

SENATE BILL NO. 180—SENATOR SETTELMAYER

FEBRUARY 18, 2019

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to the awarding of certain state purchasing 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 state agency who awards a large contract for the procurement of an information system, information service or information technology to either withhold a certain percentage of any amount due under the contract as retainage or require the contractor to furnish a performance bond; requiring such a state agency to submit certain reports concerning the contract; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law governs state purchasing contracts. (Chapters 333 and 334 of
2 NRS) This bill requires a state agency who awards a contract for an amount that
3 exceeds \$10,000,000 for the procurement of an information system, information
4 service or information technology to either: (1) withhold a certain percentage of
5 any amount due under the contract as retainage; or (2) require the contractor to
6 furnish a performance bond in a certain amount to be fixed by the state agency.
7 This bill also requires such a state agency to enter into an agreement with the
8 contractor that specifies certain expectations, benchmarks and penalties relating to
9 the contract. Finally, this bill requires the state agency to submit a quarterly report
10 to the Interim Finance Committee concerning the status of the information system,
11 information service or information technology.



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

Section 1. (Deleted by amendment.)

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. For 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 the contracting body shall either:

(a) Withhold as retainage not less than 10 percent of any amount due under the contract until final acceptance of the information system, information service or information technology; or

(b) Require the contractor, before being awarded the contract, to furnish to the contracting body a performance bond in an amount to be fixed by the contracting body, but not less than 100 percent of the contract amount that is attributable to services and not less than 20 percent of the contract amount that is attributable to hardware or software, conditioned upon the faithful performance of the contract in accordance with the plans, specifications and conditions of the contract.

2. If a performance bond is required by a contracting body pursuant to subsection 1, the performance bond must:

(a) Remain in effect at least until the acceptance date of the information system, information service or information technology.

(b) Be solely for the protection of the contracting body which awarded the contract.

(c) Be executed by one or more surety companies authorized to do business in the State of Nevada.

(d) Be payable to the State of Nevada.

(e) Be filed in the office of the contracting body which awarded the contract for which the bond was given.



3. A performance bond required pursuant to subsection 1 becomes binding upon the award of the contract to the contractor.

4. In addition to the requirements of subsection 1, a contracting body that awards a contract for an amount which exceeds \$10,000,000 for the procurement of an information system, information service or information technology shall:

(a) Enter into an agreement with the contractor that specifies:

(1) The level of service expected throughout the life of the contract.

(2) Benchmarks for the performance of the contractor.

(3) Penalties to be imposed if the contractor fails to comply with the terms of the contract.

(b) At least once each calendar quarter submit to the Interim Finance Committee a report concerning the status of the information system, information service or information technology.

5. As used in this section:

(a) "Acceptance date" means the date on which the contracting body who has awarded a contract for the procurement of an information system, information service or information technology provides a written notice of acceptance of the information system, information service or information technology to the contractor or otherwise provides its final acceptance of the information system, information service or information technology in accordance with the provisions of the contract.

(b) "Contracting body" means the State or any public agency of the State which has the authority to contract for the procurement of an information system, information service or information technology.

(c) "Information service" has the meaning ascribed to it in NRS 242.055.

(d) "Information system" has the meaning ascribed to it in NRS 242.057.

(e) "Information technology" has the meaning ascribed to it in NRS 242.059.

(f) "Retainage" means the amount authorized to be withheld from a contract payment pursuant to subsection 1.

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

