

Amendment No. 383

Senate Amendment to Senate Bill No. 325

(BDR 27-1024)

Proposed by: Senate Committee on Government Affairs

Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date	
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____		Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.



SENATE BILL NO. 325—SENATORS GOICOECHEA, HARDY, BROWER, ROBERSON,
LIPPARELLI; KIECKHEFER AND SETTELMAYER

MARCH 16, 2015

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to state purchasing. (BDR 27-1024)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to state governmental procurement; requiring the connection between the bidder and the State of Nevada to be considered as a factor with respect to **certain** state purchasing contracts; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the State must purchase any materials, supplies and equipment estimated to cost more than \$50,000 by formal contract from the lowest responsible bidder after advertising for the submission of bids. (NRS 333.300) When evaluating proposals to determine which is in the best interests of the State, several factors are required to be considered and weighed, including: (1) the experience and financial stability of the bidder; (2) whether the proposal complies with the request for proposals; (3) the price of the proposal; and (4) any other factor disclosed in the request for proposals. (NRS 333.335) ~~Existing law also provides several factors that may be considered to determine the lowest responsible bidder for a contract or order for goods. (NRS 222.240) Existing law entitles a bid or proposal submitted by a local business owned by a veteran with a service-connected disability to be deemed to have a price that is 5 percent lower than the actual price of the bid or proposal. (NRS 222.2261-222.2269)~~

~~Section 1 of this~~ **This** bill revises the factors considered when determining whether a proposal is in the best interests of the State to require the consideration of a factor measuring the connection between the bidder and this State. Elements that may be considered to measure the connection between a bidder and this State include, without limitation: (1) the amount of state or local taxes paid to this State by the bidder; (2) the number of offices maintained in this State by the bidder; (3) the number of persons employed by or contracted with the bidder in this State; and (4) the amount of goods and commodities used by the bidder that are produced, manufactured or supplied in this State. ~~(Section 1)~~ **This bill** also requires that, when determining whether a proposal is in the best interests of the State, this factor must be given a relative weight ~~which that is equal to or~~ greater than the **relative** weight given to ~~any other single~~ **at least one other** factor. ~~Section 2 of this bill revises the factors considered to determine the lowest responsible bidder for a contract or order for goods to contain similar provisions.~~

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 333.335 is hereby amended to read as follows:

333.335 1. Each proposal must be evaluated by:

(a) The chief of the using agency, or a committee appointed by the chief of the using agency in accordance with the regulations adopted pursuant to NRS 333.135, if the proposal is for a using agency; or

(b) The Administrator of the Purchasing Division, or a committee appointed by the Administrator in accordance with the regulations adopted pursuant to NRS 333.135, if the Administrator is responsible for administering the proposal.

2. A committee appointed pursuant to subsection 1 must consist of not less than two members. A majority of the members of the committee must be state officers or employees. The committee may include persons who are not state officers or employees and possess expert knowledge or special expertise that the chief of the using agency or the Administrator of the Purchasing Division determines is necessary to evaluate a proposal. The members of the committee are not entitled to compensation for their service on the committee, except that members of the committee who are state officers or employees are entitled to receive their salaries as state officers and employees. No member of the committee may have a financial interest in a proposal. If the contract is being awarded for the Public Employees' Benefits Program, the Executive Officer of the Program may observe the activities of the committee, but may not vote or otherwise participate in the evaluation.

3. In making an award, the chief of the using agency, the Administrator of the Purchasing Division or each member of the committee, if a committee is established, shall consider and assign a score for each of the following factors for determining whether the proposal is in the best interests of the State of Nevada:

(a) The experience and financial stability of the person submitting the proposal;

(b) Whether the proposal complies with the requirements of the request for proposals as prescribed in NRS 333.311;

(c) The price of the proposal; ~~and~~

(d) *The connection between the person submitting the proposal and this State; and*

(e) Any other factor disclosed in the request for proposals.

4. *To evaluate the connection between the person submitting the proposal and this State pursuant to paragraph (d) of subsection 3, the chief of the using agency, the Administrator of the Purchasing Division or each member of the committee, if a committee is established, shall consider criteria which include, without limitation:*

(a) *The amount of taxes paid to the State or its political subdivisions by the person submitting the proposal during the immediately preceding 5 years, including, without limitation, the amounts paid in property taxes, sales and use taxes imposed pursuant to chapters 372, 374 and 377 of NRS, governmental services taxes imposed pursuant to chapter 371 of NRS and excise taxes imposed upon an employer pursuant to NRS 363B.110;*

(b) *The number of buildings in this State which the person submitting the proposal owns or leases and substantially occupies as a principal place of business of the person submitting the proposal;*

(c) *The number of persons in this State that the person submitting the proposal employs or engages as independent contractors for the conduct of the business of the person submitting the proposal; and*

(d) *The amount of goods or commodities for use in the proposal which are produced or manufactured in this State or supplied by a dealer who is located in this State.*

5. The chief of the using agency, the Administrator of the Purchasing Division or the committee, if a committee is established, shall determine the relative weight of each factor set forth in subsection 3 before a request for proposals is advertised. *The relative weight of the factor described in paragraph (d) of subsection 3 must be equal to or greater than that given a relative weight that is greater than the relative weight of any other single factor at least one other factor.* The weight of each factor must not be disclosed before the date proposals are required to be submitted.

~~5.~~ 6. Except as otherwise provided in this subsection, the chief of the using agency, the Administrator of the Purchasing Division or the committee, if a committee is established, shall award the contract based on the best interests of the State, as determined by the total scores assigned pursuant to subsection 3, and is not required to accept the lowest-priced proposal. If the contract is being awarded for the Public Employees' Benefits Program, the Administrator of the Purchasing Division or the committee, if a committee is established, shall submit recommendations for awarding the contract to the Board for the Public Employees' Benefits Program, which shall award the contract in accordance with NRS 287.04345.

~~6.~~ 7. Except as otherwise provided in NRS 239.0115, each proposal evaluated pursuant to the provisions of this section is confidential and may not be disclosed until the contract is awarded.

Sec. 2. ~~NRS 333.340 is hereby amended to read as follows:~~

~~333.340 1. Every contract or order for goods must be awarded to the lowest responsible bidder. To determine the lowest responsible bidder, the Administrator:~~

~~(a) Shall consider, if applicable:~~

~~(1) The granting of the preference described in NRS 333.3366.~~

~~(2) The required standards adopted pursuant to NRS 333.4611.~~

~~(3) The connection between the bidder and this State.~~

~~(b) May consider:~~

~~(1) The location of the using agency to be supplied.~~

~~(2) The qualities of the articles to be supplied.~~

~~(3) The total cost of ownership of the articles to be supplied.~~

~~(4) Except as otherwise provided in subparagraph (5), the conformity of the articles to be supplied with the specifications.~~

~~(5) If the articles are an alternative to the articles listed in the original request for bids, whether the advertisement for bids included a statement that bids for an alternative article will be considered if:~~

~~(I) The specifications of the alternative article meet or exceed the specifications of the article listed in the original request for bids;~~

~~(II) The purchase of the alternative article results in a lower price; and~~

~~(III) The Administrator deems the purchase of the alternative article to be in the best interests of the State of Nevada.~~

~~(6) The purposes for which the articles to be supplied are required.~~

~~(7) The dates of delivery of the articles to be supplied.~~

~~2. To evaluate the connection between the bidder and this State pursuant to subparagraph (3) of paragraph (a) of subsection 1, the Administrator shall consider criteria which include, without limitation:~~

~~(a) The amount of taxes paid to the State of Nevada or its political subdivisions by the bidder during the immediately preceding 5 years, including, without limitation, the amounts paid in property taxes, sales and use taxes imposed pursuant to chapters 372, 374 and 377 of NRS, governmental services taxes imposed pursuant to chapter 371 of NRS and excise taxes imposed upon an employer pursuant to NRS 363B.110;~~

~~(b) The number of buildings in this State which the bidder owns or leases and substantially occupies as a principal place of business of the bidder;~~

~~(c) The number of persons in this State that the bidder employs or engages as independent contractors for the conduct of the business of the bidder; and~~

~~(d) The amount of goods or commodities for use in the proposal which are produced or manufactured in this State or supplied by a dealer who is located in this State.~~

~~3. If a contract or an order is not awarded to the lowest bidder, the Administrator shall provide the lowest bidder with a written statement which sets forth the specific reasons that the contract or order was not awarded to him or her.~~

~~[2.] 4. As used in this section, "total cost of ownership" includes, but is not limited to:~~

~~(a) The history of maintenance or repair of the articles;~~

~~(b) The cost of routine maintenance and repair of the articles;~~

~~(c) Any warranties provided in connection with the articles;~~

~~(d) The cost of replacement parts for the articles; and~~

~~(e) The value of the articles as used articles when given in trade on a subsequent purchase.] (Deleted by amendment.)~~

Sec. 3. This act becomes effective:

1. Upon passage and approval for the purposes of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

2. On January 1, 2016, for all other purposes.