

1 SENATE BILL 120

2 **55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO PROCUREMENT; EXEMPTING YOUTH CONSERVATION CORPS
12 CONTRACTS AND SERVICE AGREEMENTS FROM THE PROCUREMENT CODE.

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

15 SECTION 1. Section 13-1-98 NMSA 1978 (being Laws 1984,
16 Chapter 65, Section 71, as amended by Laws 2019, Chapter 48,
17 Section 13 and by Laws 2019, Chapter 63, Section 1) is amended
18 to read:

19 "13-1-98. EXEMPTIONS FROM THE PROCUREMENT CODE.--The
20 provisions of the Procurement Code shall not apply to:

21 A. procurement of items of tangible personal
22 property or services by a state agency or a local public body
23 from a state agency, a local public body or external
24 procurement unit except as otherwise provided in Sections
25 13-1-135 through 13-1-137 NMSA 1978;

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

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

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

10 E. purchases of books, periodicals and training
11 materials in printed or electronic format from the publishers
12 or copyright holders thereof and purchases of print, digital or
13 electronic format library materials by public, school and state
14 libraries for access by the public;

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

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

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

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

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

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

8 K. municipalities having adopted home rule charters
9 and having enacted their own purchasing ordinances;

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

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

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

24 O. contracts and expenditures for services or items
25 of tangible personal property to be paid or compensated by

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1 money or other property transferred to New Mexico law
2 enforcement agencies by the United States department of justice
3 drug enforcement administration;

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

6 Q. contracts with professional entertainers;

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

13 S. contracts for service relating to the design,
14 engineering, financing, construction and acquisition of public
15 improvements undertaken in improvement districts pursuant to
16 Subsection L of Section 3-33-14.1 NMSA 1978 and in county
17 improvement districts pursuant to Subsection L of Section
18 4-55A-12.1 NMSA 1978;

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

21 U. contracts entered into by a local public body
22 with a person, firm, organization, corporation or association
23 or a state educational institution named in Article 12, Section
24 11 of the constitution of New Mexico for the operation and
25 maintenance of a hospital pursuant to Chapter 3, Article 44

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1 NMSA 1978, lease or operation of a county hospital pursuant to
2 the Hospital Funding Act or operation and maintenance of a
3 hospital pursuant to the Special Hospital District Act;

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

6 W. purchases of promotional goods intended for
7 resale by the tourism department;

8 X. procurement of printing, publishing and
9 distribution services for materials produced and intended for
10 resale by the cultural affairs department;

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

21 Z. procurement of services from community
22 rehabilitation programs or qualified individuals pursuant to
23 the State Use Act;

24 AA. purchases of products or services for eligible
25 persons with disabilities pursuant to the federal

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1 Rehabilitation Act of 1973;

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

6 CC. contracts for investment advisory services,
7 investment management services or other investment-related
8 services entered into by the educational retirement board, the
9 state investment officer or the retirement board created
10 pursuant to the Public Employees Retirement Act;

11 DD. the purchase for resale by the state fair
12 commission of feed and other items necessary for the upkeep of
13 livestock;

14 EE. contracts entered into by the crime victims
15 reparation commission to distribute federal grants to assist
16 victims of crime, including grants from the federal Victims of
17 Crime Act of 1984 and the federal Violence Against Women Act of
18 1994;

19 FF. procurement by or through the early childhood
20 education and care department of early pre-kindergarten and
21 pre-kindergarten services purchased pursuant to the Pre-
22 Kindergarten Act;

23 GG. procurement of services of commissioned
24 advertising sales representatives for New Mexico magazine;

25 [~~and~~]

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HH. contracts and the procurement of services for
projects entered into by the New Mexico youth conservation
corps commission pursuant to the New Mexico Youth Conservation
Corps Act; and

[~~HH.~~] II. procurements exempt from the Procurement
Code as otherwise provided by law."