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FISCAL IMPACT REPORT

ORIGINAL DATE 02/2/11

SPONSOR Miera LAST UPDATED _____ HB 139

SHORT TITLE Raise Monetary Limit on Public Works Projects SB _____

ANALYST Archuleta

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total	NFI	NFI	NFI			

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Finance and Administration (DFA)

General Services Department (GSD)

New Mexico Corrections Department (NMCD)

SUMMARY

Synopsis of Bill

House Bill 139 amends the Procurement Code increasing the monetary limits for:

- State public works projects that use landscape architectural or surveying services requiring professional services from \$10,000 to \$20,000;
- Competitive sealed bids from \$20,000 to \$50,000;
- Small purchases from \$20,000 to \$50,000;
- Direct purchase order purchases from \$10,000 to \$15,000;
- Multiple architectural or engineering design service contracts for multiple projects from \$200,000 to \$500,000;
- Multiple indefinite quantity construction projects pursuant to a price agreement for multiple projects under a single Request For Proposal (RFP) from \$2,000,000 to \$4,000,000; and
- Procurement of used tangible personal property from \$5,000 to \$50,000

SIGNIFICANT ISSUES

The State Purchasing Division (SPD) of GSD is responsible for the administration of the Procurement Code that involves identifying products and services that are biddable items and contacting vendors who wish to participate in bids for such items on a statewide or specific agency basis. SPD seeks to conserve public funds and ensure fairness to vendors by procuring goods, services, and construction at competitive prices consistent with required quality and timeliness standards. Its' mission: *To serve the public whose money we spend, the departments and institutions who use what we buy, and the business/vendor community who supply what we ask for by always procuring the right quality, in the right quantity, at the right time, at the right price, from the right supplier and in the right manner for ultimate economy.*

SPD processes RFPs and ITBs for state agencies which result in awards of price agreements, contracts and purchase orders. The statewide and agency specific price agreements are for commodities and services commonly used, or they are agency specific. Sole source procurement of items of tangible property, construction and nonprofessional services must be approved and negotiated by the state purchasing agent. DFA and state agencies may issue a RFP for professional services and other commodities or services within their procurement authority. Additionally, DFA is responsible for reviewing and approving all professional service contracts and emergency purchases. The Procurement Code apply to every expenditure by state agencies for the procurement of tangible personal property, services and construction except as provided in Section 13-1-98 NMSA 1978 Exemptions from the Procurement Code.

According to a 2008 LFC Procurement Division Effectiveness Review, a report presented to the Legislative Finance Committee identified the following key findings:

- The State Purchasing Agent expressed that besides sole source purchases, emergency procurements are one of the highest procurement categories of abuse.
- Of approximately \$5.2 billion spent by state agencies in FY07, the State Purchasing Division could only account for approximately \$16 million through RFPs and invitations to bid (ITBs) due to limited tracking documentation and processes.
- The state purchasing agent needs to develop improved management accountability to ensure statutory requirements are consistently met and efficient procurement practices are implemented immediately.
- Procurement code violations ranging from \$2 million to \$7 million were not tracked or monitored.
- Good faith review was conducted on a sole source purchase of \$1.2 million.

NMCD suggests that the bill will allow more administrative and operational flexibility in making the covered purchases, and will allow the department to avoid engaging in RFPs and other competitive bidding when securing a wider scope of needed items and services. This may save administrative resources, especially when NMCD procurement personnel are already assuming numerous tasks due to staff vacancies. The bill may help improve the efficiency and productivity of current procurement personnel.

GSD also indicates the bill may improve contract/agreement turnaround time by increasing the number of small purchases and reducing the volume of large purchases. Agencies will have more authority for implementing a larger subset of procurement actions. There would be no

change in the potential for errors and abuse as it exists today, but the dollar value of such issues will be increased.

ADMINISTRATIVE IMPLICATIONS

This bill may improve contract/agreement turnaround time by increasing the number of small purchases and reducing the volume of large purchases.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relates to House Bill 128 – Procurement Code Exemptions and Violations; and House Bill 66 – Transfer Departments and Services to DFA.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The existing limits for certain purchases would remain.

DA/bym