

CES PROCUREMENT PARTNER NEWSLETTER

July 2025



Simplify procurement.
Maximize results.



Be Aware Of Liability For Prevailing Wage Requirements, Which Can Be Significant!

A recent case filed in the United States District Court for the Eastern District of Pennsylvania, *Lipinski and Taboola v. North-East Deck & Steel Supply*, Civ Action No. 5:25-cv-1467, should remind all contractors and sub-contractors working on public works projects funded by federal or state funds of the potential for significant liability for failing to pay required prevailing wages and improperly handling wage and hour issues. The plaintiffs, two crane operators, filed suit on behalf of themselves and a class of employees against their employer, claiming that the employer misclassified workers to avoid paying premium wage rates. They also claimed that their employer paid the fringe benefit portion of their wages as though they were independent contractors, thereby avoiding paying the employer's portion of payroll taxes. The complaint alleges as well that employees were not compensated for time spent performing pre-shift safety inspections in violation of the Fair Labor Standards Act, 29 USC §201 et seq.

Many public works contracts are funded, in whole or in part, by federal, state, or local funds. These projects could be subject to federal or state prevailing wage laws, such as the federal Davis-Bacon Act or, as in the case noted above, a state statute like the Pennsylvania Prevailing Wage Act, 43 P.S. § 165-1, et seq. These prevailing wage statutes generally require employers to properly classify employees according to the actual work they are performing and to pay the prevailing wage rates and fringe benefits for those classifications.

Some state statutes, like the Pennsylvania Prevailing Wage Act, provide for the aggrieved employee or group of employees to file their own lawsuits to seek redress for underpayments. They can seek liquidated damages, as well as attorneys' fees and interest, using class action complaints. Also, while the federal Davis Bacon Act does not provide a similar direct right to institute a lawsuit, employees can file claims with the Department of Labor, or employees can bring claims under the False Claims Act for an employer's falsification of certified payroll reports in some cases. Creative plaintiffs have also asserted claims for breach of contract or failure to pay all wages due under a state wage and hour law.

All of this means that employers who work on publicly funded projects must pay particular attention to employee classification and pay issues. Given that an employer can potentially be liable for significant damages, including backpay, penalties, pre-judgment interest, reasonable attorneys' fees and costs, it is critical to properly classify workers to ensure that they are paid

required prevailing wages under federal or state law. In addition, any employer classifying workers as independent contractors should closely examine the nature of the work performed. Finally, employers must be careful to timely pay employees for all compensable work they perform on the project and to submit accurate certified payroll reports reflecting such payments.

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

By Jeffrey S. Kopp, Mondaq

VENDOR HOUSEKEEPING ITEMS:

- A. Please make sure your eProcurement and Bluebook profile AND pricing is always updated with the following, if not currently on file.
1. LOGO: For ease of identification of your company.
 2. NAME CHANGE: If you have changed your name or ownership, please contact CES Procurement Department as soon as you can, there are documents CES needs in order to update your contract and Bluebook profile.
 3. CERTIFICATE OF LIABILITY INSURANCE: CES and its members need your insurance updated yearly.
 4. PRICING: Please update pricing as needed. If pricing does not match a quote, you will be contacted by a Procurement Specialist and your quote, and member PO, will be placed on hold.
 5. W-9: If you have recently updated your company information, please let CES know as well.
 6. Social Economic Indicators are acknowledged/checked. This is important when federal funds are used.
- B. **Price Quote/Proposal:** When preparing a quote/proposal under a CES awarded contract, clearly identify and break out quantities, descriptions, supplies, materials, and equipment, and services into individual line items as they appear on your awarded price schedule or pricing methodology proposed in your RFP response. At a minimum all quotes or proposals shall include the following: description, “hourly labor rate or the list/catalog unit price”, “the per cent discount offered” and the final “CES price”. **All stated prices must include the CES Contract Administrative Fee.**

Do not show the CES Contract Administrative Fee as a separate line. It is included in your pricing not added to it.

Shipping/Freight costs and the New Mexico Gross Receipts Tax as applicable must be stated in separate lines.

- C. For questions and general assistance, please contact Angela Valadez, Procurement Department, at 505-344-5470 ext. 116

A NOTE FROM THE BUSINESS OFFICE

Please remember that the NM Gross Receipts Tax rate changes every January and July. The current schedule can be downloaded from the NM Taxation and Revenue Department:

<https://www.tax.newmexico.gov/all-nm-taxes/current-historic-tax-rates-overview/gross-receipts-tax-rates/>

Current & Upcoming Solicitations

RFP #	RFP Description	Release	Pre-Prop.	Due	Award
2026-01 (2023-03 exp 12/12/25)	JOC - Fencing & Landscaping	7/14/25	7/22/25 10:00 am	8/22/25	9/15/25
2026-02 (2023-04 exp 12/12/25)	JOC - (MEP) Mech./Elec./Plumbing	7/14/25	7/22/25 10:00 am	8/22/25	9/15/25
2026-03 (2023-05 exp 12/12/25)	JOC GC - General Construction	7/14/25	7/22/25 10:00 am	8/22/25	9/15/25
2026-04 (2023-06 exp 12/12/25)	JOC - Painting & Stucco	7/14/25	7/22/25 10:00 am	8/22/25	9/15/25
2026-05 (2023-07 exp 12/12/25)	JOC - Roofing	7/14/25	7/22/25 10:00 am	8/22/25	9/15/25
2026-06 (2023-08 exp 12/12/25)	JOC - Paving & Site Work	7/14/25	7/22/25 10:00 am	8/22/25	9/15/25

Tariff Surcharges - Update

CES will accept Tariff Surcharges with a valid official letter of justification from the manufacturer or distributor.

Procurement Limits for Architectural/Engineering Services and Construction

CES disseminated this important information in the Spring, about legislative changes enacted this year. It is being reshared in this newsletter as a reminder to those involved in providing Architectural/Engineering and/or Construction services of the current fiscal limits in law:

Impacts of House Bill 456 (Amending NMSA 13-1-154.1) Expanded Procurement Limits for Architectural/Engineering Services and Construction Effective Date: June 20, 2025

Overview

House Bill 456 updates the statutory limits on multiple-source contracts for architectural and engineering (A/E) services and construction under price agreements. The legislation is a direct response to cost escalations in the construction and professional services markets and reflects the practical needs of state and local agencies.

Key Improvements and Benefits

Provision	Old Limit	New Limit
A/E Single Contract (PO) Cap	\$650,000	\$2,000,000
A/E Aggregate per Firm	\$7.5M over 4 years	\$15M over 4 years
Construction PO Cap	\$4M	\$7M
Construction Aggregate per Contractor	\$12.5M over 3 years	\$30M over 10 years

Positive Outcomes

- Realistic Budget Alignment - The updated thresholds reflect modern project costs, which have more than doubled in most areas since 2020. This change allows agencies to fully scope and fund projects without artificially splitting work.
- Increased Efficiency - Fewer procurement cycles reduce administrative burden, speed up project delivery, and save time and resources for both agencies and contractors.
- Improved Long-Term Planning - The 10-year cap for construction contracts supports phased implementation of capital improvement plans, maintenance schedules, and infrastructure upgrades.
- Enhanced Service Continuity - The ability to maintain contracts across a broader scope improves consistency in design, project management, and delivery—especially beneficial for rural or high-need areas.

- Greater Flexibility for Agencies - Allows procurement professionals to manage complex projects with modern tools and budgets, helping agencies remain responsive and adaptive to changing needs.

Additional Consideration (For Awareness)

While overwhelmingly positive, the bill also underscores the importance of maintaining competition and transparency. Continued use of best practices—such as contract reporting—will ensure these expanded thresholds continue to benefit New Mexico taxpayers.

Conclusion

House Bill 456 is a timely and pragmatic modernization of procurement limits that enables New Mexico's public agencies to operate more effectively in today's cost environment. The bill supports better service delivery, project completion, and long-term stewardship of public infrastructure.

MARK YOUR CALENDARS!

Facility Managers Workshop
is coming!

October 13-14, 2025

Embassy Suites
Albuquerque



Business/Procurement Departments Contact List and Information

Website: www.ces.org

Office: 505.344.5470

Fax: 505.344.9343

❖ Purchasing Specialist Contact Information for Purchase Orders, Direct Purchase and Member Support

Team 1 Members A through D	Anita and Victoria - Team1@ces.org anita@ces.org Ext. 110 victoria@ces.org Ext. 147
Team 2 Members E through K	Kimberly B. and Katherine - Team2@ces.org kbuckner@ces.org Ext. 131 katherine@ces.org Ext. 148
Team 3 Members L through P	Kara and Kim A. - Team3@ces.org kara@ces.org Ext. 125 kalvarado@ces.org Ext. 137
Team 4 Members Q through Z	Valarie and Bertha - Team4@ces.org vcastillo@ces.org Ext. 106 bertha@ces.org Ext. 123
Submit Invoices	invoice@ces.org
Lead Purchasing Specialist	Monica Myers monica@ces.org Ext. 134
Construction Documents Link CONSTRUCTION DOCUMENTS UPLOAD INSTRUCTIONS LINK	https://login.imagesilo.com/home/login https://www.ces.org/business-department-updates/construction-doc-upload-instructions/

❖ Collections / Accounts Receivable & Accounts Payable Specialist

Collections/Accounts Receivable	Ilene ilene@ces.org Ext. 122
Accounts Payable	Kelly B. kelly@ces.org Ext. 135

❖ Payroll Specialist

Payroll	Kelley S. and Margaret kscheib@ces.org Ext. 107 margaret@ces.org Ext. 126
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Last updated on 5/2/25 ARH

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Finance Manager	Norma Henderson norma@ces.org Ext. 104
Administrative Assistant	Abigail Hansen abigail@ces.org Ext. 145

❖ Procurement Department

Procurement Director	Gustavo Rossell gustavo@ces.org Ext. 117
Administrative Assistant	Angela Valadez avaladez@ces.org Ext. 114
Contract Specialist	Lisa Romo lisa@ces.org Ext. 129
Contract Specialist	Joe Valencia joe@ces.org Ext. 124
Contract Specialist	Mohamed Al-Hussaini mohamed@ces.org Ext. 128
Construction Analysts	John King jking@ces.org Ext. 150 Cell: 575.607.5800 Thad Phipps thad@ces.org Ext. 154 Cell: 575.308.3193
Blue Book	https://eprocurement.ces.org/public/bluebook.html

❖ Member Services

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Southern Services Manager	Jim Barentine jim@ces.org Las Cruces Office Phone: 575.646.5965 Cell: 602.688.0652



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