

ASSEMBLY BILL NO. 28—COMMITTEE
ON GOVERNMENT AFFAIRS

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

PREFILED NOVEMBER 18, 2020

Referred to Committee on Government Affairs

SUMMARY—Imposes an inverse preference on certain bidders for
state purchasing contracts. (BDR 27-238)

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

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

AN ACT relating to state purchasing; imposing an inverse
preference on certain bidders for state purchasing
contracts; and providing other matters properly relating
thereto.

Legislative Counsel's Digest:

Existing law authorizes: (1) a preference of 5 percent for a bid or proposal for a
state purchasing contract which is submitted by a Nevada-based business; or (2) a
preference of 5 percent for a bid or proposal for a state purchasing contract which is
submitted by a local business owned and operated by a veteran with a service-
connected disability. (NRS 333.3354, 333.3366)

Section 1 of this bill imposes an inverse preference on any bidder for a state
purchasing contract with a principal place of business in another state if, for a
similar contract: (1) the other state grants a preference to a person with a principal
place of business in that state; and (2) denies that preference to a person with a
principal place of business in the State of Nevada. The inverse preference imposed
on a bid or proposal for a state purchasing contract is equal to the amount of the
preference that is denied by the other state to a person with a principal place of
business in the State of Nevada.

Section 2 of this bill requires notice of the imposition of an inverse preference
be included in an advertisement for bids of proposals for a state purchasing contract
for commodities or services.

Sections 3 and 4 of this bill clarify that the inverse preference must be imposed
regardless of whether: (1) the preference of 5 percent was awarded to a Nevada-
based business; or (2) the preference of 5 percent was awarded to a local business
owned and operated by a veteran with a service-connected disability.



Section 5 of this bill requires the imposition of an inverse preference be considered when determining the lowest responsible bidder on a state purchasing contract for goods.

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

Section 1. Chapter 333 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2, for purposes of awarding a contract pursuant to this chapter:

(a) If a person who submits a bid or proposal has a principal place of business in a state other than the State of Nevada; and

(b) That other state, with respect to similar contracts awarded by that other state or agencies of that other state, grants to a person with a principal place of business in that state a preference which is not afforded to a person who has a principal place of business in the State of Nevada,

↳ the person responsible for awarding the contract must increase the bid or proposal or decrease the score of the bid or proposal, as applicable, by an amount that is substantially equivalent to the preference that the other state denies to a person with a principal place of business in the State of Nevada.

2. The inverse preference set forth in subsection 1 may not be imposed for the award of any contract pursuant to this chapter that:

(a) Uses federal money unless such a preference is authorized by federal law; or

(b) Is procured on a multistate basis.

Sec. 2. NRS 333.310 is hereby amended to read as follows:

333.310 1. An advertisement must contain a general description of the classes of commodities or services for which a bid or proposal is wanted and must state:

(a) The name and location of the department, agency, local government, district or institution for which the purchase is to be made.

(b) Where and how specifications and quotation forms may be obtained.

(c) If the advertisement is for bids, whether the Administrator is authorized by the using agency to be supplied to consider a bid for an article that is an alternative to the article listed in the original request for bids if:

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



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

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

(d) Notice of the preferences set forth in NRS 333.3354 and 333.3366 ~~H~~ *and the inverse preference set forth in section 1 of this act.*

(e) Notice of the written certification required pursuant to NRS 333.338.

(f) The date and time not later than which responses must be received by the Purchasing Division.

(g) The date and time when responses will be opened.

↪ The Administrator or a designated agent of the Administrator shall approve the copy for the advertisement.

2. Each advertisement must be published:

(a) In at least one newspaper of general circulation in the State. The selection of the newspaper to carry the advertisement must be made in the manner provided by this chapter for other purchases, on the basis of the lowest price to be secured in relation to the paid circulation; and

(b) On the Internet website of the Purchasing Division.

Sec. 3. NRS 333.3354 is hereby amended to read as follows:

333.3354 1. If a business that qualifies as a Nevada-based business submits a:

(a) Bid to furnish commodities that was solicited pursuant to NRS 333.300, the bid shall be deemed to be 5 percent lower than the bid actually submitted; or

(b) Proposal to contract for services, the score assigned to the proposal pursuant to NRS 333.335 shall be deemed to be 5 percent higher than the score actually awarded.

2. The preference described in subsection 1 may not be:

(a) ~~Combined~~ *Except as otherwise provided in this paragraph, combined* with any other preference. *The provisions of this paragraph do not prohibit the imposition of an inverse preference pursuant to section 1 of this act.*

(b) Granted for the award of any contract which uses federal money unless such a preference is authorized by federal law.

(c) Granted for the award of any contract procured on a multistate basis.

Sec. 4. 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 or awarding a contract for the services of a person as an independent contractor pursuant to subsection 1 of NRS 333.700, if a local business owned and operated by a veteran with a service-connected disability



1 submits a bid or proposal for such a contract and is a responsive and
2 responsible bidder, the bid or proposal shall be deemed to be 5
3 percent lower than the bid or proposal actually submitted.

4 2. ~~[The]~~ *Except as otherwise provided in this subsection, the*
5 preference described in subsection 1 may not be combined with any
6 other preference. *The provisions of this subsection do not prohibit*
7 *the imposition of an inverse preference pursuant to section 1 of*
8 *this act.*

9 **Sec. 5.** NRS 333.340 is hereby amended to read as follows:

10 333.340 1. Every contract or order for goods must be
11 awarded to the lowest responsible bidder. To determine the lowest
12 responsible bidder, the Administrator:

13 (a) Shall consider, if applicable:

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

16 (2) The granting of the preference described in
17 NRS 333.3354.

18 (3) *The imposition of the inverse preference described in*
19 *section 1 of this act.*

20 (4) The required standards adopted pursuant to
21 NRS 333.4611.

22 (b) May consider:

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

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

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

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

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

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

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

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

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

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

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



- 1 3. As used in this section, “total cost of ownership” includes,
2 but is not limited to:
3 (a) The history of maintenance or repair of the articles;
4 (b) The cost of routine maintenance and repair of the articles;
5 (c) Any warranties provided in connection with the articles;
6 (d) The cost of replacement parts for the articles; and
7 (e) The value of the articles as used articles when given in trade
8 on a subsequent purchase.
9 **Sec. 6.** This act becomes effective on July 1, 2021.

