

**Editor's note:** – This section contains various parts of NMSA 13-1-1-199 regarding purchases and the procurement process. You should consult your local purchasing agent for specific policies.

### **13-1-126. Sole source procurement.**

A contract may be awarded without competitive sealed bids or competitive sealed proposals regardless of the estimated cost when the state purchasing agent or a central purchasing office makes a determination, after conducting a good-faith review of available sources and consulting the using agency, that there is only one source for the required service, construction or item of tangible personal property. The state purchasing agent or a central purchasing office shall conduct negotiations, as appropriate, as to price, delivery and quantity in order to obtain the price most advantageous to the state agency or a local public body. A contract for the purchase of research consultant services by institutions of higher learning constitutes a sole source procurement.

**History:** Laws 1984, ch. 65, § 99; 1987, ch. 348, § 9.

### **13-1-127. Emergency procurements.**

A. The state purchasing agent, a central purchasing office or a designee of either may make or authorize others to make emergency procurements when there exists a threat to public health, welfare, safety or property requiring procurement under emergency conditions; provided that emergency procurements shall be made with competition as is practicable under the circumstances. A written determination of the basis for the emergency procurement and for the selection of the particular contractor shall be included in the procurement file. Emergency procurements shall not include the purchase or lease purchase of heavy road equipment.

B. An emergency condition is a situation which creates a threat to public health, welfare or safety such as may arise by reason of floods, epidemics, riots, equipment failures or similar events. The existence of the emergency condition creates an immediate and serious need for services, construction, or items of tangible personal property that cannot be met through normal procurement methods and the lack of which would seriously threaten:

- (1) the functioning of government;
- (2) the preservation or protection of property; or
- (3) the health or safety of any person.

**History:** Laws 1984, ch. 65, § 100; 1987, ch. 348, § 10.

### **13-1-128. Sole source and emergency procurements; content and submission or record.**

All central purchasing offices shall maintain, for a minimum of three years, records of sole source and emergency procurements. The record of each such procurement shall be public record and shall contain:

- A. the contractor's name and address;
- B. the amount and term of the contract;
- C. a listing of the services, construction or items of tangible personal property procured under the

contract; and  
D. the justification for the procurement method.

**History:** Laws 1984, ch. 65, § 101; 1987, ch. 348, § 11.

### **13-1-129. Procurement under existing contracts.**

A. Notwithstanding the requirements of [Sections 13-1-102](#) through [13-1-118](#) NMSA 1978, the state purchasing agent or a central purchasing office may contract for services, construction or items of tangible personal property without the use of competitive sealed bids or competitive sealed proposals as follows:

(1) at a price equal to or less than the contractor's current federal supply contract price (GSA), providing the contractor has indicated in writing a willingness to extend such contractor pricing, terms and conditions to the state agency or local public body and the purchase order adequately identifies the contract relied upon; or  
(2) with a business which has a current exclusive or nonexclusive price agreement with the state purchasing agent or a central purchasing office for the item, services or construction meeting the same standards and specifications as the items to be procured if the following conditions are met:

(a) the quantity purchased does not exceed the quantity which may be purchased under the applicable price agreement; and

(b) the purchase order adequately identifies the price agreement relied upon.

B. The central purchasing office shall retain for public inspection and for the use of auditors a copy of each federal supply contractor state purchasing agent price agreement relied upon to make purchases without seeking competitive bids or proposals.

**History:** Laws 1984, ch. 65, § 102; 1991, ch. 254, § 1.

### **13-6-1. Disposition of obsolete, worn-out or unusable tangible personal property.**

A. The governing authority of each state agency, local public body, school district and state educational institution may dispose of any item of tangible personal property belonging to that authority and delete the item from its public inventory upon a specific finding by the authority that the item of property is:

(1) of a current resale value of five thousand dollars (\$5,000) or less; and

(2) worn-out, unusable or obsolete to the extent that the item is no longer economical or safe for continued use by the body.

B. The governing authority shall, as a prerequisite to the disposition of any items of tangible personal property:

(1) designate a committee of at least three officials of the governing authority to approve and oversee the disposition; and

(2) give notification at least thirty days prior to its action making the deletion by sending a copy of its official finding and the proposed disposition of the property to the state auditor and the appropriate approval authority designated in [Section 13-6-2](#) NMSA 1978, duly sworn and subscribed under oath by each member of the authority approving the action.

C. A copy of the official finding and proposed disposition of the property sought to be disposed

of shall be made a permanent part of the official minutes of the governing authority and maintained as a public record subject to the Inspection of Public Records Act [\[Chapter 14, Article 2\]](#) NMSA 1978].

D. The governing authority shall dispose of the tangible personal property by negotiated sale to any governmental unit of an Indian nation, tribe or pueblo in New Mexico or by negotiated sale or donation to other state agencies, local public bodies, school districts, state educational institutions or municipalities or through the central purchasing office of the governing authority by means of competitive sealed bid or public auction or, if a state agency, through the federal property assistance bureau of the general services department.

E. If the governing authority is unable to dispose of the tangible personal property pursuant to Subsection D of this section, the governing authority may sell or, if the property has no value, donate the property to any organization described in Section 501 (c) (3) of the Internal Revenue Code of 1986.

F. If the governing authority is unable to dispose of the tangible personal property pursuant to Subsection D or E of this section, it may order that the property be destroyed or otherwise permanently disposed of in accordance with applicable laws.

G. If the governing authority determines that the tangible personal property is hazardous or contains hazardous materials and may not be used safely under any circumstances, the property shall be destroyed and disposed of pursuant to Subsection F of this section.

H. No tangible personal property shall be donated to an employee or relative of an employee of a state agency, local public body, school district or state educational institution; provided that nothing in this subsection precludes an employee from participating and bidding for public property at a public auction.

I. This section shall not apply to any property acquired by a museum through abandonment procedures pursuant to the Abandoned Cultural Properties Act [\[18-10-1 to 18-10-5\]](#) NMSA 1978].

**History:** 1953 Comp., § 6-1-7.1, enacted by Laws 1961, ch. 100, § 1; 1979, ch. 195, § 2; 1984, ch. 47, § 1; 1987, ch. 15, § 1; 1989, ch. 211, § 6; 1995, ch. 181, § 1; 1998, ch. 16, § 1.

### **13-6-2. Sale of property by state agencies or local public bodies; authority to sell or dispose of property; approval of appropriate approval authority.**

A. Any state agency, local public body, school district or state educational institution is empowered to sell or otherwise dispose of real or personal property belonging to the state agency, local public body, school district or state educational institution. Except as provided in [Section 13-6-2.1](#) NMSA 1978 requiring state board of finance approval for certain transactions, sale or disposition of real or personal property having a current resale value of more than five thousand dollars (\$5,000) may be made by any state agency, local public body, school district or state educational institution if the sale or disposition has been approved by the state budget division of the department of finance and administration for state agencies, the local government division of the department of finance and administration for local public bodies, the state department of public education for school districts and the commission on higher education for state educational institutions.

B. Prior approval of the appropriate approval authority is not required if the property is to be used as a trade-in or exchange pursuant to the provisions of the Procurement Code [\[13-1-28\]](#) to

[13-1-117](#) and [13-1-118](#) to [13-1-199](#) NMSA 1978].

C. The appropriate approval authority may condition the approval of the sale or other disposition of any real or personal property upon the property being offered for sale to a state agency, local public body, school district or state educational institution.

D. The appropriate approval authority shall have the power to credit any payment received from the sale of any such real or personal property to the governmental body making the sale. The state agency, local public body, school district or state educational institution may convey all or any interest in the real or personal property without warranty.

E. This section shall not apply to any computer software or hardware of any state agency.

F. The provisions of this section shall not be applicable as to those institutions specifically enumerated in [Article 12, Section 11](#) of the constitution of New Mexico, the state land office or the state highway commission.

**History:** 1978 Comp., § 13-6-2, enacted by Laws 1979, ch. 195, § 3; 1980, ch. 89, § 17; 1984, ch. 47, § 2; 1987, ch. 15, § 2; 1989, ch. 211, § 7; 1989, ch. 380, § 3.