract to the
4 contractor at the rate of one and one-half percent per month.
5 For purchases funded by state or federal grants to local public
6 bodies, if the local public body has not received the funds
7 from the federal or state funding agency, payments shall be
8 tendered to the contractor within five working days of receipt
9 of funds from that funding agency.

10 D. If the central purchasing office or the using
11 agency finds that the services, construction or items of
12 tangible personal property are not acceptable, it shall, within
13 thirty days of the date of receipt of written notice from the
14 contractor that payment is requested for services or
15 construction completed or items of tangible personal property
16 delivered on site, provide to the contractor a letter of
17 exception explaining the defect or objection to the services,
18 construction or delivered tangible personal property along with
19 details of how the contractor may proceed to provide remedial
20 action.

21 E. Late payment charges that differ from the
22 provisions of Subsection C of this section may be assessed if
23 specifically provided for by contract or pursuant to tariffs
24 approved by the ~~[New Mexico public utility commission or the~~
25 ~~state corporation]~~ public regulation commission."

1 SECTION 21. EFFECTIVE DATE.--The effective date of the
2 provisions of this act is July 1, 2026.

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