

ASSEMBLY BILL NO. 86—COMMITTEE
ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE PURCHASING DIVISION
OF THE DEPARTMENT OF ADMINISTRATION)

PREFILED NOVEMBER 21, 2018

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to governmental purchasing. (BDR 27-182)

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

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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 governmental purchasing; making provisions relating to purchasing by local governments applicable to a metropolitan police department; exempting certain purchases by local governments from requirements of competitive bidding; increasing the monetary thresholds at which local governmental purchasing contracts must be advertised; authorizing a local government to dispose of personal property by donating it to another governmental entity or nonprofit organization; authorizing the Administrator of the Purchasing Division of the Department of Administration to enter into a contract pursuant to a solicitation by certain governmental entities; revising provisions governing certain preferences for businesses owned and operated by a veteran with a service-connected disability; making various other changes relating to governmental purchasing; authorizing the Commission to Study Governmental Purchasing to request the drafting of legislative measures for each regular session of the Legislature; and providing other matters properly relating thereto.



Legislative Counsel's Digest:

The Local Government Purchasing Act governs the purchasing of services, supplies, materials and equipment by local governments. (Chapter 332 of NRS) This bill changes the terms "bid" to "response" and "request for bids" to "solicitation" throughout the Act to encompass the different methods of procurement which may be used by a local government to award a contract. **Section 6** of this bill makes the Act applicable to a metropolitan police department. (NRS 332.015)

Existing law requires a local government to maintain a record of all requests for bids and all bids received for a contract for which the estimated annual amount required to perform the contract is more than \$25,000 but not more than \$50,000 for at least 7 years after the execution of the contract. (NRS 332.039) **Sections 2 and 46** of this bill make this requirement applicable to all contracts, regardless of the estimated annual amount required to perform the contract. **Section 3** of this bill prescribes the requirements for a solicitation by a local government. **Section 5** of this bill nonsubstantively reenacts provisions in existing law for purposes of reorganization. (NRS 332.065) **Section 5** of this bill requires a local government to award a contract on the basis of price or best value if the estimated cost to perform the contract is more than \$50,000 but not more than \$100,000.

Under existing law, a local government is prohibited from using on-line bidding as the exclusive means of receiving bids for a request for bids. (NRS 332.047) **Section 9** of this bill authorizes a local government to use an on-line solicitation as the exclusive means of receiving responses to a solicitation if there is not any cost to the responding offeror for submitting the response. **Section 9** also authorizes a local government to use a reverse auction when conducting an on-line solicitation.

Existing law: (1) requires a local government to advertise a purchasing contract if the estimated cost to perform the contract exceeds \$50,000; and (2) specifies the requirements for such an advertisement. (NRS 332.039, 332.045) **Section 11** of this bill: (1) increases that minimum monetary threshold for advertising such a contract to when the estimated annual amount to perform the contract is more than \$100,000; and (2) revises the criteria for awarding such a contract. **Sections 11 and 46** also provide for the inclusion of the qualifications of a bidder with the requirements for awarding such a contract. **Sections 12 and 13** of this bill make conforming changes. **Section 8** of this bill revises requirements regarding an advertisement for a purchasing contract.

Existing law imposes restrictions on the assignment of a purchasing contract. (NRS 332.095) **Section 14** of this bill authorizes the assignment of such a contract if the contract is assigned by virtue of the acquisition of the person who is a party to the contract under certain circumstances.

Section 16 of this bill adds to the exemptions from the requirements of competitive bidding in existing law certain services and equipment for computers, instructional materials, the purchase of goods commonly used by hospitals and the purchase of certain forensic equipment and supplies in certain circumstances. (NRS 332.115) **Section 20** of this bill expressly authorizes a local government to dispose of personal property by donating it to another governmental entity or nonprofit organization. (NRS 332.185)

Existing law authorizes a local government to join or use the contracts of the State of Nevada, another state or a local government with the authorization of the contracting vendor. (NRS 332.195) **Section 21** of this bill instead authorizes a local government to enter into a contract pursuant to a solicitation by these entities. **Section 21** also authorizes a local government to enter into a contract pursuant to a solicitation by certain cooperative purchasing organizations.

The State Purchasing Act governs the purchasing of services, supplies, materials and equipment by agencies of the Executive Department of the State



Government, with certain exceptions. (Chapter 333 of NRS) **Section 25** of this bill authorizes the Administrator of the Purchasing Division of the Department of Administration to enter into a contract pursuant to a solicitation for a bid or proposal by certain governmental entities. **Section 26** of this bill provides that a purchasing officer facilitates, rather than participates in, certain activities relating to the awarding of state contracts. (NRS 333.020) **Section 27** of this bill removes the ability of the Administrator in existing law to supply the needs of a using agency from stores of commodities on hand. (NRS 333.160) **Section 28** of this bill specifies a request for qualifications and a request for information as methods of obtaining a state purchasing contract. (NRS 333.162) **Section 29** of this bill removes the requirement in existing law that bids be read publicly as they are opened. (NRS 333.330)

Section 30 of this bill: (1) requires the inclusion of a person designated by the Chief Information Officer of the State on a committee that evaluates proposals for the procurement of technology for which the estimated cost is more than \$100,000 in certain circumstances; and (2) eliminates certain factors specified in existing law that are required to be considered by such a committee besides those factors disclosed in the request for proposals. (NRS 333.335)

Under existing law, a bid or proposal for a state purchasing contract for which the estimated cost is more than \$50,000 but not more than \$250,000 that is submitted by a local business owned by a veteran with a service-connected disability of at least zero percent and who is a responsive and responsible bidder is deemed to be 5 percent lower than the bid or proposal actually submitted. For state purchasing contracts for which the estimated cost is more than \$250,000 but less than \$500,000, only a local business owned and operated by a veteran with a service-connected disability of 50 percent or more is eligible under existing law for the 5-percent preference. (NRS 333.3362, 333.3365, 333.3366) **Section 31** of this bill revises the qualifications for a local business to be eligible for such a preference to require that: (1) its principal place of business is in this State; and (2) the majority of the goods provided for in a state purchasing contract are produced in this State. (NRS 333.3363) **Section 32** of this bill: (1) adds a contract for the services of a person as an independent contractor to the type of contract in existing law for which such a preference may be given; and (2) removes the monetary threshold between preferences and thereby allows a veteran with a service-connected disability of at least zero percent to be eligible for a preference on state purchasing contracts for any amount over \$250,000. (NRS 333.3366) **Sections 33 and 34** of this bill make conforming changes.

In addition to the duties prescribed by existing law for a person who is authorized to enter into a contract for state purchasing, **section 35** of this bill requires such a person to ensure that the contract: (1) includes any provision relating to insurance that the State Risk Manager determines is necessary; and (2) is approved by the Purchasing Division or the Office of the Attorney General. (NRS 333.337)

Section 36 of this bill: (1) removes a requirement in existing law that the notice of award of a contract be posted in certain public buildings; (2) revises provisions governing an appeal of the award of a contract; and (3) removes a requirement in existing law that a cancellation of an award of a contract requires readvertising for bids. (NRS 333.370)

Under existing law, with certain exceptions, the Administrator is authorized to allow using agencies to make certain purchases locally up to certain monetary limitations. (NRS 333.390) **Section 37** of this bill: (1) authorizes a using agency to purchase items that are not available directly from an entity with which the Purchasing Division has entered into a contract if the purchase is made in accordance with the State Administrative Manual and the statutes and regulations



governing purchasing by state agencies; and (2) removes the monetary limitations on such purchases.

Sections 38 and 39 of this bill remove a requirement in existing law that the Administrator issue bulletins indicating the supplies, materials and equipment available through the facilities of the Purchasing Division. (NRS 333.469, 333.470)

Existing law authorizes the Administrator to enter into an agreement for supplies, materials or equipment with a vendor who has entered into an agreement with the federal General Services Administration or certain other governmental agencies under certain circumstances. (NRS 333.480) **Section 40** of this bill removes authorization for the Administrator to enter into such an agreement with a vendor who has entered into an agreement with a non-federal agency as a result of the authority provided to the Administrator in **section 25**.

Existing law prescribes the number of legislative measures which may be requested by various departments, agencies and other entities of this State for each regular session of the Legislature. (NRS 218D.100-218D.220) **Section 42** of this bill authorizes the Commission to Study Governmental Purchasing to request for each regular session of the Legislature the drafting of not more than 2 legislative measures which relate to matters within the scope of the Commission.

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

Section 1. Chapter 332 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act.

Sec. 2. *A governing body or its authorized representative shall maintain a record of each solicitation and response to a solicitation for at least 7 years after the date of execution of the contract.*

Sec. 3. *Each solicitation must include, without limitation:*

1. The minimum requirements that a successful responding offeror must meet for the awarding of the contract pursuant to the provisions of this chapter;

2. The method by which the contract will be awarded, including, without limitation, on the basis of best value, price or lowest responsive and responsible bidder;

3. Notice of the written certification required pursuant to subsection 3 of NRS 332.065, if applicable; and

4. The period during which a notice of protest regarding the awarding of a contract pursuant to NRS 332.068 may be submitted, if applicable.

Sec. 4. *1. If the estimated annual amount required to perform a contract is more than \$100,000 and the designated method for awarding the contract specified in the solicitation is an invitation to bid, the governing body or its authorized representative:*



(a) Shall give preference to a bid to provide recycled products if:

- (1) The products meet the applicable standards;
- (2) The products can be substituted for comparable nonrecycled products; and
- (3) The products do not cost more than comparable nonrecycled products.

(b) May give preference to a bid to provide recycled products if:

- (1) The products meet the applicable standards;
- (2) The products can be substituted for comparable nonrecycled products; and
- (3) The products do not cost more than 5 percent more than the comparable nonrecycled products.

(c) May purchase recycled paper products if the specific recycled paper product is:

- (1) Available at a price which is not more than 10 percent higher than that of the comparable paper product made from virgin material;
- (2) Of adequate quality; and
- (3) Available to the purchaser within a reasonable amount of time.

2. As used in this section:

(a) "Postconsumer waste" means a finished material which would normally be disposed of as solid waste having completed its life cycle as a consumer item.

(b) "Recycled paper product" means any paper or wood-pulp product containing in some combination comprising at least 50 percent of its total weight:

- (1) Postconsumer waste; and
- (2) Secondary waste,

↳ but the term does not include fibrous waste generated during the manufacturing process such as fibers recovered from wastewater or trimmings of paper machine rolls, wood slabs, chips, sawdust or other wood residue from a manufacturing process.

(c) "Secondary waste" means fragments of products or finished products of a manufacturing process which has converted a virgin resource into a commodity of real economic value.

Sec. 5. 1. Except as otherwise provided by specific statute, if the estimated annual amount required to perform a contract is more than \$50,000 but not more than \$100,000, the governing body or its authorized representative:

(a) Shall solicit responses from two or more persons capable of performing the contract, if such persons are available; and



(b) May advertise the contract in the manner prescribed in NRS 332.045.

2. The governing body or its authorized representative shall award such a contract on the basis of price or best value, taking into account the minimum requirements of a responding offeror prescribed in the solicitation pursuant to section 3 of this act and the method prescribed in that solicitation for awarding the contract.

Sec. 6. NRS 332.015 is hereby amended to read as follows:

332.015 1. For the purpose of this chapter, unless the context otherwise requires, "local government" means:

(a) Every political subdivision or other entity which has the right to levy or receive money from ad valorem taxes or other taxes or from any mandatory assessments, including counties, cities, towns, school districts and other districts organized pursuant to chapters 244, 318, 318A, 379, 450, 474, 539, 541, 543 and 555 of NRS.

(b) The Las Vegas Valley Water District created pursuant to the provisions of chapter 167, Statutes of Nevada 1947, as amended.

(c) County fair and recreation boards and convention authorities created pursuant to the provisions of NRS 244A.597 to 244A.655, inclusive.

(d) District boards of health created pursuant to the provisions of NRS 439.362 or 439.370.

(e) A metropolitan police department created pursuant to the provisions of NRS 280.110.

2. The term does not include the Nevada Rural Housing Authority.

Sec. 7. NRS 332.025 is hereby amended to read as follows:

332.025 As used in this chapter, unless the context otherwise requires:

1. "Authorized representative" means a person designated by the governing body to be responsible for the development, award and proper administration of all purchases and contracts for a local government or a department, division, agency, board or unit of a local government made pursuant to this chapter.

2. "Best value" means the greatest possible economy consistent with grades or qualities of supplies, materials, equipment and services that are adapted to the purposes to be served.

3. "Chief administrative officer" means the person directly responsible to the governing body for the administration of that particular entity.

~~3.~~ **4.** "Evaluator" means an authorized representative, officer, employee, representative, agent, consultant or member of a governing body who has participated in:



1 (a) The evaluation of ~~{bids;}~~ *responses;*
2 (b) Negotiations concerning purchasing by a local government;
3 or

4 (c) The review or approval of the award, modification or
5 extension of a contract.

6 ~~{4.}~~ 5. "Governing body" means the board, council,
7 commission or other body in which the general legislative and fiscal
8 powers of the local government are vested. The term includes a
9 local school precinct.

10 ~~{5.}~~ 6. "Local school precinct" has the meaning ascribed to it
11 in NRS 388G.535.

12 ~~{6.}~~ 7. *"On-line solicitation" means a process by which a*
13 *responding offeror submits a response to a solicitation on a secure*
14 *website on the Internet or its successor, if any, which is*
15 *established and maintained for that purpose.*

16 8. "Proprietary information" means:

17 (a) Any trade secret or confidential business information that is
18 contained in a ~~{bid}~~ *response* submitted to a governing body or its
19 authorized representative on a particular contract; or

20 (b) Any other trade secret or confidential business information
21 submitted to a governing body or its authorized representative by a
22 ~~{bidder}~~ *responding offeror* and designated as proprietary by the
23 governing body or its authorized representative.

24 ➤ As used in this subsection, "confidential business information"
25 means any information relating to the amount or source of any
26 income, profits, losses or expenditures of a person, including data
27 relating to cost, price, or the customers of a ~~{bidder}~~ *responding*
28 *offeror* which is submitted in support of a ~~{bid}~~ *response*. The term
29 does not include the amount of a ~~{bid}~~ *response* submitted to a
30 governing body or its authorized representative.

31 ~~{7.}~~ 9. *"Responding offeror" means a person who responds*
32 *to a solicitation made by a governing body or its authorized*
33 *representative.*

34 10. *"Solicitation" means a written statement which sets forth*
35 *the requirements and specifications of a contract to be awarded*
36 *by:*

- 37 (a) *An invitation to bid;*
38 (b) *A request for proposals;*
39 (c) *A request for a statement of qualifications;*
40 (d) *A request for a quotation; or*
41 (e) *Any other accepted method of purchasing that complies*
42 *with the provisions of this chapter.*

43 11. "Trade secret" has the meaning ascribed to it in
44 NRS 600A.030.



Sec. 8. NRS 332.045 is hereby amended to read as follows:

332.045 1. The advertisement required by ~~{paragraph (a) of}~~ subsection 1 of NRS ~~{332.039}~~ **332.065 or authorized by subsection 1 of section 5 of this act** must be ~~{by notice to bid and must be}~~ published:

(a) In a newspaper qualified pursuant to chapter 238 of NRS that has a general circulation within the county wherein the local government, or a major portion thereof, is situated at least once and not less than 7 days before the opening of ~~{bids; and}~~ **responses.**

(b) ~~{On the}~~ **Every day for not less than 7 days before the opening of responses on:**

(1) **The** Internet website of the local government, if the local government maintains an Internet website ~~{, every day for not less than 7 days before the opening of bids.}~~ ; or

(2) **A secure website on the Internet or its successor, if any, which is established and maintained for the purpose of an on-line solicitation.**

2. The ~~{notice}~~ **advertisement** must state:

(a) The nature, character or object of the contract.

(b) If plans and specifications are ~~{to constitute}~~ part of the contract, where the plans and specifications may be seen.

(c) The time and ~~{place where bids}~~ **date on which responses** will be ~~{received and}~~ opened.

(d) That a written certification is a required part of the contract pursuant to subsection ~~{2}~~ **3** of NRS 332.065.

(e) Such other matters as may properly pertain to ~~{giving notice to bid.}~~ **the contract.**

Sec. 9. NRS 332.047 is hereby amended to read as follows:

332.047 1. A governing body or its authorized representative may use **an** on-line ~~{bidding}~~ **solicitation** to receive ~~{bids submitted in response}~~ **responses** to a ~~{request for bids.}~~ **solicitation**. The governing body or its authorized representative shall not use **an** on-line ~~{bidding}~~ **solicitation** as the exclusive means of ~~{receiving bids for the request for bids.}~~ **a solicitation if there is any cost to a responding offeror to submit a response.**

2. ~~{A request for bids for which bids may be submitted pursuant to subsection 1}~~ **An on-line solicitation** must designate a date and time at which ~~{bids}~~ **responses** may be submitted and may designate a date and time after which ~~{bids}~~ **responses** will no longer be received.

3. A governing body or its authorized representative may require ~~{bidders}~~ **a responding offeror** to:

(a) Register **for an on-line solicitation** before the date and time at which ~~{bids}~~ **responses** may be submitted; and



(b) Agree to terms, conditions or requirements of the ~~request for bids~~ **solicitation** to facilitate **the** on-line ~~bidding~~ **solicitation**.

4. The procedures established by a governing body or its authorized representative for the purposes of conducting **an** on-line ~~bidding must~~ **solicitation:**

(a) **Must** not conflict with the provisions of this chapter.

(b) **May authorize the use of a reverse auction.**

5. As used in this section, ~~“on-line bidding”~~ **“reverse auction”** means a process by which ~~bidders~~ **a responding offeror** **may** submit ~~bids for a contract on a secure website on the Internet or its successor, if any, which is established and maintained for that purpose.~~ **more than one response to an on-line solicitation if each subsequent response to the on-line solicitation is at a lower price.**

Sec. 10. NRS 332.061 is hereby amended to read as follows:

332.061 1. Except as otherwise provided in this subsection and NRS 239.0115, proprietary information does not constitute public information and is confidential. A person shall not disclose proprietary information unless:

(a) The disclosure is made for the purpose of a civil, administrative or criminal investigation or proceeding; and

(b) The person receiving the information represents in writing that protections exist under applicable law to preserve the integrity, confidentiality and security of the information.

2. A ~~bid~~ **solicitation** which contains a provision that requires negotiation or evaluation by the governing body or an evaluator may not be disclosed until the ~~bid~~ **response** is recommended for the award of a contract.

Sec. 11. NRS 332.065 is hereby amended to read as follows:

332.065 1. **Except as otherwise provided by specific statute, if the estimated annual amount required to perform a contract is more than \$100,000, the governing body or its authorized representative:**

(a) **Shall advertise the contract in the manner prescribed in NRS 332.045; and**

(b) **May issue a solicitation for the contract.**

2. If ~~a governing body or its authorized representative has advertised for or requested bids in letting~~ **the estimated annual amount to perform a contract is more than \$100,000 and the method for obtaining the contract designated in the solicitation is an invitation to bid**, the governing body or its authorized representative must, except as otherwise provided ~~in subsection 3,~~ **by specific statute**, award the contract to the lowest responsive and responsible bidder. The lowest responsive and responsible bidder may be judged on the basis of:



- (a) Price;
(b) Conformance to specifications;
(c) Qualifications ~~of the bidder~~, *including, without limitation:*

(1) The possession of or limit on any required license of the bidder;

(2) The financial responsibility of the bidder;

(3) The experience of the bidder; and

(4) The ability of the bidder to perform the contract;

(d) *Adequacy of the equipment of the bidder;*

(e) Past performance;

~~[(e)]~~ (f) Performance *schedule* or delivery date;

~~[(f) Quality and utility of services, supplies, materials or equipment offered and the adaptability of those services, supplies, materials or equipment to the required purpose of the contract;]~~

(g) *The best value;*

(h) If the contract requires the delivery of goods, the total cost of ownership of the goods;

(i) If the contract requires the delivery of goods, the purpose for which the goods to be supplied are required;

(j) The best interests of the public; and

~~[(h)]~~ (k) Such other criteria as may be set forth by the governing body or its authorized representative in the advertisement or ~~request for bids,~~ *solicitation*, as applicable, that pertains to the contract.

~~[2-]~~ 3. A governing body or its authorized representative shall not enter into a contract described in paragraph (a) of subsection 1 of NRS 332.039 with a company unless the contract includes a written certification that the company is not currently engaged in, and agrees for the duration of the contract not to engage in, a boycott of Israel.

~~[3. The governing body or its authorized representative:~~

~~— (a) Shall give preference to recycled products if:~~

~~— (1) The product meets the applicable standards;~~

~~— (2) The product can be substituted for a comparable nonrecycled product; and~~

~~— (3) The product costs no more than a comparable nonrecycled product.~~

~~— (b) May give preference to recycled products if:~~

~~— (1) The product meets the applicable standards;~~

~~— (2) The product can be substituted for a comparable nonrecycled product; and~~

~~— (3) The product costs no more than 5 percent more than a comparable nonrecycled product.~~

~~— (c) May purchase recycled paper products if the specific recycled paper product is:~~



~~(1) Available at a price which is not more than 10 percent higher than that of paper products made from virgin material;~~

~~(2) Of adequate quality; and~~

~~(3) Available to the purchaser within a reasonable period.]~~

4. If after the lowest responsive and responsible bidder has been awarded the contract, during the term of the contract he or she does not ~~{supply goods or services}~~ **perform** in accordance with the bid specifications, or if he or she repudiates the contract, the governing body or its authorized representative may reaward the contract to the next lowest responsive and responsible bidder without requiring that new bids be submitted. Reawarding the contract to the next lowest responsive and responsible bidder is not a waiver of any liability of the initial bidder awarded the contract.

5. *Except as otherwise provided by specific statute, if the estimated annual amount to perform a contract is more than \$100,000 and the method for obtaining the contract designated in the solicitation is a method other than an invitation to bid, the governing body or its authorized representative shall award such a contract taking into account the minimum requirements for a responding offeror prescribed in the solicitation pursuant to section 3 of this act and the method prescribed in that solicitation for awarding the contract.*

6. As used in this section:

(a) "Boycott of Israel":

(1) Means, except as otherwise provided in subparagraph (2), refusing to deal or conduct business with, abstaining from dealing or conducting business with, terminating business or business activities with or performing any other action that is intended to limit commercial relations with:

(I) Israel; or

(II) A person or entity doing business in Israel or in territories controlled by Israel,

↪ if such an action is taken in a manner that discriminates on the basis of nationality, national origin or religion.

(2) Does not include an action that is described in subparagraph (1) if the action:

(I) Is based on a bona fide business or economic reason;

(II) Is taken pursuant to a boycott against a public entity of Israel if the boycott is applied in a nondiscriminatory manner; or

(III) Is taken in compliance with or adherence to calls for a boycott of Israel if that action is authorized in 50 U.S.C. § 4607 or any other federal or state law.

(b) "Company" means any domestic or foreign sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited-liability partnership,



limited-liability company, or other domestic or foreign entity or business association, including, without limitation, any wholly owned subsidiary, majority owned subsidiary, parent company or affiliate of such an entity or business association, that exists for the purpose of making a profit.

~~(c) [“Postconsumer waste” means a finished material which would normally be disposed of as a solid waste having completed its life cycle as a consumer item.~~

~~— (d) “Recycled paper product” means all paper and wood pulp products containing in some combination at least 50 percent of its total weight:~~

~~— (1) Postconsumer waste; and~~

~~— (2) Secondary waste;~~

~~➔ but does not include fibrous waste generated during the manufacturing process such as fibers recovered from wastewater or trimmings of paper machine rolls, wood slabs, chips, sawdust or other wood residue from a manufacturing process.~~

~~— (e) “Secondary waste” means fragments of products or finished products of a manufacturing process which has converted a virgin resource into a commodity of real economic value.] “Total cost of ownership” includes, without limitation:~~

(1) The history of maintenance and repair of the goods;

(2) The cost of routine maintenance and repair of the goods;

(3) Any warranties provided in connection with the goods;

(4) The cost of replacement parts for the goods; and

(5) The value of the goods as used goods when given in trade on a subsequent purchase.

Sec. 12. NRS 332.068 is hereby amended to read as follows:

332.068 1. A person who submits a ~~[bid on]~~ **response to a solicitation for** a contract ~~[that is required to be advertised pursuant to paragraph (a) of subsection 1 of NRS 332.039]~~ **for which the estimated annual amount to perform the contract is more than \$100,000** may, after the ~~[bids]~~ **responses** are opened and within the period specified by the governing body or its authorized representative ~~[]~~ **in the solicitation pursuant to section 3 of this act**, file with the governing body or its authorized representative a notice of protest regarding the awarding of the contract.

2. A notice of protest must include a written statement setting forth with specificity the reasons the person filing the notice believes the applicable provisions of law were violated.

3. A person filing a notice of protest may be required by the governing body or its authorized representative, at the time the notice of protest is filed, to post a bond with a good and solvent surety authorized to do business in this State or submit other



security, in a form approved by the governing body or its authorized representative, to the governing body or its authorized representative who shall hold the bond or other security until a determination is made on the protest. A bond posted or other security submitted with a notice of protest must be in an amount equal to the lesser of:

(a) Twenty-five percent of the total value of the ~~bid~~ response submitted by the person filing the notice of protest; or

(b) Two hundred fifty thousand dollars.

4. A notice of protest filed in accordance with the provisions of this section operates as a stay of action in relation to the awarding of any contract until a determination is made by the governing body or its authorized representative on the protest.

5. A person who submits an unsuccessful ~~bid~~ response may not seek any type of judicial intervention until the governing body or its authorized representative has made a determination on the protest and awarded the contract.

6. A governing body or its authorized representative is not liable for any costs, expenses, attorney's fees, loss of income or other damages sustained by a person who submits a ~~bid~~ response, whether or not the person files a notice of protest pursuant to this section.

7. If the protest is upheld, the bond posted or other security submitted with the notice of protest must be returned to the person who posted the bond or submitted the security. If the protest is rejected, a claim may be made against the bond or other security by the governing body or its authorized representative in an amount equal to the expenses incurred by the governing body or its authorized representative because of the unsuccessful protest. Any money remaining after the claim has been satisfied must be returned to the person who posted the bond or submitted the security.

Sec. 13. NRS 332.075 is hereby amended to read as follows:

332.075 Any ~~for all bids received in~~ response to a ~~request for bids~~ solicitation for a contract for which the estimated annual amount to perform a contract is more than \$100,000 may be rejected by the governing body or its authorized representative if ~~such~~ the governing body or its authorized representative determines that ~~any such bidder~~ the responding offeror is not responsive or responsible or that the quality of the services, supplies, materials, equipment or labor offered does not conform to requirements or if the public interest would be served by such a rejection.

Sec. 14. NRS 332.095 is hereby amended to read as follows:

332.095 1. ~~No~~ Except as otherwise provided in subsection 2:



(a) No contract awarded may be assigned to any other person without the consent of the governing body or its authorized representative.

~~(b)~~ No contract awarded or any portion thereof may be assigned to any person who was declared by the governing body or its authorized representative not to be a responsible person to perform the particular contract.

2. The provisions of this section do not apply to the assignment of a contract by virtue of the acquisition of the person who is a party to the contract by a person that purchases the full assets and liabilities of the person who is a party to the contract.

Sec. 15. NRS 332.105 is hereby amended to read as follows:

332.105 1. A ~~bid bond,~~ performance bond, payment bond or any *other bond or* combination thereof, with sufficient surety, in such amount as may be determined necessary by the governing body or its authorized representative, may be required of each ~~bidder or contractor~~ *responding offeror* on a particular contract.

2. Any such bonds may be to insure proper performance of the contract and save, indemnify and keep harmless the local government against all loss, damages, claims, liabilities, judgments, costs and expenses which may accrue against the local government in consequence of the awarding of the contract.

3. If a local government requires such a bond, it shall not also require a detailed financial statement from each ~~bidder~~ *responding offeror* on the contract.

Sec. 16. NRS 332.115 is hereby amended to read as follows:

332.115 1. Contracts which by their nature are not adapted to award by *a* competitive ~~bidding,~~ *solicitation*, including contracts for:

- (a) Items which may only be contracted from a sole source;
- (b) Professional services;
- (c) Additions to and repairs and maintenance of equipment which may be more efficiently added to, repaired or maintained by a certain person;
- (d) Equipment which, by reason of the training of the personnel or of an inventory of replacement parts maintained by the local government is compatible with existing equipment;
- (e) Perishable goods;
- (f) Insurance;
- (g) Hardware and associated peripheral equipment and devices for computers;
- (h) Software for computers;
- (i) *Maintenance and support for:*
 - (1) Hardware and associated peripheral equipment and devices for computers; and*



- 1 (2) *Software for computers;*
2 (j) *Equipment containing hardware or software for computers;*
3 (k) Books, *instructional materials*, library materials and
4 subscriptions;
5 ~~(l)~~ (l) Motor vehicle fuel purchased by a local law enforcement
6 agency for use in an undercover investigation;
7 ~~(m)~~ (m) Motor vehicle fuel for use in a vehicle operated by a
8 local law enforcement agency or local fire department if such fuel is
9 not available within the vehicle's assigned service area from a
10 fueling station owned by the State of Nevada or a local government;
11 ~~(n)~~ (n) Purchases made with money in a store fund for
12 prisoners in a jail or local detention facility for the provision and
13 maintenance of a canteen for the prisoners;
14 ~~(o)~~ (o) Supplies, materials, ~~or~~ equipment *or services* that are
15 available pursuant to an agreement with a vendor that has entered
16 into an agreement with the General Services Administration or
17 another *federal* governmental agency located within or outside this
18 State;
19 ~~(p)~~ (p) Items for resale through a retail outlet operated in this
20 State by a local government or the State of Nevada;
21 ~~(q)~~ (q) Commercial advertising within a recreational facility
22 operated by a county fair and recreation board;
23 ~~(r)~~ (r) Goods or services purchased from organizations or
24 agencies whose primary purpose is the training and employment of
25 persons with disabilities; and
26 ~~(s)~~ (s) The design of, and equipment and services associated
27 with, systems of communication,
28 ➤ are not subject to the requirements of this chapter for *a*
29 competitive ~~bidding~~ *solicitation*, as determined by the governing
30 body or its authorized representative.
31 2. The purchase of *forensic equipment and supplies used in*
32 *forensic analysis or other* equipment for use by a local law
33 enforcement agency in the course of an undercover investigation is
34 not subject to the requirements of this chapter for *a* competitive
35 ~~bidding~~ *solicitation*, as determined by the governing body or its
36 authorized representative, if:
37 (a) The equipment is an electronic or mechanical device which
38 by design is intended to monitor and document in a clandestine
39 manner suspected criminal activity; ~~or~~
40 (b) Purchasing the equipment pursuant to such requirements
41 would limit or compromise the use of such equipment by an agency
42 authorized to conduct such investigations ~~or~~ *;* *or*
43 (c) *The equipment and supplies are:*



(1) *Used in analysis in such investigations; or*

(2) *Required to comply with specific forensic standards or quality standards.*

3. The purchase of personal safety equipment for use by a response agency or any other local governmental agency is not subject to the requirements of this chapter for *a* competitive ~~bidding,~~ *solicitation*, as determined by the governing body or its authorized representative, if:

(a) The personal safety equipment will be used by personnel of the response agency or other local governmental agency in preventing, responding to or providing services of recovery or relief in connection with emergencies, acts of terrorism or other natural or man-made disasters in which the health, safety or welfare of those personnel may be compromised, impaired or otherwise threatened; and

(b) The cost of the personal safety equipment is comparable to the cost of similar personal safety equipment that is available for purchase by the public.

4. The *purchase of goods commonly used by a hospital, including, without limitation, medical equipment, implantable devices and pharmaceuticals, by the* governing body of a hospital ~~[required to comply with the provisions of this chapter,]~~ or its authorized representative ~~[, may purchase goods commonly used by the hospital, under a contract awarded pursuant to NRS 332.065, without additional]~~ *is not subject to the requirements of this chapter for a* competitive ~~bidding even if at the time the contract was awarded;~~

~~—(a) The vendor supplying such goods to the person awarded the contract was not identified as a supplier to be used by the person awarded the contract; or~~

~~—(b) The vendor was identified as a supplier but was not identified as the supplier of such goods.~~

~~→~~ *solicitation*. The governing body of the hospital *or its authorized representative* shall make available for public inspection each such contract and records related to those purchases.

5. This section does not prohibit a governing body or its authorized representative from advertising for or requesting ~~bids.~~ *responses.*

6. As used in this section:

(a) “Act of terrorism” has the meaning ascribed to it in NRS 239C.030.

(b) “Personal safety equipment” means safety equipment that personnel of a response agency or other local governmental agency:

(1) Use in the course of preventing, responding to or providing services of recovery or relief in connection with



emergencies, acts of terrorism or other natural or man-made disasters; or

(2) Wear or otherwise carry on a regular basis.

➤ The term includes, without limitation, firearms, boots, bulletproof vests or other types of body armor, protective garments, protective eyewear, gloves, helmets, and any specialized apparatus, equipment or materials approved or recommended by the United States Department of Homeland Security.

(c) "Response agency" means an agency of a local government that provides services related to law enforcement, firefighting, emergency medical care or public safety.

Sec. 17. NRS 332.117 is hereby amended to read as follows:

332.117 1. In accordance with the Program to Encourage and Facilitate Purchases by Agencies of Commodities and Services From Organizations established pursuant to NRS 334.025, a governing body ~~{of a local government}~~ or its authorized representative may award, without complying with the requirements for a competitive ~~{bidding}~~ solicitation set forth in this chapter, a contract for services or for the purchase of supplies, materials, equipment or labor to a nonprofit organization or agency whose primary purpose is the training and employment of persons with a mental or physical disability, including, without limitation, a provider of jobs and day training services certified pursuant to NRS 435.130 to 435.310, inclusive.

2. A nonprofit organization or agency that:

(a) Wishes to submit a ~~{bid for such}~~ response to a ~~{contract}~~ solicitation must:

(1) Register with the Purchasing Division of the Department of Administration as required pursuant to NRS 334.025; and

(2) Establish a fair-market price for those services, supplies, materials, equipment or labor by conducting a market survey and must include the survey with the ~~{bid}~~ response submitted to the local government.

(b) Is awarded such a contract must report quarterly to the Purchasing Division as required pursuant to NRS 334.025.

3. As used in this section, "nonprofit organization or agency" means an organization or agency that is recognized as exempt pursuant to the provisions of 26 U.S.C. § 501(c)(3).

Sec. 18. NRS 332.146 is hereby amended to read as follows:

332.146 1. Except as otherwise provided by law, if the governing body or its authorized representative determines that the supplies, materials or equipment can be purchased at any public auction, closeout sale, bankruptcy sale, sale of merchandise left after an exhibition, or other similar sale at a reasonable savings over the cost of like merchandise and below the market cost in the



community, a contract or contracts may be let or the purchase made without complying with the requirements of this chapter for **a** competitive ~~{bidding-}~~ **solicitation.**

2. The documentation for the purchase or acquisition must be summarized for the next regularly scheduled meeting of the governing body, together with written justification showing the savings involved.

Sec. 19. NRS 332.148 is hereby amended to read as follows:

332.148 1. Except as otherwise provided in subsection 2, when a governing body or its authorized representative has advertised for or requested ~~{bids}~~ **responses** in letting a contract and no responsible ~~{bids}~~ **responses** are received, the governing body or its authorized representative may let the contract without **a** competitive ~~{bidding-}~~ **solicitation** not less than 7 days after it publishes a notice stating that no ~~{bids}~~ **responses** were received on the contract and that the contract may be let without **a** further ~~{bidding-}~~ **solicitation.**

2. A governing body or its authorized representative shall entertain any ~~{bid}~~ **response** which is submitted after it publishes such notice and before the expiration of the waiting period.

Sec. 20. NRS 332.185 is hereby amended to read as follows:

332.185 1. Except as otherwise provided in subsection 2 and NRS 244.1505 and 334.070, ~~fall sales of personal property of the local government must be made, as nearly as possible, under the same conditions and limitations as required by this chapter in the purchase of personal property. The~~ **if the governing body or its authorized representative determines that the personal property of the local government is no longer required for public use and deems such action desirable and in the best interests of the local government, the** governing body or its authorized representative may dispose of personal property of the local government by any manner, including, without limitation, **by:**

(a) Selling such property at public auction ~~. If the governing body or its authorized representative determines that the property is no longer required for public use and deems such action desirable and in the best interests of the local government.~~

(b) Donating such property to another governmental entity or nonprofit organization.

2. The board of trustees of a school district may donate surplus personal property of the school district to any other school district in this State, to the Achievement School District or to a charter school that is located within the school district without regard to:

(a) The provisions of this chapter; or

(b) Any statute, regulation, ordinance or resolution that requires:



(1) The posting of notice or public advertising.

(2) The inviting or receiving of competitive ~~bids.~~
responses.

(3) The selling or leasing of personal property by contract or at a public auction.

3. The provisions of this chapter do not apply to the purchase, sale, lease or transfer of real property by the governing body.

Sec. 21. NRS 332.195 is hereby amended to read as follows:

332.195 1. Except as otherwise provided in this section ~~:-~~
~~—(a) A~~, a governing body or its authorized representative ~~and the State of Nevada~~ may ~~join or use the contracts of local governments~~ *enter into a contract pursuant to a solicitation by:*

(a) A governmental entity located within or outside this State with the authorization of the contracting vendor. The originally contracting local government is not liable for the obligations of the governmental entity which ~~joins or uses~~ *enters into a contract in response to the contract solicitation in accordance with this paragraph.*

~~(b) [A governing body or its authorized representative may join or use the contracts of the]~~ *The* State of Nevada or another state with the authorization of the contracting vendor. The State of Nevada or other state is not liable for the obligations of the local government which ~~joins or uses~~ *enters into a contract in response to the contract solicitation in accordance with this paragraph.*

(c) A cooperative purchasing organization. A cooperative purchasing organization is not liable for the obligations of the local government which enters into a contract in response to the solicitation in accordance with this paragraph.

2. A governing body or its authorized representative ~~for the State of Nevada~~ shall not ~~join or use~~ *enter into* a contract pursuant to this section if a contractor's license issued pursuant to chapter 624 of NRS is required for any portion of the work to be performed under the contract.

3. As used in this section, "cooperative purchasing organization" means an organization that implements a cooperative arrangement to agree to aggregate demand on behalf of public entities for the purpose of obtaining lower prices from certain suppliers to reduce the costs of procurement.

Sec. 22. NRS 332.201 is hereby amended to read as follows:

332.201 1. The governing body or its authorized representative in a county whose population is 100,000 or more shall submit a report every 6 months to the Office. The report must include, without limitation, for the period since the last report:

(a) The number of local emerging small businesses that the governing body or its authorized representative solicited to submit a



1 ~~bid or proposal~~ **response** to the governing body or its authorized
2 representative for a local purchasing contract;

3 (b) The number of local emerging small businesses that
4 submitted a ~~bid or proposal~~ **response** to the governing body or its
5 authorized representative for a local purchasing contract;

6 (c) The number of local purchasing contracts that were awarded
7 by the governing body or its authorized representative to local
8 emerging small businesses;

9 (d) The total number of dollars' worth of local purchasing
10 contracts that were awarded by the governing body or its authorized
11 representative to local emerging small businesses; and

12 (e) Any other information deemed relevant by the Office.

13 2. The report required pursuant to subsection 1 must be
14 submitted within 90 days after:

15 (a) The end of each fiscal year; and

16 (b) The end of each calendar year.

17 3. As used in this section:

18 (a) "Local emerging small business" has the meaning ascribed to
19 it in NRS 231.1402.

20 (b) "Local purchasing contract" means a contract awarded
21 pursuant to the provisions of this chapter for which the estimated
22 cost is ~~[\$50,000 or less.]~~ **not more than \$100,000**. The term does
23 not include a contract for which a procurement card is used.

24 (c) "Office" means the Office of Economic Development.

25 (d) "Procurement card" means a charge card issued to a
26 governing body or its authorized representative for the purpose of
27 purchasing goods and services pursuant to the provisions of this
28 chapter.

29 **Sec. 23.** NRS 332.810 is hereby amended to read as follows:

30 332.810 1. Before a contract is awarded, a ~~person who has~~
31 ~~bid on the contract~~ **responding offeror** or an officer, employee,
32 representative, agent or consultant of such a person shall not:

33 (a) Make an offer or promise of future employment or business
34 opportunity to, or engage in a discussion of future employment or
35 business opportunity with, an evaluator or member of the governing
36 body offering the contract;

37 (b) Offer, give or promise to offer or give money, a gratuity or
38 any other thing of value to an evaluator or member of the governing
39 body offering the contract; or

40 (c) Solicit or obtain from an officer, employee or member of the
41 governing body offering the contract:

42 (1) Any proprietary information regarding the contract; or

43 (2) Any information regarding a ~~bid on the contract~~
44 **response to a solicitation** submitted by another person, unless such
45 information is available to the general public.



2. A person who violates any of the provisions of subsection 1 is guilty of a gross misdemeanor and shall be punished by imprisonment in the county jail for not more than 364 days, or by a fine of not less than \$2,000 nor more than \$50,000, or by both fine and imprisonment.

Sec. 24. NRS 332.820 is hereby amended to read as follows:

332.820 1. Any agreement or collusion among ~~{bidders}~~ *responding offerors* or prospective ~~{bidders}~~ *responding offerors* in restraint of freedom of competition by agreement to ~~{bid}~~ *respond with* a fixed price, or otherwise, shall render the ~~{bids}~~ *responses* of such ~~{bidders}~~ *responding offerors* void.

2. Advance disclosures of proprietary information or any other information to any particular ~~{bidder}~~ *responding offeror* which would give that particular ~~{bidder}~~ *responding offeror* any advantage over any other interested ~~{bidder}~~ *responding offeror* in advance of the opening of ~~{bids,}~~ *responses*, whether in response to advertising or an informal ~~{request for bids,}~~ *solicitation*, made or permitted by a member of the governing body or an employee or representative thereof, shall operate to void all ~~{bids}~~ *responses* received in response to that particular ~~{request for bids,}~~ *solicitation*.

Sec. 25. Chapter 333 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The Administrator may enter into a contract pursuant to a solicitation for a bid or proposal by:*

(a) *A governmental entity located in this State; or*

(b) *A governmental entity located outside of this State if the entity uses an open and competitive method of awarding the contract that is substantially similar to the method prescribed by state law.*

2. *The provisions of subsection 1 apply regardless of whether the solicitation the Administrator seeks to join is open or completed.*

Sec. 26. NRS 333.020 is hereby amended to read as follows:

333.020 As used in this chapter, unless the context otherwise requires:

1. "Administrator" means the Administrator of the Purchasing Division.

2. "Best value" means the greatest possible economy consistent with grades or qualities of supplies, materials, equipment and services that are adapted to the purposes to be served.

3. "Director" means the Director of the Department of Administration.

4. "Invitation to bid" means a written statement which sets forth the requirements and specifications of a contract to be awarded by competitive selection.



5. "Proprietary information" means:

(a) Any trade secret or confidential business information that is contained in a bid or proposal submitted on a particular contract; or

(b) Any other trade secret or confidential business information submitted in a bid or proposal and designated as proprietary by the Administrator.

➤ As used in this subsection, "confidential business information" means any information relating to the amount or source of any income, profits, losses or expenditures of a person, including data relating to cost or price submitted in support of a bid or proposal. The term does not include the amount of a bid or proposal.

6. "Purchasing Division" means the Purchasing Division of the Department of Administration.

7. "Purchasing officer" means a person who is authorized by the Administrator or a using agency to ~~participate in~~ **facilitate**:

(a) The evaluation of bids or proposals for a contract;

(b) Any negotiations concerning a contract; or

(c) The development, review or approval of a contract.

8. "Request for proposals" means a written statement which sets forth the requirements and specifications of a contract to be awarded by competitive selection.

9. "Trade secret" has the meaning ascribed to it in NRS 600A.030.

10. "Using agencies" means all officers, departments, **divisions**, institutions, boards, commissions and other agencies in the Executive Department of the State Government which derive their support from public money in whole or in part, whether the money is provided by the State of Nevada, received from the Federal Government or any branch, bureau or agency thereof, or derived from private or other sources. The term does not include the Nevada Rural Housing Authority, the Housing Division of the Department of Business and Industry, local governments as defined in NRS 354.474, conservation districts, irrigation districts and the Nevada System of Higher Education.

11. "Volunteer fire department" means a volunteer fire department which pays premiums for industrial insurance pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS.

Sec. 27. NRS 333.160 is hereby amended to read as follows:

333.160 The Administrator may decide whether and to what extent the needs of any using agency may be supplied:

1. ~~{From stores of commodities on hand;~~

~~—2.}~~ By transfer of surplus items or stocks from other using agencies;

~~{3.}~~ 2. By deliveries under contracts;



1 ~~14.1~~ 3. By open market purchases through the Administrator;
2 or

3 ~~15.1~~ 4. Directly by the using agencies;
4 ➔ but he or she shall have thorough discussions on such matters
5 with authorized representatives of each using agency.

6 **Sec. 28.** NRS 333.162 is hereby amended to read as follows:
7 333.162 1. The Administrator may designate the method of
8 obtaining a contract, including:

- 9 (a) An invitation to bid;
10 (b) A request for proposals;
11 (c) *A request for qualifications;*
12 *(d) A request for information;*
13 *(e) A request for a quotation; or*

14 ~~(d)~~ (f) Any other accepted method of purchasing that complies
15 with the provisions of this chapter.

16 2. The Administrator shall adopt regulations governing the
17 methods of obtaining a contract.

18 **Sec. 29.** NRS 333.330 is hereby amended to read as follows:
19 333.330 1. All bids on more than one item on which bids are
20 called for by the same notice must be itemized and give a price for
21 each item.

22 2. All bids must:

- 23 (a) Except as otherwise provided in NRS 333.313, be in writing
24 and signed.
25 (b) Be sealed or, if the bid is submitted electronically, secured
26 by an electronic equivalent of a seal, as approved by the Purchasing
27 Division.

28 ~~[(c) Be opened and read publicly by the Administrator or a~~
29 ~~designated agent of the Administrator as they are opened.]~~

30 **Sec. 30.** NRS 333.335 is hereby amended to read as follows:
31 333.335 1. Each proposal must be evaluated by:

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

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

40 2. A committee appointed pursuant to subsection 1 must
41 consist of not less than two members. A majority of the members of
42 the committee must be state officers or employees. The committee
43 may include persons who are not state officers or employees and
44 possess expert knowledge or special expertise that the chief of the
45 using agency or the Administrator of the Purchasing Division



determines is necessary to evaluate a proposal. ~~[The members]~~ *If the committee is appointed to evaluate a proposal for the procurement of technology for which the estimated cost is more than \$100,000, the committee must include a person designated by the Chief Information Officer of the State appointed pursuant to NRS 223.085 if the Chief Information Officer determines the inclusion of such a person is necessary to evaluate the proposal.*

3. ~~Members of [the]~~ *a committee appointed pursuant to subsection 1* 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.

~~[3.] 4.~~ 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) Any other]~~ factor disclosed in the request for proposals.

~~[4.] 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]~~ *disclosed in [subsection 3 before]* a request for proposals *before the request for proposals* is advertised.

~~[5.] 6.~~ 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,]~~ *4*, and is not required to accept the lowest-priced proposal.

~~[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. 31. NRS 333.3363 is hereby amended to read as follows:

333.3363 “Local business” means a business *which certifies* that:

1. ~~[Employs at least one person]~~ *Its principal place of business is* in this State; ~~[and] or~~

2. ~~[Has employed at least one person in this State for not fewer than 2 years.]~~ *The majority of the goods provided for in a state purchasing contract are produced in this State.*



Sec. 32. NRS 333.3366 is hereby amended to read as follows:
333.3366 1. For the purpose of awarding a formal contract solicited pursuant to subsection 2 of NRS 333.300 ~~{f} or awarding a contract for the services of a person as an independent contractor pursuant to subsection 1 of NRS 333.700, if f:~~

~~—(a) A} a~~ local business owned and operated by a veteran with a service-connected disability submits a bid or proposal for *such* a contract ~~{for which the estimated cost is more than \$50,000 but not more than \$250,000}~~ and is a responsive and responsible bidder, the bid or proposal shall be deemed to be 5 percent lower than the bid or proposal actually submitted.

~~{(b) A local business owned and operated by a veteran with a service-connected disability which is determined to be 50 percent or more by the United States Department of Veterans Affairs submits a bid or proposal for a contract for which the estimated cost is more than \$250,000 but less than \$500,000 and is a responsive and responsible bidder, the bid or proposal shall be deemed to be 5 percent lower than the bid or proposal actually submitted.}~~

2. The ~~{preferences}~~ *preference* described in subsection 1 may not be combined with any other preference.

Sec. 33. NRS 333.3367 is hereby amended to read as follows:
333.3367 1. If the Purchasing Division determines that a business has made a material misrepresentation or otherwise committed a fraudulent act in applying for ~~{a}~~ *the* preference described in NRS 333.3366, the business is thereafter permanently prohibited from:

(a) Applying for or receiving the preference described in NRS 333.3366; and

(b) Bidding on a state purchasing contract.

2. If the Purchasing Division determines, as described in subsection 1, that a business has made a material misrepresentation or otherwise committed a fraudulent act in applying for ~~{a}~~ *the* preference described in NRS 333.3366, the business may apply to the Administrator to review the decision pursuant to chapter 233B of NRS.

Sec. 34. NRS 333.3369 is hereby amended to read as follows:
333.3369 The Purchasing Division may adopt such regulations as it determines to be necessary or advisable to carry out the provisions of NRS 333.3361 to 333.3369, inclusive. The regulations may include, without limitation, provisions setting forth:

1. The method by which a business may apply to receive ~~{a}~~ *the* preference described in NRS 333.3366;

2. Subject to the provisions of NRS 417.0187, the documentation or other proof that a business must submit to



demonstrate that it qualifies for ~~{a}~~ *the* preference described in NRS 333.3366; and

3. Such other matters as the Purchasing Division deems relevant.

➡ In carrying out the provisions of this section, the Purchasing Division shall, to the extent practicable, cooperate and coordinate with the State Public Works Division of the Department of Administration so that any regulations adopted pursuant to this section and NRS 338.13847 are reasonably consistent.

Sec. 35. NRS 333.337 is hereby amended to read as follows:

333.337 Each person who is authorized pursuant to the provisions of this chapter to enter into any contract on behalf of this state shall ensure that the contract ~~{is}~~ :

1. Includes any provision related to insurance that the State Risk Manager determines is necessary;

2. Is reduced to writing ~~{and signed}~~ ;

3. Is signed by each party to the contract ~~{}~~ ; and

4. Is approved by the Purchasing Division or the Office of the Attorney General.

Sec. 36. NRS 333.370 is hereby amended to read as follows:

333.370 1. A person who makes an unsuccessful bid or proposal may file a notice of appeal with the Purchasing Division and with the Hearings Division of the Department of Administration within ~~{10}~~ 11 days after ~~{}~~

~~—(a) The *the* date of award as entered on the bid record . ~~{}~~ and~~

~~—(b) The notice of award has been posted in at least three public buildings, including the location of the using agency.~~

➡ The notice of appeal must include a written statement ~~{of the issues to be addressed on appeal.}~~ *specifying any alleged violation of this chapter.*

2. A person filing a notice of appeal must post a bond with good and solvent surety authorized to do business in this state or submit other security, in a form approved by the Administrator by regulation, to the Purchasing Division, who shall hold the bond or other security until a determination is made on the appeal. Except as otherwise provided in subsection 3, a bond posted or other security submitted with a notice of appeal must be in an amount equal to 25 percent of the total value of the successful bid submitted.

3. If the total value of the successful bid cannot be determined because the total requirements for the contract are estimated as of the date of award, a bond posted or other security submitted with a notice of appeal must be in an amount equal to 25 percent of the estimated total value of the contract. Upon request, the Administrator shall provide:



- 1 (a) The estimated total value of the contract; or
2 (b) The method for determining the estimated total value of the
3 contract,

4 ➡ based on records of past experience and estimates of anticipated
5 requirements furnished by the using agency.

6 4. Within 20 days after receipt of the notice of appeal, a
7 hearing officer of the Hearings Division of the Department of
8 Administration shall hold a contested hearing on the appeal in
9 substantial compliance with the provisions of NRS 233B.121 to
10 233B.1235, inclusive, 233B.125 and 233B.126. *Notwithstanding*
11 *the provisions of chapter 233B of NRS, the hearing officer may*
12 *not order discovery.* The successful bidder must be given notice of
13 the hearing in the same manner as the person who filed the notice of
14 appeal. The successful bidder may participate in the hearing. *Within*
15 *60 days after receipt of the notice of appeal, the hearing officer*
16 *shall make a determination on the appeal.*

17 5. The hearing officer may *only* cancel the award for lack of
18 compliance with the provisions of this chapter. A cancellation of the
19 award requires ~~{re-advertising for bids and}~~ a new award in
20 accordance with the provisions of this chapter.

21 6. A notice of appeal filed in accordance with the provisions of
22 this section operates as a stay of action in relation to any contract
23 until a determination is made by the hearing officer on the appeal.

24 7. A person who makes an unsuccessful bid or proposal may
25 not seek any type of judicial intervention until the hearing officer
26 has made a determination on the appeal.

27 8. The Administrator may make as many open market
28 purchases of the commodities or services as are urgently needed to
29 meet the requirements of the Purchasing Division or the using
30 agency until a determination is made on the appeal. With the
31 approval of the Administrator, the using agency may make such
32 purchases for the agency.

33 9. Neither the State of Nevada, nor any agency, contractor,
34 department, division, employee or officer of the State is liable for
35 any costs, expenses, attorney's fees, loss of income or other
36 damages sustained by a person who makes an unsuccessful bid or
37 proposal, whether or not the person files a notice of appeal pursuant
38 to this section.

39 10. If the appeal is upheld and the award is cancelled, the bond
40 posted or other security submitted with the notice of appeal must be
41 returned to the person who posted the bond or submitted the
42 security. If the appeal is rejected and the award is upheld, a claim
43 may be made against the bond or other security by the Purchasing
44 Division and the using agency to the Hearings Division of the
45 Department of Administration in an amount equal to the expenses



1 incurred and other monetary losses suffered by the Purchasing
2 Division and the using agency because of the unsuccessful appeal.
3 The hearing officer shall hold a hearing on the claim in the same
4 manner as prescribed in subsection 4. Any money not awarded by
5 the hearing officer must be returned to the person who posted the
6 bond or submitted the security.

7 **Sec. 37.** NRS 333.390 is hereby amended to read as follows:

8 333.390 1. Except as otherwise provided in NRS 333.435,
9 the Administrator may authorize ~~{local purchasing by}~~ using
10 agencies ~~{}~~ *to purchase items that are not available directly from*
11 *an entity with which the Purchasing Division has entered into a*
12 *contract if such a purchase is made* in accordance with the ~~{rules of~~
13 ~~procedure, of individual orders for items not scheduled for quantity~~
14 ~~purchasing, not to exceed \$5,000 for each order, except for the~~
15 ~~repair, replacement and installation of parts for heavy equipment,~~
16 ~~not to exceed \$15,000 for each order, at no higher prices than~~
17 ~~specified in the orders authorizing the local purchasing. The~~
18 ~~Administrator may authorize purchasing at higher prices if~~
19 ~~perishable articles are involved and to meet other emergency~~
20 ~~requirements.}~~ *State Administrative Manual created by NRS*
21 *232.004, provisions of this chapter and any regulations adopted*
22 *pursuant thereto.*

23 2. ~~{The prices of the local purchases must be based on~~
24 ~~considerations of equal service and economy as compared with~~
25 ~~those in furnishing the same items of equal quality through the~~
26 ~~regular purchasing procedure.~~

27 ~~—3.}~~ Each authorization must ~~{~~:

28 ~~—(a) Be~~ *be* revocable ~~{~~:

29 ~~—(b) Specify the limit of spending for individual orders not to~~
30 ~~exceed \$5,000, except for the repair, replacement and installation of~~
31 ~~parts referred to in subsection 1.~~

32 ~~—(c) Specify the articles to be purchased.~~

33 ~~—(d) Be operative for not longer than 1 year after the date of~~
34 ~~issue.~~

35 ~~—4.}~~ *at the discretion of the Administrator.*

36 3. A using agency that receives an authorization shall keep a
37 record of:

38 (a) Its accounts and expenditures pursuant to that authority; and

39 (b) Evidence indicating that every effort has been made to
40 secure competitive bidding to the extent practicable.

41 **Sec. 38.** NRS 333.469 is hereby amended to read as follows:

42 333.469 ~~{1.}~~ Any agency, bureau, commission or officer of
43 the Legislative Department or the Judicial Department of the State
44 Government or the Nevada Wing of the Civil Air Patrol or any



squadron thereof may obtain supplies, materials and equipment on a voluntary basis through the facilities of the Purchasing Division.

~~[2. From time to time the Administrator shall issue bulletins to all of such agencies, bureaus, commissions and officers indicating the supplies, materials and equipment available and the prices thereof.]~~

Sec. 39. NRS 333.470 is hereby amended to read as follows:

333.470 ~~[1.]~~ The Nevada System of Higher Education, local governments as defined in NRS 354.474, conservation districts and irrigation districts in the State of Nevada may obtain supplies, materials and equipment on a voluntary basis through the facilities of the Purchasing Division.

~~[2. The Administrator shall issue bulletins from time to time to:~~

~~— (a) Each state agency;~~

~~— (b) Each local governmental agency;~~

~~— (c) Each irrigation district;~~

~~— (d) Each conservation district; and~~

~~— (e) The Nevada System of Higher Education;~~

~~→ indicating the supplies, materials and equipment available and the prices thereof.~~

~~3. The specifications for all bids for supplies, materials or equipment to be furnished pursuant to the provisions of subsection 1 must be so written that all suppliers of the market in the industry or business concerned are given an opportunity to bid pursuant to notice as provided for in this chapter.]~~

Sec. 40. NRS 333.480 is hereby amended to read as follows:

333.480 1. Except as otherwise provided in subsection 2, the Administrator may purchase or acquire on behalf of the State of Nevada, and all officers, departments, institutions, boards, commissions, schools and other agencies in the Executive Department of the State Government, volunteer fire departments, local governments as defined in NRS 354.474, conservation districts or irrigation districts of the State of Nevada, any supplies, materials or equipment of any kind required or deemed advisable for the state officers, departments, institutions, boards, commissions, schools, volunteer fire departments and other agencies or local governments as defined in NRS 354.474, conservation districts or irrigation districts that may be available pursuant to an agreement with a vendor who has entered into an agreement with the General Services Administration or another ~~[governmental]~~ **federal** agency dealing in supplies, materials, equipment or donable surplus material if:

(a) The prices for the supplies, materials or equipment negotiated in the agreement that the Administrator enters into with the vendor are substantially similar to the prices for those supplies, materials or equipment that the vendor had negotiated with the



General Services Administration or other ~~governmental~~ federal agency; and

(b) The Administrator determines that such an agreement would be in the best interests of the State.

2. The Administrator shall not enter into an agreement pursuant to subsection 1 if a contractor's license issued pursuant to chapter 624 of NRS is required for any portion of the agreement.

Sec. 41. NRS 205.4737 is hereby amended to read as follows:

205.4737 1. "Computer contaminant" means any data, information, image, program, signal or sound that is designed or has the capability to:

(a) Contaminate, corrupt, consume, damage, destroy, disrupt, modify, record or transmit; or

(b) Cause to be contaminated, corrupted, consumed, damaged, destroyed, disrupted, modified, recorded or transmitted,

↳ any other data, information, image, program, signal or sound contained in a computer, system or network without the knowledge or consent of the person who owns the other data, information, image, program, signal or sound or the computer, system or network.

2. The term includes, without limitation:

(a) A virus, worm or Trojan horse;

(b) Spyware that tracks computer activity and is capable of recording and transmitting such information to third parties; or

(c) Any other similar data, information, image, program, signal or sound that is designed or has the capability to prevent, impede, delay or disrupt the normal operation or use of any component, device, equipment, system or network.

3. As used in this section:

(a) "On-line ~~bidding~~ solicitation" has the meaning ascribed to it in NRS ~~332.047~~ 332.025.

(b) "Spyware" does not include:

(1) An Internet browser;

(2) Software for transmitting messages instantly that informs the user whether other users are on-line at the same time;

(3) Software that is designed to detect or prevent the use of computer contaminants;

(4) Software that is designed to detect fraudulent on-line ~~bidding~~ solicitation;

(5) Software that is designed to prevent children from accessing pornography on the Internet;

(6) Software that conducts remote maintenance or repair of a computer or its systems;

(7) Software that is designed to manage or to perform maintenance on a network of computers;



(8) Software for media players; and

(9) Software that authenticates a user.

Sec. 42. Chapter 218D of NRS is hereby amended by adding thereto a new section to read as follows:

1. For a regular session, the Commission to Study Governmental Purchasing created by NRS 332.215 may request the drafting of not more than 2 legislative measures which relate to matters within the scope of the Commission. The requests must be submitted to the Legislative Counsel on or before September 1 preceding the regular session.

2. Each request made pursuant to this section must be on a form prescribed by the Legislative Counsel. The legislative measures requested pursuant to this section must be prefiled on or before the third Wednesday in November preceding the regular session. A legislative measure that is not prefiled on or before that day shall be deemed withdrawn.

Sec. 43. NRS 218D.100 is hereby amended to read as follows:
218D.100 1. The provisions of NRS 218D.100 to 218D.220, inclusive, *and section 42 of this act* apply to requests for the drafting of legislative measures for a regular session.

2. Except as otherwise provided by a specific statute, joint rule or concurrent resolution, the Legislative Counsel shall not honor a request for the drafting of a legislative measure if the request:

(a) Exceeds the number of requests authorized by NRS 218D.100 to 218D.220, inclusive, *and section 42 of this act* for the requester; or

(b) Is submitted by an authorized nonlegislative requester pursuant to NRS 218D.175 to 218D.220, inclusive, *and section 42 of this act* but is not in a subject related to the function of the requester.

3. The Legislative Counsel shall not:

(a) Honor a request to change the subject matter of a request for the drafting of a legislative measure after it has been submitted for drafting.

(b) Honor a request for the drafting of a legislative measure which has been combined in violation of Section 17 of Article 4 of the Nevada Constitution.

Sec. 44. NRS 281A.430 is hereby amended to read as follows:
281A.430 1. Except as otherwise provided in this section and NRS 218A.970 and 332.800, a public officer or employee shall not bid on or enter into a contract between an agency and any business entity in which the public officer or employee has a significant pecuniary interest.

2. A member of any board, commission or similar body who is engaged in the profession, occupation or business regulated by such



board, commission or body may, in the ordinary course of his or her business, bid on or enter into a contract with an agency, except the board, commission or body on which he or she is a member, if the member has not taken part in developing the contract plans or specifications and the member will not be personally involved in opening, considering or accepting offers.

3. A full- or part-time faculty member or employee of the Nevada System of Higher Education may bid on or enter into a contract with an agency, or may benefit financially or otherwise from a contract between an agency and a private entity, if the contract complies with the policies established by the Board of Regents of the University of Nevada pursuant to NRS 396.255.

4. Except as otherwise provided in subsection 2, 3 or 5, a public officer or employee may bid on or enter into a contract with an agency if:

(a) The contracting process is controlled by the rules of open competitive bidding or the rules of open competitive bidding *or for a solicitation* are not employed as a result of the applicability of NRS 332.112 or 332.148;

(b) The sources of supply are limited;

(c) The public officer or employee has not taken part in developing the contract plans or specifications; and

(d) The public officer or employee will not be personally involved in opening, considering or accepting offers.

➤ If a public officer who is authorized to bid on or enter into a contract with an agency pursuant to this subsection is a member of the governing body of the agency, the public officer, pursuant to the requirements of NRS 281A.420, shall disclose the public officer's interest in the contract and shall not vote on or advocate the approval of the contract.

5. A member of a local legislative body shall not, either individually or through any business entity in which the member has a significant pecuniary interest, sell goods or services to the local agency governed by his or her local legislative body unless:

(a) The member, or the business entity in which the member has a significant pecuniary interest, offers the sole source of supply of the goods or services within the territorial jurisdiction of the local agency governed by his or her local legislative body;

(b) The local legislative body includes in the public notice and agenda for the meeting at which it will consider the purchase of such goods or services a clear and conspicuous statement that it is considering purchasing such goods or services from one of its members, or from a business entity in which the member has a significant pecuniary interest;



(c) At the meeting, the member discloses his or her significant pecuniary interest in the purchase of such goods or services and does not vote upon or advocate the approval of the matter pursuant to the requirements of NRS 281A.420; and

(d) The local legislative body approves the purchase of such goods or services in accordance with all other applicable provisions of law.

6. The Commission may relieve a public officer or employee from the strict application of the provisions of this section if:

(a) The public officer or employee files a request for an advisory opinion from the Commission pursuant to NRS 281A.675; and

(b) The Commission determines that such relief is not contrary to:

(1) The best interests of the public;

(2) The continued ethical integrity of each agency affected by the matter; and

(3) The provisions of this chapter.

7. For the purposes of subsection 6, the request for an advisory opinion, the advisory opinion and all meetings, hearings and proceedings of the Commission in such a matter are governed by the provisions of NRS 281A.670 to 281A.690, inclusive.

Sec. 45. Section 10.2 of the Reno-Tahoe Airport Authority Act, being chapter 474, Statutes of Nevada 1977, as last amended by chapter 409, Statutes of Nevada 2001, at page 2005 is hereby amended to read as follows:

Sec. 10.2. 1. The Authority may enter into any concession agreement if the Board or its authorized representative reviews the agreement and determines it is in the best interest of the Authority. In making that determination, the Board or its authorized representative shall consider whether the proposed fees to be paid to the Authority for the privileges granted are conducive to revenue generation and providing high quality service to the traveling public.

2. Before entering into any concession agreement providing estimated revenue to the Authority of more than \$25,000, the Authority must:

(a) Comply with the ~~bidding~~ **solicitation** requirements of the Local Government Purchasing Act except the provisions of subsection 3 of NRS 332.105; or

(b) Publish notice of its intention to enter the agreement in a newspaper of general circulation in the County at least three times during a period of 10 days. The notice must specify the date, time and place of a regular meeting of the



Authority to be held after completion of the publication at which any interested person may appear.

3. The Board may authorize the Executive Director of the Authority to enter into any concession agreement on behalf of the Authority if the agreement provides estimated revenue to the Authority of \$25,000 or less. Such an agreement is not subject to the provisions of subsection 2.

Sec. 46. NRS 332.039 and 332.085 are hereby repealed.

Sec. 47. This act becomes effective on July 1, 2019.

TEXT OF REPEALED SECTIONS

332.039 Advertisements or requests for bid on contract.

1. Except as otherwise provided by specific statute:

(a) A governing body or its authorized representative shall advertise all contracts for which the estimated annual amount required to perform the contract exceeds \$50,000.

(b) A governing body or its authorized representative may enter into a contract of any nature without advertising if the estimated annual amount required to perform the contract is \$50,000 or less.

(c) If the estimated annual amount required to perform the contract is more than \$25,000 but not more than \$50,000, requests for bids must be submitted or caused to be submitted by the governing body or its authorized representative to two or more persons capable of performing the contract, if available. The governing body or its authorized representative shall maintain a record of all requests for bids and all bids received for the contract for at least 7 years after the date of execution of the contract.

2. This section does not prohibit a governing body or its authorized representative from advertising for or requesting bids regardless of the estimated annual amount required to perform the contract.

332.085 Determination of bidder's responsibility. In determining the responsibility of any bidder, the governing body or its authorized representative:

1. Shall consider the possession of and limit on any required license of the bidder; and

2. May consider the:

- (a) Financial responsibility of the bidder;
- (b) Experience of the bidder;
- (c) Adequacy of the equipment of the bidder;
- (d) Past performance of the bidder;



– 35 –

- (e) Performance or delivery date; and
- (f) Ability of the bidder to perform the contract.

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