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HOUSE BILL 412

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Rick Miera

AN ACT

RELATING TO PROCUREMENT; EXEMPTING CERTAIN COUNTIES FROM THE
PROCUREMENT CODE; REQUIRING EXEMPT COUNTIES TO ENACT THEIR OWN
PURCHASING ORDINANCES.

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

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

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

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

9 E. purchases of books and periodicals from the
10 publishers or copyright holders thereof;

11 F. travel or shipping by common carrier or by
12 private conveyance or to meals and lodging;

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

16 H. contracts with businesses for public school
17 transportation services;

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

25 J. minor purchases not exceeding five thousand

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1 dollars (\$5,000) consisting of magazine subscriptions,
2 conference registration fees and other similar purchases where
3 prepayments are required;

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

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

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

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

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

25 P. contracts for retirement and other benefits

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1 pursuant to Sections 22-11-47 through 22-11-52 NMSA 1978;

2 Q. contracts with professional entertainers;

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

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

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

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

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

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

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

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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; ~~and~~

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;
13 and

14 FF. class A counties with a population in excess of
15 five hundred thousand, according to the most recent federal
16 decennial census, that have enacted their own purchasing
17 ordinances after obtaining the approval of the general services
18 department."