

AN ACT

RELATING TO THE PROCUREMENT OF PUBLIC PROPERTY; AMENDING THE
PROCUREMENT CODE TO PROVIDE THAT, UNDER CERTAIN CIRCUMSTANCES,
BIDS AND PROPOSALS MAY BE SUBMITTED ELECTRONICALLY; DECLARING
AN EMERGENCY.

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

Section 1. Section 13-1-28 NMSA 1978 (being Laws 1984,
Chapter 65, Section 1) is amended to read:

"13-1-28. SHORT TITLE.--Sections 13-1-28 through
13-1-199 NMSA 1978 may be cited as the "Procurement Code"."

Section 2. Section 13-1-95.1 NMSA 1978 (being Laws
2001, Chapter 292, Section 7) is amended to read:

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

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

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

(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 and each bid shall be open

to public inspection; and

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

Section 3. Section 13-1-103 NMSA 1978 (being Laws 1984, Chapter 65, Section 76) is amended to read:

"13-1-103. INVITATION FOR BIDS.--

A. An invitation for bids shall be issued and shall include the specifications for the services, construction or items of tangible personal property to be procured, all contractual terms and conditions applicable to the procurement, the location where bids are to be received and the date, time and place of the bid opening.

B. If the procurement is to be by sealed bid without electronic submission, the invitation for bids shall include the location where bids are to be received and the date, time and place of the bid opening.

C. If the procurement is to be by sealed bid with part or all of the bid to be submitted electronically, the invitation for bids shall comply with the requirements of Section 13-1-95.1 NMSA 1978."

Section 4. Section 13-1-112 NMSA 1978 (being Laws 1984, Chapter 65, Section 85, as amended) is amended to read:

"13-1-112. COMPETITIVE SEALED PROPOSALS--REQUEST FOR

PROPOSALS.--

A. Competitive sealed proposals, including competitive qualifications-based proposals, shall be solicited through a request for proposals that shall be issued and shall include the specifications for the services or items of tangible personal property to be procured, all contractual terms and conditions applicable to the procurement, the location where proposals are to be received and the date, time and place where proposals are to be received and reviewed. A request for proposals may, pursuant to Section 13-1-95.1 NMSA 1978, require that all or a portion of a responsive proposal be submitted electronically.

B. In the case of requests for competitive qualifications-based proposals, price shall be determined by formal negotiations related to scope of work."

Section 5. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.
