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HOUSE BILL 46

51ST LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2014

INTRODUCED BY

Thomas A. Anderson and Michael Padilla

AN ACT

RELATING TO PUBLIC PURCHASES; AMENDING SECTIONS OF THE
PROCUREMENT CODE TO PROVIDE FOR QUALIFICATIONS-BASED SERVICES
PROCUREMENT BY ALL PUBLIC BODIES OF SERVICES OF ARCHITECTS,
ENGINEERS, LANDSCAPE ARCHITECTS OR SURVEYORS; RECONCILING
MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2013.

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 2013, Chapter 40,
Section 1 and by Laws 2013, Chapter 70, Section 6 and also by
Laws 2013, Chapter 71, Section 1) 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

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1 from a state agency, a local public body or external
2 procurement unit except as otherwise provided in Sections
3 13-1-135 through 13-1-137 NMSA 1978;

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

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

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

13 E. purchases of books, periodicals and training
14 materials in printed or electronic format from the publishers
15 or copyright holders thereof;

16 F. travel or shipping by common carrier or by
17 private conveyance or to meals and lodging;

18 G. purchase of livestock at auction rings or to the
19 procurement of animals to be used for research and
20 experimentation or exhibit;

21 H. contracts with businesses for public school
22 transportation services;

23 I. procurement of tangible personal property or
24 services, as defined by Sections 13-1-87 and 13-1-93 NMSA 1978,
25 by the corrections industries division of the corrections

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1 department pursuant to rules adopted by the corrections
2 industries commission, which shall be reviewed by the
3 purchasing division of the general services department prior to
4 adoption;

5 J. purchases not exceeding ten thousand dollars
6 (\$10,000) consisting of magazine subscriptions, web-based or
7 electronic subscriptions, conference registration fees and
8 other similar purchases where prepayments are required;

9 K. municipalities having adopted home rule charters
10 and having enacted their own purchasing ordinances, except for
11 competitive sealed qualifications-based proposals pursuant to
12 Sections 13-1-120 through 13-1-124 NMSA 1978;

13 L. the issuance, sale and delivery of public
14 securities pursuant to the applicable authorizing statute, with
15 the exception of bond attorneys and general financial
16 consultants;

17 M. contracts entered into by a local public body
18 with a private independent contractor for the operation, or
19 provision and operation, of a jail pursuant to Sections
20 33-3-26 and 33-3-27 NMSA 1978;

21 N. contracts for maintenance of grounds and
22 facilities at highway rest stops and other employment
23 opportunities, excluding those intended for the direct care and
24 support of persons with [~~handicaps~~] disabilities, entered into
25 by state agencies with private, nonprofit, independent

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1 contractors who provide services to persons with [~~handicaps~~
2 disabilities;

3 O. contracts and expenditures for services or items
4 of tangible personal property to be paid or compensated by
5 money or other property transferred to New Mexico law
6 enforcement agencies by the United States department of justice
7 drug enforcement administration;

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

10 Q. contracts with professional entertainers;

11 R. contracts and expenditures for legal
12 subscription and research services and litigation expenses in
13 connection with proceedings before administrative agencies or
14 state or federal courts, including experts, mediators, court
15 reporters, process servers and witness fees, but not including
16 attorney contracts;

17 S. contracts for [~~service~~] services relating to the
18 design, engineering, financing, construction and acquisition of
19 public improvements undertaken in improvement districts
20 pursuant to Subsection L of Section 3-33-14.1 NMSA 1978 and in
21 county improvement districts pursuant to Subsection L of
22 Section 4-55A-12.1 NMSA 1978;

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

25 U. contracts entered into by a local public body

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1 with a person, firm, organization, corporation or association
2 or a state educational institution named in Article 12, Section
3 11 of the constitution of New Mexico for the operation and
4 maintenance of a hospital pursuant to Chapter 3, Article 44
5 NMSA 1978, lease or operation of a county hospital pursuant to
6 the Hospital Funding Act or operation and maintenance of a
7 hospital pursuant to the Special Hospital District Act;

8 V. purchases of advertising in all media, including
9 radio, television, print and electronic;

10 W. purchases of promotional goods intended for
11 resale by the tourism department;

12 X. procurement of printing services for materials
13 produced and intended for resale by the cultural affairs
14 department;

15 Y. procurement by or through the public education
16 department from the federal department of education relating to
17 parent training and information centers designed to increase
18 parent participation, projects and initiatives designed to
19 improve outcomes for students with disabilities and other
20 projects and initiatives relating to the administration of
21 improvement strategy programs pursuant to the federal
22 Individuals with Disabilities Education Act; provided that the
23 exemption applies only to procurement of services not to exceed
24 two hundred thousand dollars (\$200,000);

25 Z. procurement of services from community

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1 rehabilitation programs or qualified individuals pursuant to
2 the State Use Act;

3 AA. purchases of products or services for eligible
4 persons with disabilities pursuant to the federal Rehabilitation
5 Act of 1973;

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

10 CC. contracts for investment advisory services,
11 investment management services or other investment-related
12 services entered into by the educational retirement board, the
13 state investment officer or the retirement board created
14 pursuant to the Public Employees Retirement Act;

15 DD. the purchase for resale by the state fair
16 commission of feed and other items necessary for the upkeep of
17 livestock;

18 EE. contracts entered into by the crime victims
19 reparation commission to distribute federal grants to assist
20 victims of crime, including grants from the federal Victims of
21 Crime Act of 1984 and the federal Violence Against Women Act;
22 [~~and~~]

23 FF. procurement by or through the children, youth
24 and families department of pre-kindergarten services
25 purchased pursuant to the Pre-Kindergarten Act; and

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[FF.] GG. procurements exempt from the Procurement Code as otherwise provided by law."

SECTION 2. Section 13-1-119 NMSA 1978 (being Laws 1984, Chapter 65, Section 92, as amended) is amended to read:

"13-1-119. COMPETITIVE SEALED QUALIFICATIONS-BASED PROPOSALS--ARCHITECTS--ENGINEERS--LANDSCAPE ARCHITECTS--SURVEYORS--ADDITIONAL REQUIREMENTS.--In addition to compliance with the requirements of Sections 13-1-112 through 13-1-114 and 13-1-116 through 13-1-118 NMSA 1978, a state agency or local public body, including home rule municipalities, when procuring the services of architects, landscape architects, engineers or surveyors [~~for state public works projects or local public works projects~~] shall comply with Sections 13-1-120 through 13-1-124 NMSA 1978."