

## Professional Services

The state use act applies to all services purchased by state and local government bodies. The purchasing council does recognize that there are significant issues related to the purchase of professional services. Therefore, the purchasing council has initiated a number of actions to address these concerns through rules and procedures.

Specifically, 2.40.5 NMAC as amended added 2.40.5.8 B. “Council determination of suitability extends to specific individual contracts procured under a given service; the council may accept or reject a given contract as suitable based on criteria established under rule and statute...” including “impact”.

Further, 2.40.5.10 F: “When considering a contract award, in order to ensure that services offer the best value for state agencies and other public bodies, *the central nonprofit agency* shall determine suitability of individual contracts to be provided under each service...” 2.40.5.10 f (2) provides details, potentially recognizing “significant adverse impact to a state agency or local public body when contracting for *professional services* resulting in the loss of content knowledge associated with confidential, proprietary, or attorney/client privileged information: in such instances the government’s central purchasing office shall notify the central nonprofit in writing prior to contract award.”

Therefore, any purchaser of professional services who feels that the procurement would be adversely impacted may provide a brief written statement so stating to Horizons, the central nonprofit. If in agreement, Horizons may determine that the procurement is not suitable under the state use act, and direct that the purchase be conducted in line with, and not exempt from, the Procurement Code.

Should Horizons determine that the procurement is suitable under the state use act, the purchaser still retains appeal rights as specified in 2.40.5.14 B, and may submit an appeal in accordance with the appeal procedures detailed on this website.