

SENATE BILL NO. 180—SENATOR SETTELMEYER

FEBRUARY 18, 2019

Referred to Committee on Government Affairs

SUMMARY—Requires certain contractors to post a performance bond before being awarded by a governmental entity certain contracts related to information technology. (BDR 27-739)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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 purchasing; requiring a contractor to post a performance bond before a governmental entity may award a large contract for the procurement of an information system, information service or information technology; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law governs state and local governmental purchasing contracts. (Chapters 332, 333 and 334 of NRS) This bill requires a contractor to furnish a performance bond before a governmental entity may award a contract for an amount that exceeds \$10,000,000 for the procurement of an information system, information service or information technology. This bill requires the governmental entity that will award the contract to fix the amount of the bond in an amount equal to not less than 50 percent of the contract amount.

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

Section 1. NRS 332.105 is hereby amended to read as follows:
332.105 ***Except as otherwise provided in section 3 of this act:***
1. A bid bond, performance bond, payment bond or any combination thereof, with sufficient surety, in such amount as may be determined necessary by the governing body or its authorized



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representative, may be required of each bidder or contractor 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 on the contract.

Sec. 2. NRS 333.360 is hereby amended to read as follows:

333.360 1. ~~{A}~~ *Except as otherwise provided in section 3 of this act, a* bond furnished by a surety company authorized to do business in this state may be required by the Administrator for the proper performance of the contract. The Administrator may request a certified check, cashier's check or bond, in an amount not to exceed the total amount of the contract, before entering into a contract with a person who submits a successful bid or proposal.

2. No division or department of the State is liable for any expense incurred by or loss of income sustained by any person because of a request made pursuant to subsection 1.

Sec. 3. Chapter 334 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Before any contract for an amount which exceeds \$10,000,000 for the procurement of an information system, information service or information technology for a contracting body is awarded to any contractor, the contractor shall furnish to the contracting body a performance bond in an amount to be fixed by the contracting body, but not less than 50 percent of the contract amount, conditioned upon the faithful performance of the contract in accordance with the plans, specifications and conditions of the contract. The bond must be solely for the protection of the contracting body which awarded the contract. The bond becomes binding upon the award of the contract to the contractor.

2. The performance bond required pursuant to this section must be executed by one or more surety companies authorized to do business in the State of Nevada. If the contracting body is the State of Nevada or any officer, employee, board, bureau, commission, department, agency or institution thereof, the bond must be payable to the State of Nevada. If the contracting body is other than one of those enumerated in this subsection, the bond must be payable to the other contracting body.



1 3. *The performance bond required pursuant to this section*
2 *must be filed in the office of the contracting body which awarded*
3 *the contract for which the bond was given.*

4 4. *As used in this section:*

5 (a) *“Contracting body” means the State, county, city, town or*
6 *school district or any public agency of the State or its political*
7 *subdivisions which has the authority to contract for the*
8 *procurement of an information system, information service or*
9 *information technology.*

10 (b) *“Information service” has the meaning ascribed to it in*
11 *NRS 242.055.*

12 (c) *“Information system” has the meaning ascribed to it in*
13 *NRS 242.057.*

14 (d) *“Information technology” has the meaning ascribed to it in*
15 *NRS 242.059.*

16 **Sec. 4.** This act becomes effective on July 1, 2019.

