

# Purchasing/Procurement

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Participants will be muted throughout the presentation.

Questions can be asked using the Q&A option at the bottom of the screen. The chat box will not be monitored.

Please fill out the survey at the end of the class.

# Other Training Opportunities

Email [MarkS.Melhoff@state.nm.us](mailto:MarkS.Melhoff@state.nm.us) to be added to a waiting list

- DFA Purchasing Query 101 – basic introduction to the query viewer and example queries for purchasing.
- DFA Travel 101 – this course covers the rules, policies and procedures for state travel. This includes statute, rule and DFA policy.
- DFA Purchasing 101 – this course includes an overview of the procurement code, basic introduction to supplier relation including W9s and step by step instructions on how to create simple requisitions, purchase orders and payment vouchers in SHARE.
- DFA Supplier Relations 101 – this course covers all aspect of the supplier/vendor process. This will include adding a supplier to SHARE, W9s, 1099s, withholding, warrant cancellations, ACH returns and instructions on how to fill out a W9 properly. The class also hosts a discussion on fraud and fraud prevention as it relates to state purchasing.
- DFA Procurement Card 101 – this course provides an overview of the procurement card program to include processing procedures, policies, procurement code, invoice payment and a tutorial on using the web-based Works system.

# Topics/sections

- Procurement – from a DFA perspective



# New Mexico Department of Finance & Administration

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## VISION

Public entities, throughout New Mexico, are fiscally responsible, effective and accountable.

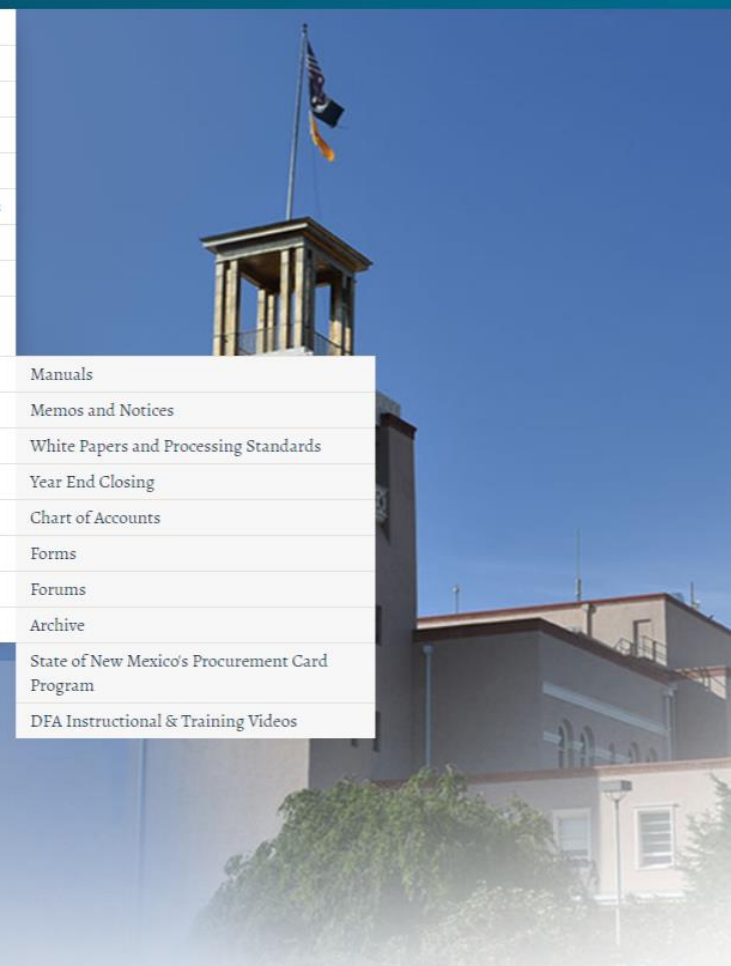
## MISSION

Guide, serve, and support public entities to ensure fiscal accountability and effective government that is responsive to all New Mexicans.

## VALUES

Accountable Collaboration, Communication, Efficiency, Effectiveness, Fiscally Responsible, Service, Quality

- Financial Control Home
- Audit Bureau
- Cash Control
- Central Payroll Bureau
- Contracts Review Bureau
- Financial Management And Vendor Relations
- Fraudulently Cashed Check
- Information Management Bureau
- Statewide Financial Reporting & Accountability Bureau
- Resource Information
- State General Fund Audit
- SWCAP
- SHAREHCM End User Training
- SHAREHCM Tips
- SHARE
- Audit Information
- General Fund Year to Date Accrual

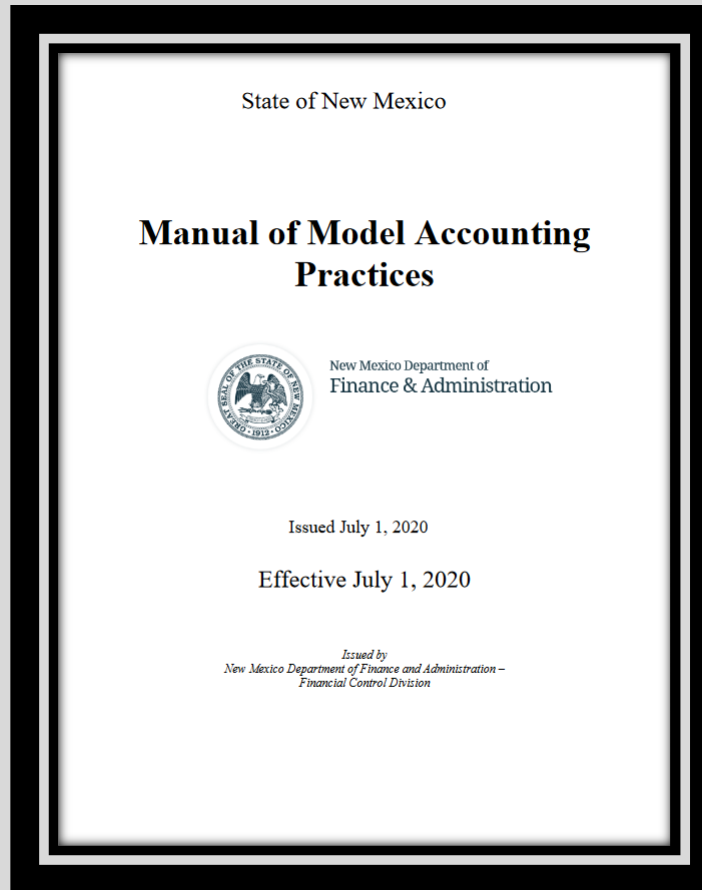


- Manuals
- Memos and Notices
- White Papers and Processing Standards
- Year End Closing
- Chart of Accounts
- Forms
- Forums
- Archive
- State of New Mexico's Procurement Card Program
- DFA Instructional & Training Videos

## LATEST NEWS

- [REQUEST FOR PROPOSAL - ENTERPRISE BUDGET SYSTEM - RFP#20-341-6000-14814](#)
- [REQUEST FOR PROPOSAL- ENTERPRISE BUDGET SYSTEM \(RFP#20-341-60000-14814\) - DOCUMENTATION LIBRARY](#)
- [JULY IS NOW CLOSED, SEPTEMBER OPEN](#)

# Manual of Model Accounting Practices “MAPs”




<http://www.nmdfa.state.nm.us/Manuals.aspx>

# Manual of Model Accounting Practices “MAPs”

- MAPs is required to be followed by all State of New Mexico entities regardless of the branch of government. Refer to Article 5, 6-5-1, NMSA 1978 and 6-5-2, NMSA 1978.

G. "state agency" means any department, institution, board, bureau, commission, district or committee of the government of the state and means every office or officer of any of the above; and

>  **6-5-2. Financial control division; central system of state accounts; accounting systems; processing documents; model accounting practices; internal accounting controls.**

A. The division shall maintain a central system of state accounts and shall devise, formulate, approve, control and set standards for the accounting methods and procedures of all state agencies. The division shall prescribe procedures, policies and processing documents for use by state agencies in connection with fiscal matters and may require reports from state agencies as may be necessary to carry out its duties and functions. Procedures and policies issued by the division are exempt from the uniform standards of style and format promulgated by the state commission of public records.

B. The division shall issue a manual of model accounting practices containing the procedures and policies prescribed pursuant to Subsection A of this section and shall annually review and, if necessary, revise and reissue the manual. State agencies shall comply with the model accounting practices established by the division, and the administrative head of each state agency shall ensure that the model accounting practices are followed.

Procurement From a DFA Perspec...

# Procurement

*From a DFA Perspective*

# Procurement Code 13-1-1 through 13-1-199

- The Procurement Code applies to all State of New Mexico entities.
- 13-1-99, NMSA 1978 exempts certain entities from the oversight of the General Services Division (GSD). If not listed in this section of the code, the entity is required to follow all rules and policies established by GSD.



## **13-1-90. Definition; state agency.**

"State agency" means any department, commission, council, board, committee, institution, legislative body, agency, government corporation, educational institution or official of the executive, legislative or judicial branch of the government of this state. "State agency" includes the purchasing division of the general services department and the state purchasing agent but does not include local public bodies.



# Best obtainable price

Non-professional under \$20k

- Best obtainable price can be found by obtaining quotes or other appropriate methods. NMAC 1.4.1.7
- Applies to purchases of \$20,000 or less for non-professional services, construction or items of tangible personal property. NMAC 1.4.1.50
- If 2 or more quotes are not available, DFA requires a memo attached to the purchase order explaining how best obtainable price was met. MAPS FIN 4.3 (B) (3)
- State use act – horizons is not considered a quote. Services must always be offered to horizons prior to using any other procurement method allowed by the procurement code. Horizons has the first right of refusal before any other procurement method is used. NMAC 1.4.1.95

# Small purchases

non-professional \$20k to \$60k

- Three formal quotes are required (formal quotes should be in written form directly from the supplier). If three quotes cannot be obtained, 2 quotes and a memo detailing why a third quote cannot be obtained is allowable. If only one quote can be obtained, this becomes a sole source and will not be processed until the sole source process has been followed. NMAC 1.4.1.51
- No bids or horizons do not qualify as a formal quote. These will not be accepted.
- Procurement requirements shall not be artificially divided. 13-1-125 (D) NMSA, 1978

# Other purchases

over 60k

- Other procurements that exceed \$60,000 that are not exempt from the procurement code must be done through a competitive process (RFP, ITB).
- This applies to all tangible goods and services, both general and professional.
- If a purchase is deemed exempt, the agency will have to supply supporting documentation to dfa showing the exemption.

# Professional Services

- All professional services over \$5k, including gross receipts taxes, must be awarded via a contract. Executive agencies are required to submit these to the contracts review bureau at GSD. Courts and the legislature must follow their internal rules for contracting professional services. NMAC 2.40.2.8
- DFA may request a written determination on procurements that seem to be professional. This comes from GSD or the courts/legislature CPO.
- Professional service contracts between \$5k and \$60k, excluding gross receipts tax, are encouraged to be done via a competitive quote process (3 formal quotes).
- Professional service contracts that exceed \$60k, excluding Gross Receipts tax, must be procured via an RFP (unless sole source).

# Sole Source Procurements

- Sole source – a true sole source procurement must be posted online for 30 days before being awarded (Typically, sole source procurements exceed \$20k). DFA will not approve a sole source procurement unless this requirement has been met. 13-1-126 and 13-1-126.1 NMSA, 1978

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

A. 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 determines, in writing, that:

- (1) there is only one source for the required service, construction or item of tangible personal property;
- (2) the service, construction or item of tangible personal property is unique and this uniqueness is substantially related to the intended purpose of the contract; and
- (3) other similar services, construction or items of tangible personal property cannot meet the intended purpose of the contract.

B. The state purchasing agent or a central purchasing office shall use due diligence in determining the basis for the sole source procurement, including reviewing available sources and consulting the using agency, and shall include its written determination in the procurement file.


C. 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.

D. A contract for the purchase of research consultant services by institutions of higher learning constitutes a sole source procurement.

E. The state purchasing agent or a central purchasing office shall not circumvent this section by narrowly drafting specifications so that only one predetermined source would satisfy those specifications.

# Emergency Procurements

- Emergency procurement – must be approved by the state controller in written form. Procurements must be posted online through GSD and the central purchasing office. Competition is still encouraged when using an emergency procurement. 13-1-127 NMSA, 1978

 **13-1-127. Emergency procurement; required conditions; limitations; notice.**

A. The state purchasing agent or a central purchasing office may only make an emergency procurement when the service, construction or item of tangible personal property procured:

(1) is needed immediately to:

(a) control a serious threat to public health, welfare, safety or property caused by a flood, fire, epidemic, riot, act of terrorism, equipment failure or similar event; or

(b) plan or prepare for the response to a serious threat to public health, welfare, safety or property caused by a flood, fire, epidemic, riot, act of terrorism, equipment failure or similar event; and

# Emergency Procurements – cont.

- Emergency procurements should be conducted using a competitive process if possible.

B. The state purchasing agent or a central purchasing office:

(1) in making an emergency procurement, shall:

(a) employ a competitive process to the extent practicable under the circumstances; and

(b) use due diligence in determining the basis for the procurement and in selecting a contractor; and

(2) shall not make an emergency procurement for the purchase or lease of heavy road equipment.

# Emergency Procurements – cont.

- Emergency procurements must be posted on the GSD website as quickly as possible.

C. The state purchasing agent or a central purchasing office that makes an emergency procurement shall outline its determination of the basis for the procurement and its selection of the contractor in writing and include the writing in the procurement file. Promptly thereafter:

- (1) the state purchasing agent shall post notice of the procurement on its website; or
- (2) the central purchasing office shall post notice of the procurement on its website, if it maintains one, and shall transmit the notice to the state purchasing agent for posting on the state purchasing agent's website.



# Exempt from the procurement code

- Section 13-1-98, NMSA 1978 provides a list of procurements that are exempt from the procurement code.
- DFA may require additional supporting documentation to justify the use of this exemption.
- The item # of the exemption must be cited when procuring items. i.e., 13-1-98 A, etc.

## 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 services for the governor's mansion and grounds;
- C. printing and duplicating contracts involving materials that are required to be filed in connection with proceedings before administrative agencies or state or federal courts;
- D. purchases of publicly provided or publicly regulated gas, electricity, water, sewer and refuse collection services;
- E. purchases of books, periodicals and training materials in printed or electronic format from the publishers or copyright holders thereof and purchases of print, digital or electronic format library materials by public, school and state libraries for access by the public;
- F. travel or shipping by common carrier or by private conveyance or to meals and lodging;
- G. purchase of livestock at auction rings or to the procurement of animals to be used for research and experimentation or exhibit;
- H. contracts with businesses for public school transportation services;
- I. procurement of tangible personal property or services, as defined by Sections 13-1-87 and 13-1-93 NMSA 1978, by the corrections industries division of the corrections department pursuant to rules adopted by the corrections industries commission, which shall be reviewed by the purchasing division of the general services department prior to adoption;

# Exemptions – cont.

- 13-1-98 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; must be a governmental entity. This exemption cannot be used for private companies. *For example, the UNM foundation is a non-profit 501c. This is not a governmental entity.*
- 13-1-98 F - travel or shipping by common carrier or by private conveyance or to meals and lodging;
- 13-1-98 J - purchases not exceeding ten thousand dollars (\$10,000) consisting of magazine subscriptions, web-based or electronic subscriptions, conference registration fees and other similar purchases where prepayments are required;
- 13-1-98 V - purchases of advertising in all media, including radio, television, print and electronic; This does not include services for a company to help design an advertising campaign. This can only be used for direct purchases of advertising.
- 13-1-98 HH - procurements exempt from the Procurement Code as otherwise provided by law. This can only be used if law, statute or rule explicitly require a specific procurement. Example provided on the next slide.

# 13-1-98 HH - exempted by law

Item	General Fund	Other State Funds	Intrnl Svc Funds/Inter-Agency Trnsf	Federal Funds	Total/Target
1 (5) Dues and membership fees/special appropriations:					
2 Appropriations:					
3 (a) National association of					
4 state budget officers	20.2				20.2
5 (b) Western governors'					
6 association	36.0				36.0
7 (c) National governors'					
8 association	83.8				83.8
9 (d) Emergency water supply fund	104.8				104.8
10 (e) Fiscal agent contract	1,064.8				1,064.8
11 (f) State planning districts	693.0				693.0
12 (g) Statewide teen court	17.7		120.2		137.9
13 (h) Law enforcement protection					
14 fund			16,705.1		16,705.1
15 (i) Leasehold community					
16 assistance	57.0				57.0
17 (j) Acequia and community ditch					
18 education program	398.2				398.2
19 (k) New Mexico acequia					
20 commission	88.1				88.1
21 (l) Land grant council	296.9				296.9
22 (m) County detention of					
23 prisoners	2,387.5				2,387.5
24 The department of finance and administration shall not distribute a general fund appropriation made in					
25 items (d) through (m) to a New Mexico agency or local public body that is not current on its audit or					

# Excluded from the purchasing agent 13-1-99

Excluded from the requirement of procurement through the state purchasing agent but not from the requirements of the Procurement Code

- Gives an exclusion from the state purchasing agency (GSD), not from the procurement code.
- Agencies cannot cite this rule to exempt themselves from the procurement code.
- DFA will still require adequate supporting documentation to show evidence that the procurement code was followed.
- This cannot be used on purchase orders as an origin. The procuring agency will need to attach adequate support or provide a statement of certification for all procurements.

# Price agreements

Agencies must ensure the goods or services being procured are listed in the price agreement. Professional services over 5k must be procured using a separate agency contract.

***Terms on a quote such as “open market” or “non-contract” should be a red flag.***

**ABC Company**  
Just Sell It

123 Home  
Albuquerque, NM 87102

TO  
DFA  
State of New Mexico  
407 Galisteo Street  
Santa Fe, NM 87501  
505-827-3625

**QUOTE**

**QUOTE #** 123456  
**DATE** 10/1/2019

**CONTRACT** 50-000-15-00061  
**P.O. #** P.O. #

Description	Amount
Good being sold	\$500
<b>Total</b>	<b>\$500</b>

**ABC Company**  
Just Sell It

123 Home  
Albuquerque, NM 87102

TO  
DFA  
State of New Mexico  
407 Galisteo Street  
Santa Fe, NM 87501  
505-827-3625

**QUOTE**

**QUOTE #** 123456  
**DATE** 10/1/2019

**CONTRACT** Open Market  
**P.O. #** P.O. #

Description	Amount
Good being sold	\$500
<b>Total</b>	<b>\$500</b>

# Other Procurement Notes

- All purchases must be encumbered in advance. After-the-fact purchase orders violate statute and maps. Specifically, 6-5-3 nmsa 1978 and MAPS FIN 4.4.
  - These violations must be approved by the state controller.
  - Other Procurement violations will be determined by gsd through a formal process.
- Invoices that are received for payment before a purchase order is created are considered direct pay and violate maps.
  - These violations must also be approved by the State Controller.
- MAPS now requires all white paper requests to be numbered by fiscal year. For example, White Paper FY21-001.

# White Paper Requests

- 6-5-3, NMSA 1978 requires DFA to ensure all expenditures are for a purpose authorized by law. When an agency is procuring something that does not fall within the guidelines of their mission statement, they must get written approval from the State Controller in advance of making the purchase. Generally, this would apply to out-of-the-ordinary purchases that do not specifically fall within the mission state of the entity.
- MAPs now requires all white papers to be numbered in chronological order by fiscal year. For example, when submitting the first white paper request of the year, it should be numbered FY21-001.
- If Approved, the white paper must be attached to the purchase order and/or payment voucher in SHARE.

# White Paper Requests – cont.

- In order to receive approval for a white paper purchase, the agency must submit a memo to the State Controller explaining the purchase, the cost, the vendor/supplier (if available) and a detailed explanation of each criteria listed below as it relates to the specific item(s) being procured.
  - Constitutional, Statutory and Contractual Mission
  - Public Benefit and Purpose
  - Necessity
  - Appropriation, Budget and Available Resources
- A white paper approval does not exempt an agency from following the procurement code. Proper procurement must be followed at all times unless exempted from the procurement code.



# Policy Exemptions

- Policy Exemptions must be updated yearly and include justification for every aspect of the process.
- Policy exemptions are to be used for multiple occurrences whereas a memo (white paper) to DFA would be used for one-time requests.
- Policy exemptions must be signed by the agency head.
- **Please note: DFA cannot approve exemptions to statute, rule or law.**

STATE OF NEW MEXICO DEPARTMENT OF FINANCE AND FINANCIAL CONTROL DIVISION <b>REQUEST FOR POLICY EXEMPTION</b>
<b>Check the appropriate policy request:</b> New Exemption <input type="checkbox"/> Existing Exemption <input type="checkbox"/> Exemption Number <input type="text"/>
<b>State the DFA/FCD policy, procedure, or memorandum from which you are requesting an exemption:</b>          
<b>State the exemption requested and provide a complete justification:</b>          

# Final Procurement Notes

- Although DFA does not review or approve purchase orders under \$5k, agencies are **always** required to follow the procurement code .



## **13-1-199. Penalties.**

Any business or person that willfully violates the Procurement Code is guilty of:

- A. a misdemeanor if the transaction involves fifty thousand dollars (\$50,000) or less; or
- B. a fourth degree felony if the transaction involves more than fifty thousand dollars (\$50,000).

Thank you  
Have a wonderful day

Mark Melhoff, deputy director

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