

# Purchasing Changes

**2013**

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# **NEW LAW SUMMARY**

**Four (4) legislative bills affecting Procurement were passed by the New Mexico State Legislature (NMSL) this session and signed by Governor Susana Martinez**



# Senate Bill 443

## Formal Bid Limits Increase to \$60,000

- Changes Small Purchase Limit
- Changes Informal Bid Limit
- Effective 6/14/2013



# Purchasing changes

## Goods Below \$10,000 or Services Below <\$5,000

- **Small Purchase**

## Goods \$10,000.01 to \$20,000

- **One Quote or Other Documentation which describes price and product**

## Goods \$20,000.01 to \$60,000 – 3 Quotes

- **The Buyer may use 1 quote in the following circumstances:**
  1. **Existing Contract (UNM, GSA, SPD, etc)**
  2. **Urgency – Buyer’s sole discretion**
  3. **Buyer’s Experience – Buyer’s determination that 1 quote represents fair value**



# Purchasing changes

## Services or Goods and Services Combined 5,000.01 to \$60,000

- Informal Bid
- Existing Contract
- 3 Quotes (1 /Quote for the following):
  1. Existing Contract
  2. Urgency
  3. Buyer's Experience



# Purchasing changes

## Bid Limit Increases

### Impact on UNM Requisitioners:

**Fewer Purchases will be subject to the Formal Bidding Process or New Formal Sole Source Justification**



# Senate Bill 182

## New “30-Day Challenge” Law for Sole Source Purchases

- 30 Day Waiting Period for all Sole Source Purchases, no exceptions
- Applies only to Sole Sources above Formal Bid Limits
- Requires Purchasing to Post a “Notice of Intent to Award” for a Sole Source Procurement 30 days prior to the purchase
- Your Sole Source Form will be posted in the UNM Sunshine Portal to be viewed and challenged by other vendors
- If the 30-day waiting period elapses without a challenge, your Sole Source Purchase can then be made
- Shifts Purchasing’s responsibility on a Sole Source from Good Faith Effort to Due Diligence
  - Purchasing will have to verify the information on your Sole Source form
- If your Sole Source is Challenged, Purchasing will follow PROTEST guidelines as posted at <http://www.unm.edu/~purch/reg11.pdf> and may be forced to use the Bid Process for your purchase



# Senate Bill 182

## New “30-Day Challenge” Law for Sole Source Purchases

- “Per Terms of Grant” is No Longer sufficient for Sole Source Justification
  - Must now justify WHY it is required for Grant and why other substitutes are not acceptable
- Your Sole Source Justification Form must consider these factors:
  - What is unique about it
  - What other vendors sell it
  - Why it meets your needs and others do not
- In order to protect you from Sole Source Challenges, UNM Purchasing is currently updating our Sole Source Form to require a more thorough justification
- 30-Day Challenge Law is effective 6/14/13
  - Therefore, the last possible day to issue a Sole Source PO using FY13 funds is the day before the law is effective, Thursday, 6/13/13





# Senate Bill 182

## New “30-Day Challenge” Law for Sole Source Purchases

### Impact on UNM Requisitioners:

- Substantial Increase in Sole Source Procurement Processing Time
- Your Sole Source Forms will be subjected to public scrutiny
  - 1-2 sentence Sole Source Justifications will no longer be adequate
- Requisitioners will need to plan well in advance of a Sole Source Purchase
  - No longer a “Fast Track” method of Purchase
- Might be faster to go out to Bid
  - Ex. Sole Source Challenge on Day 29



# Senate Bill 182

## Willful Violation of the Procurement Code

- Definition of “willful” can apply to both action and inaction
- Will frequently pertain to actions of Buyers in Purchasing but could apply to UNM Departments if they act without Purchasing
- This law will have NO impact to a Requisitioner provided:
  - 1) Purchase Order is in place BEFORE receiving goods/service
  - 2) Requisitioners act in good faith
- Effective 6/14/13



# Senate Bill 182

## Willful Violation of the Procurement Code

### Other criminal laws that affect Departments continue to be in effect (Fraud, etc):

- Illegal Kickbacks
- Fraudulently supplying information for Sole Source, Bids, etc

### Penalties:

- 4<sup>th</sup> Degree Felony for Purchase > \$50,000
- Misdemeanor for Purchase < \$50,000

### Department Example of Willful Violation:

Department hires a consultant on their own (without Purchasing/PO). Invoiced prior to PO being issued.

- If purchase is over \$50,000 – 4<sup>th</sup> degree felony
- If purchase is under \$50,000 - Misdemeanor



# Other Procurement Law Changes

## Senate Bill 182 - Emergency Procurement (rare)

- UNM Purchasing must now be directly involved
- Emergency Procurement Form must now be posted within 3 business days after award
- Forms will be posted in UNM Sunshine Portal
- UNM Purchasing is creating a new form



# Other Procurement Law Changes

## Senate Bill 340 – Design and Build Projects

- **Eliminates \$10 Million threshold**
- **Should increase use of D&B**



# Other Procurement Law Changes

## SB 266 – Architectural/Construction

- Raises limits for Architectural & Engineering services from \$200,000 to \$2,000,000 over 4-year period



# Other Procurement Law Changes

## SB 443 – Certification/Exemptions

- Establishes certification and training requirements for Chief Procurement Officers

