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HOUSE BILL 239

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

Luciano "Lucky" Varela

AN ACT

**RELATING TO PROCUREMENT; PROVIDING ADDITIONAL EXEMPTIONS TO THE
PROCUREMENT CODE.**

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

**Section 1. Section 13-1-98 NMSA 1978 (being Laws 1984,
Chapter 65, Section 71, as amended by Laws 2001, Chapter 291,
Section 8 and by Laws 2001, Chapter 292, Section 3 and by Laws
2001, Chapter 305, Section 28 and also by Laws 2001, Chapter
312, Section 13) is amended to read:**

**"13-1-98. EXEMPTIONS FROM THE PROCUREMENT CODE. --The
provisions of the Procurement Code shall not apply to:**

**A. procurement of items of tangible personal
property or services by a state agency or a local public body
from a state agency, a local public body or external
procurement unit except as otherwise provided in Sections**

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underscored material = new
[bracketed material] = delete

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1 13-1-135 through 13-1-137 NMSA 1978;

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

4 C. printing and duplicating contracts involving
5 materials that are required to be filed in connection with
6 proceedings before administrative agencies or state or federal
7 courts;

8 D. purchases of publicly provided or publicly
9 regulated gas, electricity, water, sewer and refuse collection
10 services;

11 E. purchases of books and periodicals from the
12 publishers or copyright holders thereof;

13 F. travel or shipping by common carrier or by
14 private conveyance or to meals and lodging;

15 G. purchase of livestock at auction rings or to the
16 procurement of animals to be used for research and
17 experimentation or exhibit;

18 H. contracts with businesses for public school
19 transportation services;

20 I. procurement of tangible personal property or
21 services, as defined by Sections 13-1-87 and 13-1-93 NMSA 1978,
22 by the corrections industries division of the corrections
23 department pursuant to regulations adopted by the corrections
24 commission, which shall be reviewed by the purchasing division
25 of the general services department prior to adoption;

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1 J. minor purchases not exceeding five thousand
2 dollars (\$5,000) consisting of magazine subscriptions,
3 conference registration fees and other similar purchases where
4 prepayments are required;

5 K. municipalities having adopted home rule charters
6 and having enacted their own purchasing ordinances;

7 L. the issuance, sale and delivery of public
8 securities pursuant to the applicable authorizing statute, with
9 the exception of bond attorneys and general financial
10 consultants;

11 M contracts entered into by a local public body
12 with a private independent contractor for the operation, or
13 provision and operation, of a jail pursuant to Sections 33-3-26
14 and 33-3-27 NMSA 1978;

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

21 O. contracts and expenditures for services or items
22 of tangible personal property to be paid or compensated by
23 money or other property transferred to New Mexico law
24 enforcement agencies by the United States department of justice
25 drug enforcement administration;

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underscored material = new
[bracketed material] = delete

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

3 Q. contracts with professional entertainers;

4 R. contracts and expenditures for litigation
5 expenses in connection with proceedings before administrative
6 agencies or state or federal courts, including experts,
7 mediators, court reporters, process servers and witness fees,
8 but not including attorney contracts; [~~and~~]

9 S. contracts for service relating to the design,
10 engineering, financing, construction and acquisition of public
11 improvements undertaken in improvement districts pursuant to
12 Subsection L of Section 3-33-14.1 NMSA 1978 and in county
13 improvement districts pursuant to Subsection L of Section
14 4-55A-12.1 NMSA 1978;

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

17 U. contracts entered into by a local public body
18 with a person, firm, organization, corporation or association
19 or a state educational institution named in Article 12, Section
20 11 of the constitution of New Mexico for the operation and
21 maintenance of a hospital pursuant to Chapter 3, Article 44
22 NMSA 1978, lease or operation of a county hospital pursuant to
23 the Hospital Funding Act or operation and maintenance of a
24 hospital pursuant to the Special Hospital District Act;

25 V. purchases of advertising in all media, including

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1 radio, television, print and electronic; and

2 W. purchases of promotional goods intended for
3 resale by the tourism department. "

4 Section 2. Section 13-1-99 NMSA 1978 (being Laws 1984,
5 Chapter 65, Section 72, as amended) is amended to read:

6 "13-1-99. EXCLUDED FROM CENTRAL PURCHASING THROUGH THE
7 STATE PURCHASING AGENT. -- Excluded from the requirement of
8 procurement through the state purchasing agent but not from the
9 requirements of the Procurement Code are the following:

10 A. procurement of professional services;

11 B. small purchases having a value not exceeding one
12 thousand five hundred dollars (\$1,500);

13 C. emergency procurement;

14 D. procurement of highway construction or
15 reconstruction by the [~~state highway and~~] department of
16 transportation [~~department~~];

17 E. procurement by the judicial branch of state
18 government;

19 F. procurement by the legislative branch of state
20 government;

21 G. procurement by the boards of regents of state
22 educational institutions named in Article 12, Section 11 of the
23 constitution of New Mexico;

24 H. procurement by the state fair commission of
25 tangible personal property, services and construction under

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