

ASSEMBLY BILL NO. 318—ASSEMBLYWOMAN TOLLES

MARCH 17, 2017

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to state purchasing.
(BDR 27-741)

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 the award of certain state purchasing contracts; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the State is required to 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)

This bill requires consideration of the additional factor of the connection between the bidder and the State of Nevada. Elements that are authorized to be considered to measure the connection between a bidder and Nevada include: (1) the amount of state or local taxes paid to the State of Nevada or its political subdivisions 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 by the bidder that are produced, manufactured or supplied in this State. This bill also requires that, when determining whether a proposal is in the best interests of the State, this factor relating to connection to Nevada is required to be given a relative weight that is greater than the relative weight given to at least one other factor.



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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 commerce taxes imposed pursuant to chapter 363C of NRS, 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 factor described in paragraph (d) of subsection 3 must be given a relative weight that is greater than the relative weight of at least one other factor.* The weight of each factor must not be disclosed before the date proposals are required to be submitted.

~~15.1~~ 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.

~~16.1~~ 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. This act becomes effective:



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- 1 1. Upon passage and approval for the purpose of adopting
- 2 regulations and performing any other preparatory administrative
- 3 tasks that are necessary to carry out the provisions of this act; and
- 4 2. On January 1, 2018, for all other purposes.

