

SENATE BILL NO. 317—SENATORS CANNIZZARO, FORD, SEGERBLOM, PARKS, MANENDO; ATKINSON, CANCELA, DENIS, FARLEY, RATTI, SPEARMAN AND WOODHOUSE

MARCH 20, 2017

JOINT SPONSOR: ASSEMBLYMAN BROOKS

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to preferences in bidding for certain contracts for businesses based in this State. (BDR 27-936)

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 procurement; establishing provisions relating to preferences in bidding for certain contracts with Nevada-based businesses for state purchasing; revising provisions relating to preferences in bidding for contracts for certain public works projects; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law grants a preference of 5 percent for a bid or proposal for a state
2 purchasing contract which is submitted by a local business owned and operated by
3 a veteran with a service-connected disability. (NRS 333.3361-333.3369) **Sections**
4 **2-8** of this bill create a preference of 5 percent for a bid or proposal for a state
5 purchasing contract which is submitted by a Nevada-based business. To qualify for
6 this preference, **section 3** requires such a business to certify that: (1) at least 50
7 percent of all workers employed for the state purchasing contract will hold a valid
8 Nevada driver’s license or identification card; (2) all vehicles used primarily for the
9 state purchasing contract will be either registered in this State or partially
10 apportioned to this State; and (3) certain records will be maintained and made
11 available for inspection within this State. **Section 5** establishes that a bid which
12 qualifies for the preference will be deemed to cost 5 percent less than the actual
13 cost of the bid and a proposal which qualifies for the preference will be deemed to
14 have a score 5 percent higher than the actual score of the proposal. **Section 6**
15 imposes certain penalties and restrictions upon a business that makes a material



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16 misrepresentation or commits a fraudulent act in applying for a preference or fails
17 to comply with the requirements for a preference.

18 Existing law requires that a contractor, applicant to serve as a construction
19 manager at risk or design-build team that wishes to receive a preference in bidding
20 for a contract for a public work submit an affidavit to the public body sponsoring or
21 financing the public work certifying that: (1) at least 50 percent of all workers
22 employed on the public work will hold a valid Nevada driver's license or
23 identification card; (2) all vehicles used primarily for the public work will be either
24 registered in this State or partially apportioned to this State; (3) at least 50 percent
25 of all design professionals working on the public work will hold a valid Nevada
26 driver's license or identification card; and (4) certain records will be maintained
27 and made available for inspection within this State. (NRS 338.0117) **Section 11** of
28 this bill requires a contractor, applicant or design-build team which is awarded a
29 contract for a public work as a result of such a preference to submit an affidavit
30 confirming compliance with these requirements quarterly and upon completion of
31 the public work. **Sections 12-16** of this bill revise the bidding preference that a
32 contractor, applicant to serve as a construction manager at risk or design-build team
33 who meets these requirements receives for certain public works contracts from 5
34 percent to 10 percent.

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

1 **Section 1.** Chapter 333 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 8, inclusive, of this
3 act.

4 **Sec. 2.** *As used in sections 2 to 8, inclusive, of this act, unless*
5 *the context otherwise requires, the words and terms defined in*
6 *sections 3 and 4 of this act have the meanings ascribed to them in*
7 *those sections.*

8 **Sec. 3.** *“Nevada-based business” means a business which*
9 *certifies that, for the duration of a state purchasing contract,*
10 *collectively, and not on any specific day:*

11 1. *At least 50 percent of the workers employed by the business*
12 *for the state purchasing contract will hold a valid driver's license*
13 *or identification card issued by the Department of Motor Vehicles*
14 *of the State of Nevada;*

15 2. *All vehicles used primarily for the state purchasing*
16 *contract will be:*

17 (a) *Registered and partially apportioned to Nevada pursuant to*
18 *the International Registration Plan, as adopted by the Department*
19 *of Motor Vehicles pursuant to NRS 706.826; or*

20 (b) *Registered in this State; and*

21 3. *The business will maintain and make available for*
22 *inspection within this State its records concerning payroll relating*
23 *to the state purchasing contract.*

24 **Sec. 4.** *“State purchasing contract” means a contract*
25 *awarded pursuant to the provisions of this chapter.*



1 **Sec. 5. 1.** *For the purposes of awarding a formal contract*
2 *solicited pursuant to subsection 2 of NRS 333.300, if a business*
3 *qualifies as a Nevada-based business and submits a bid or*
4 *proposal and is a responsive and responsible bidder, the cost of the*
5 *bid shall be deemed to be 5 percent lower than the cost of the bid*
6 *actually submitted, and the score assigned to the proposal*
7 *pursuant to NRS 333.335 shall be deemed to be 5 percent higher*
8 *than the score actually awarded.*

9 2. *The preference described in subsection 1 may not be*
10 *combined with any other preference.*

11 **Sec. 6. 1.** *In addition to any other remedy or penalty*
12 *provided by law, if the Purchasing Division determines that a*
13 *business has made a material misrepresentation or otherwise*
14 *committed a fraudulent act in applying for a preference described*
15 *in section 5 of this act or has failed to comply with the*
16 *requirements of that section, the business:*

17 (a) *Shall pay to the Purchasing Division, if awarded a state*
18 *purchasing contract, a penalty in the amount of 1 percent of the*
19 *cost of the state purchasing contract;*

20 (b) *Shall not bid on a state purchasing contract or a contract*
21 *awarded by any local government for 1 year after the date upon*
22 *which the Purchasing Division makes such a determination; and*

23 (c) *Shall not apply for or receive a preference described in*
24 *section 5 of this act for 5 years after the date upon which the*
25 *Purchasing Division makes such a determination.*

26 2. *If the Purchasing Division determines, as described in*
27 *subsection 1, that a business has made a material*
28 *misrepresentation or otherwise committed a fraudulent act in*
29 *applying for a preference described in section 5 of this act or has*
30 *failed to comply with the requirements of that section, the business*
31 *may apply to the Administrator to review the decision pursuant to*
32 *chapter 233B of NRS.*

33 **Sec. 7.** (Deleted by amendment.)

34 **Sec. 8.** *The Purchasing Division may adopt such regulations*
35 *as it determines to be necessary or advisable to carry out the*
36 *provisions of sections 2 to 8, inclusive, of this act. The regulations*
37 *may include, without limitation, provisions setting forth:*

38 1. *The method by which a business may apply to receive a*
39 *preference described in section 5 of this act;*

40 2. *The documentation or other proof that a business must*
41 *submit to demonstrate that it qualifies for a preference described*
42 *in section 5 of this act; and*

43 3. *Such other matters as the Purchasing Division deems*
44 *relevant.*



1 **Sec. 9.** NRS 333.310 is hereby amended to read as follows:

2 333.310 1. An advertisement must contain a general
3 description of the classes of commodities or services for which a bid
4 or proposal is wanted and must state:

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

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

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

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

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

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

21 (d) Notice of the ~~preference~~ *preferences* set forth in NRS
22 333.3366 ~~§~~ *and section 5 of this act.*

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

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

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

28 2. Each advertisement must be published:

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

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

35 **Sec. 9.5.** NRS 333.3366 is hereby amended to read as follows:

36 333.3366 1. For the purpose of awarding a formal contract
37 solicited pursuant to subsection 2 of NRS 333.300, if:

38 (a) A local business owned and operated by a veteran with a
39 service-connected disability submits a bid or proposal for a contract
40 for which the estimated cost is more than \$50,000 but not more than
41 \$250,000 and is a responsive and responsible bidder, the *cost of the*
42 *bid* ~~for proposal~~ shall be deemed to be 5 percent lower than the *cost*
43 *of the* bid ~~for proposal~~ actually submitted ~~§~~ *, and the score*
44 *assigned to the proposal pursuant to NRS 333.335 shall be deemed*
45 *to be 5 percent higher than the score actually awarded.*



1 (b) A local business owned and operated by a veteran with a
2 service-connected disability which is determined to be 50 percent or
3 more by the United States Department of Veterans Affairs submits a
4 bid or proposal for a contract for which the estimated cost is more
5 than \$250,000 but less than \$500,000 and is a responsive and
6 responsible bidder, the *cost of the bid* ~~for proposal~~ shall be deemed
7 to be 5 percent lower than the *cost of the bid* ~~for proposal~~ actually
8 submitted ~~+~~, *and the score assigned to the proposal pursuant to*
9 *NRS 333.335 shall be deemed to be 5 percent higher than the*
10 *score actually awarded.*

11 2. The preferences described in subsection 1 may not be
12 combined with any other preference.

13 **Sec. 10.** NRS 333.340 is hereby amended to read as follows:

14 333.340 1. Every contract or order for goods must be
15 awarded to the lowest responsible bidder. To determine the lowest
16 responsible bidder, the Administrator:

17 (a) Shall consider, if applicable:

18 (1) The granting of the preference described in
19 NRS 333.3366.

20 (2) *The granting of the preference described in section 5 of*
21 *this act.*

22 (3) The required standards adopted pursuant to
23 NRS 333.4611.

24 (b) May consider:

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

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

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

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

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

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

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

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

41 (6) The purposes for which the articles to be supplied are
42 required.

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

44 2. If a contract or an order is not awarded to the lowest bidder,
45 the Administrator shall provide the lowest bidder with a written



1 statement which sets forth the specific reasons that the contract or
2 order was not awarded to him or her.

3 3. As used in this section, "total cost of ownership" includes,
4 but is not limited to:

- 5 (a) The history of maintenance or repair of the articles;
- 6 (b) The cost of routine maintenance and repair of the articles;
- 7 (c) Any warranties provided in connection with the articles;
- 8 (d) The cost of replacement parts for the articles; and
- 9 (e) The value of the articles as used articles when given in trade

10 on a subsequent purchase.

11 **Sec. 11.** NRS 338.0117 is hereby amended to read as follows:

12 338.0117 1. To qualify to receive a preference in bidding
13 pursuant to subsection 2 of NRS 338.1389, subsection 2 of NRS
14 338.147, subsection 3 of NRS 338.1693, subsection 3 of NRS
15 338.1727 or subsection 2 of NRS 408.3886, a contractor, an
16 applicant or a design-build team, respectively, must submit to the
17 public body sponsoring or financing a public work a signed affidavit
18 which certifies that, for the duration of the project, collectively, and
19 not on any specific day:

20 (a) At least 50 percent of the workers employed on the public
21 work, including, without limitation, any employees of the
22 contractor, applicant or design-build team and of any subcontractor
23 engaged on the public work, will hold a valid driver's license or
24 identification card issued by the Department of Motor Vehicles of
25 the State of Nevada;

26 (b) All vehicles used primarily for the public work will be:

27 (1) Registered and partially apportioned to Nevada pursuant
28 to the International Registration Plan, as adopted by the Department
29 of Motor Vehicles pursuant to NRS 706.826; or

30 (2) Registered in this State;

31 (c) If applying to receive a preference in bidding pursuant to
32 subsection 3 of NRS 338.1727 or subsection 2 of NRS 408.3886, at
33 least 50 percent of the design professionals working on the public
34 work, including, without limitation, employees of the design-build
35 team and of any subcontractor or consultant engaged in the design
36 of the public work, will have a valid driver's license or
37 identification card issued by the Department of Motor Vehicles of
38 the State of Nevada; and

39 (d) The contractor, applicant or design-build team and any
40 subcontractor engaged on the public work will maintain and make
41 available for inspection within this State his or her records
42 concerning payroll relating to the public work.

43 2. Any contract for a public work that is awarded to a
44 contractor, applicant or design-build team who submits the affidavit
45 described in subsection 1 as a result of the contractor, applicant or



1 design-build team receiving a preference in bidding described in
2 subsection 1 must:

3 (a) Include a provision in the contract that substantially
4 incorporates the requirements of paragraphs (a) to (d), inclusive, of
5 subsection 1; and

6 (b) Provide that a failure to comply with any requirement of
7 paragraphs (a) to (d), inclusive, of subsection 1 entitles the public
8 body to a penalty only as provided in subsections 5 and 6.

9 3. A person who submitted a bid on the public work or an
10 entity who believes that a contractor, applicant or design-build team
11 has obtained a preference in bidding as described in subsection 1 but
12 has failed to comply with a requirement of paragraphs (a) to (d),
13 inclusive, of subsection 1 may file, before the substantial completion
14 of the public work, a written objection with the public body for
15 which the contractor, applicant or design-build team is performing
16 the public work. A written objection authorized pursuant to this
17 subsection must set forth proof or substantiating evidence to support
18 the belief of the person or entity that the contractor, applicant or
19 design-build team has failed to comply with a requirement of
20 paragraphs (a) to (d), inclusive, of subsection 1.

21 4. If a public body receives a written objection pursuant to
22 subsection 3, the public body shall determine whether the objection
23 is accompanied by the proof or substantiating evidence required
24 pursuant to that subsection. If the public body determines that the
25 objection is not accompanied by the required proof or substantiating
26 evidence, the public body shall dismiss the objection. If the public
27 body determines that the objection is accompanied by the required
28 proof or substantiating evidence or if the public body determines on
29 its own initiative that proof or substantiating evidence of a failure to
30 comply with a requirement of paragraphs (a) to (d), inclusive, of
31 subsection 1 exists, the public body shall determine whether the
32 contractor, applicant or design-build team has failed to comply with
33 a requirement of paragraphs (a) to (d), inclusive, of subsection 1 and
34 the public body or its authorized representative may proceed to
35 award the contract accordingly or, if the contract has already been
36 awarded, seek the remedy authorized in subsection 5.

37 5. ~~FA~~ *In addition to any other remedy or penalty provided by*
38 *law, a* public body may recover, by civil action against the party
39 responsible for a failure to comply with a requirement of paragraphs
40 (a) to (d), inclusive, of subsection 1, a penalty as described in
41 subsection 6 for a failure to comply with a requirement of
42 paragraphs (a) to (d), inclusive, of subsection 1. If a public body
43 recovers a penalty pursuant to this subsection, the public body shall
44 report to the State Contractors' Board the date of the failure to
45 comply, the name of each entity which failed to comply and the cost



1 of the contract to which the entity that failed to comply was a party.
2 The Board shall maintain this information for not less than 6 years.
3 Upon request, the Board shall provide this information to any public
4 body or its authorized representative.

5 6. If a contractor, applicant or design-build team submits the
6 affidavit described in subsection 1, receives a preference in bidding
7 described in subsection 1 and is awarded the contract as a result of
8 that preference, the contract between the contractor, applicant or
9 design-build team and the public body, each contract between the
10 contractor, applicant or design-build team and a subcontractor and
11 each contract between a subcontractor and a lower tier subcontractor
12 must provide that:

13 (a) If a party to the contract causes the contractor, applicant or
14 design-build team to fail to comply with a requirement of
15 paragraphs (a) to (d), inclusive, of subsection 1, the party is liable to
16 the public body for a penalty in the amount of 1 percent of the cost
17 of the largest contract to which he or she is a party;

18 (b) The right to recover the amount determined pursuant to
19 paragraph (a) by the public body pursuant to subsection 5 may be
20 enforced by the public body directly against the party that caused
21 the failure to comply with a requirement of paragraphs (a) to (d),
22 inclusive, of subsection 1; and

23 (c) No other party to the contract is liable to the public body for
24 a penalty.

25 7. *A contractor, applicant or design-build team that submits*
26 *the affidavit described in subsection 1, receives a preference in*
27 *bidding described in subsection 1 and is awarded a contract as a*
28 *result of that preference shall submit to the public body that*
29 *awarded the contract an affidavit from a certified public*
30 *accountant setting forth that the contractor, applicant or design-*
31 *build team has complied with the requirements of paragraphs (a)*
32 *to (d), inclusive, of subsection 1:*

33 (a) *On each January 1, April 1, July 1 and October 1 while*
34 *engaged on the public work, for the preceding calendar quarter;*
35 *and*

36 (b) *Upon completion of the public work, for the duration of the*
37 *public work.*

38 8. A public body that awards a contract for a public work to a
39 contractor, applicant or design-build team who submits the affidavit
40 described in subsection 1 and who receives a preference in bidding
41 described in subsection 1 shall, on or before July 31 of each year,
42 submit a written report to the Director of the Legislative Counsel
43 Bureau for transmittal to the Legislative Commission. The report
44 must include information on each contract for a public work
45 awarded to a contractor, applicant or design-build team who submits



1 the affidavit described in subsection 1 and who receives a
2 preference in bidding described in subsection 1, including, without
3 limitation, the name of the contractor, applicant or design-build
4 team who was awarded the contract, the cost of the contract, a brief
5 description of the public work and a description of the degree to
6 which the contractor, applicant or design-build team and each
7 subcontractor complied with the requirements of paragraphs (a) to
8 (d), inclusive, of subsection 1.

9 ~~18.1~~ 9. As used in this section:

10 (a) "Lower tier subcontractor" means a subcontractor who
11 contracts with another subcontractor to provide labor, materials or
12 services to the other subcontractor for a construction project.

13 (b) "Vehicle used primarily for the public work" does not
14 include any vehicle that is present at the site of the public work only
15 occasionally and for a purpose incidental to the public work
16 including, without limitation, the delivery of materials.
17 Notwithstanding the provisions of this paragraph, the term includes
18 any vehicle which is:

19 (1) Owned or operated by the contractor or any subcontractor
20 who is engaged on the public work; and

21 (2) Present at the site of the public work.

22 **Sec. 12.** NRS 338.1389 is hereby amended to read as follows:

23 338.1389 1. Except as otherwise provided in subsection 10
24 and NRS 338.1385, 338.1386 and 338.13864, a public body or its
25 authorized representative shall award a contract for a public work
26 for which the estimated cost exceeds \$250,000 to the contractor who
27 submits the best bid.

28 2. Except as otherwise provided in subsection 10 or limited by
29 subsection 11, the lowest bid that is:

30 (a) Submitted by a responsive and responsible contractor who:

31 (1) Has been determined by the public body to be a qualified
32 bidder pursuant to NRS 338.1379 or 338.1382;

33 (2) At the time the contractor submits his or her bid, provides
34 a valid certificate of eligibility to receive a preference in bidding on
35 public works issued to the contractor by the State Contractors'
36 Board pursuant to subsection 3 or 4; and

37 (3) Within 2 hours after the completion of the opening of the
38 bids by the public body or its authorized representative, submits a
39 signed affidavit that meets the requirements of subsection 1 of NRS
40 338.0117; and

41 (b) Not more than ~~15~~ 10 percent higher than the bid submitted
42 by the lowest responsive and responsible bidder who:

43 (1) Does not provide, at the time he or she submits the bid, a
44 valid certificate of eligibility to receive a preference in bidding on



1 public works issued to him or her by the State Contractors' Board
2 pursuant to subsection 3 or 4; or

3 (2) Does not submit, within 2 hours after the completion of
4 the opening of the bids by the public body or its authorized
5 representative, a signed affidavit certifying that he or she will
6 comply with the requirements of paragraphs (a) to (d), inclusive, of
7 subsection 1 of NRS 338.0117 for the duration of the contract,
8 ➤ shall be deemed to be the best bid for the purposes of this section.

9 3. The State Contractors' Board shall issue a certificate of
10 eligibility to receive a preference in bidding on public works to a
11 general contractor who is licensed pursuant to the provisions of
12 chapter 624 of NRS and submits to the Board an affidavit from a
13 certified public accountant setting forth that the general contractor
14 has, while licensed as a general contractor in this State:

15 (a) Paid directly, on his or her own behalf:

16 (1) The sales and use taxes imposed pursuant to chapters
17 372, 374 and 377 of NRS on materials used for construction in this
18 State, including, without limitation, construction that is undertaken
19 or carried out on land within the boundaries of this State that is
20 managed by the Federal Government or is on an Indian reservation
21 or Indian colony, of not less than \$5,000 for each consecutive 12-
22 month period for 60 months immediately preceding the submission
23 of the affidavit from the certified public accountant;

24 (2) The governmental services tax imposed pursuant to
25 chapter 371 of NRS on the vehicles used in the operation of his or
26 her business in this State of not less than \$5,000 for each
27 consecutive 12-month period for 60 months immediately preceding
28 the submission of the affidavit from the certified public accountant;
29 or

30 (3) Any combination of such sales and use taxes and
31 governmental services tax; or

32 (b) Acquired, by purchase, inheritance, gift or transfer through a
33 stock option plan, all the assets and liabilities of a viable, operating
34 construction firm that possesses a:

35 (1) License as a general contractor pursuant to the provisions
36 of chapter 624 of NRS; and

37 (2) Certificate of eligibility to receive a preference in bidding
38 on public works.

39 4. The State Contractors' Board shall issue a certificate of
40 eligibility to receive a preference in bidding on public works to a
41 specialty contractor who is licensed pursuant to the provisions of
42 chapter 624 of NRS and submits to the Board an affidavit from a
43 certified public accountant setting forth that the specialty contractor
44 has, while licensed as a specialty contractor in this State:

45 (a) Paid directly, on his or her own behalf:



1 (1) The sales and use taxes pursuant to chapters 372, 374 and
2 377 of NRS on materials used for construction in this State,
3 including, without limitation, construction that is undertaken or
4 carried out on land within the boundaries of this State that is
5 managed by the Federal Government or is on an Indian reservation
6 or Indian colony, of not less than \$5,000 for each consecutive 12-
7 month period for 60 months immediately preceding the submission
8 of the affidavit from the certified public accountant;

9 (2) The governmental services tax imposed pursuant to
10 chapter 371 of NRS on the vehicles used in the operation of his or
11 her business in this State of not less than \$5,000 for each
12 consecutive 12-month period for 60 months immediately preceding
13 the submission of the affidavit from the certified public accountant;
14 or

15 (3) Any combination of such sales and use taxes and
16 governmental services tax; or

17 (b) Acquired, by purchase, inheritance, gift or transfer through a
18 stock option plan, all the assets and liabilities of a viable, operating
19 construction firm that possesses a:

20 (1) License as a specialty contractor pursuant to the
21 provisions of chapter 624 of NRS; and

22 (2) Certificate of eligibility to receive a preference in bidding
23 on public works.

24 5. For the purposes of complying with the requirements set
25 forth in paragraph (a) of subsection 3 and paragraph (a) of
26 subsection 4, a contractor shall be deemed to have paid:

27 (a) Sales and use taxes and governmental services taxes that
28 were paid in this State by an affiliate or parent company of the
29 contractor, if the affiliate or parent company is also a general
30 contractor or specialty contractor, as applicable; and

31 (b) Sales and use taxes that were paid in this State by a joint
32 venture in which the contractor is a participant, in proportion to the
33 amount of interest the contractor has in the joint venture.

34 6. A contractor who has received a certificate of eligibility to
35 receive a preference in bidding on public works from the State
36 Contractors' Board pursuant to subsection 3 or 4 shall ~~at the time~~
37 ~~for the renewal of his or her contractor's license pursuant to NRS~~
38 ~~624.283~~ **annually** submit to the Board an affidavit from a certified
39 public accountant setting forth that the contractor has, during the
40 immediately preceding 12 months, paid the taxes required pursuant
41 to paragraph (a) of subsection 3 or paragraph (a) of subsection 4, as
42 applicable, to maintain eligibility to hold such a certificate.

43 7. A contractor who fails to submit an affidavit to the Board
44 pursuant to subsection 6 ceases to be eligible to receive a preference
45 in bidding on public works unless the contractor reapplies for and



1 receives a certificate of eligibility pursuant to subsection 3 or 4, as
2 applicable.

3 8. If a contractor holds more than one contractor's license, the
4 contractor must submit a separate application for each license
5 pursuant to which the contractor wishes to qualify for a preference
6 in bidding. Upon issuance, the certificate of eligibility to receive a
7 preference in bidding on public works becomes part of the
8 contractor's license for which the contractor submitted the
9 application.

10 9. If a contractor who applies to the State Contractors' Board
11 for a certificate of eligibility to receive a preference in bidding on
12 public works:

13 (a) Submits false information to the Board regarding the
14 required payment of taxes **† or fails to submit an affidavit as**
15 **required by subsection 7 of NRS 338.0117**, the contractor is not
16 eligible to receive a preference in bidding on public works for a
17 period of 5 years after the date on which the Board becomes aware
18 of the submission of the false information **† or the failure to**
19 **submit the affidavit**; or

20 (b) Is found by the Board to have, within the preceding 5 years,
21 materially breached a contract for a public work for which the cost
22 exceeds \$5,000,000, the contractor is not eligible to receive a
23 preference in bidding on public works.

24 10. If any federal statute or regulation precludes the granting of
25 federal assistance or reduces the amount of that assistance for a
26 particular public work because of the provisions of subsection 2,
27 those provisions do not apply insofar as their application would
28 preclude or reduce federal assistance for that work.

29 11. If a bid is submitted by two or more contractors as a joint
30 venture or by one of them as a joint venturer, the bid may receive a
31 preference in bidding only if both or all of the joint venturers
32 separately meet the requirements of subsection 2.

33 12. The State Contractors' Board shall adopt regulations and
34 may assess reasonable fees relating to the certification of contractors
35 for a preference in bidding on public works.

36 13. A person who submitted a bid on the public work or an
37 entity who believes that the contractor who was awarded the
38 contract for the public work wrongfully holds a certificate of
39 eligibility to receive a preference in bidding on public works may
40 challenge the validity of the certificate by filing a written objection
41 with the public body to which the contractor has submitted a bid on
42 a contract for the construction of a public work. A written objection
43 authorized pursuant to this subsection must:

44 (a) Set forth proof or substantiating evidence to support the
45 belief of the person or entity that the contractor wrongfully holds a



1 certificate of eligibility to receive a preference in bidding on public
2 works; and

3 (b) Be filed with the public body not later than 3 business days
4 after the opening of the bids by the public body or its authorized
5 representative.

6 14. If a public body receives a written objection pursuant to
7 subsection 13, the public body shall determine whether the objection
8 is accompanied by the proof or substantiating evidence required
9 pursuant to paragraph (a) of that subsection. If the public body
10 determines that the objection is not accompanied by the required
11 proof or substantiating evidence, the public body shall dismiss the
12 objection and the public body or its authorized representative may
13 proceed immediately to award the contract. If the public body
14 determines that the objection is accompanied by the required proof
15 or substantiating evidence, the public body shall determine whether
16 the contractor qualifies for the certificate pursuant to the provisions
17 of this section and the public body or its authorized representative
18 may proceed to award the contract accordingly.

19 **Sec. 13.** NRS 338.147 is hereby amended to read as follows:

20 338.147 1. Except as otherwise provided in subsection 10
21 and NRS 338.143, 338.1442 and 338.1446, a local government or
22 its authorized representative shall award a contract for a public work
23 for which the estimated cost exceeds \$250,000 to the contractor who
24 submits the best bid.

25 2. Except as otherwise provided in subsection 10 or limited by
26 subsection 11, the lowest bid that is:

27 (a) Submitted by a contractor who:

28 (1) Has been found to be a responsible and responsive
29 contractor by the local government or its authorized representative;

30 (2) At the time the contractor submits his or her bid, provides
31 a valid certificate of eligibility to receive a preference in bidding on
32 public works issued to the contractor by the State Contractors'
33 Board pursuant to subsection 3 or 4; and

34 (3) Within 2 hours after the completion of the opening of the
35 bids by the local government or its authorized representative,
36 submits a signed affidavit that meets the requirements of subsection
37 1 of NRS 338.0117; and

38 (b) Not more than ~~15~~ 10 percent higher than the bid submitted
39 by the lowest responsive and responsible bidder who:

40 (1) Does not provide, at the time he or she submits the bid, a
41 valid certificate of eligibility to receive a preference in bidding on
42 public works issued to him or her by the State Contractors' Board
43 pursuant to subsection 3 or 4; or

44 (2) Does not submit, within 2 hours after the completion of
45 the opening of the bids by the public body or its authorized



1 representative, a signed affidavit certifying that he or she will
2 comply with the requirements of paragraphs (a) to (d), inclusive, of
3 subsection 1 of NRS 338.0117 for the duration of the contract,
4 ↪ shall be deemed to be the best bid for the purposes of this section.

5 3. The State Contractors' Board shall issue a certificate of
6 eligibility to receive a preference in bidding on public works to a
7 general contractor who is licensed pursuant to the provisions of
8 chapter 624 of NRS and submits to the Board an affidavit from a
9 certified public accountant setting forth that the general contractor
10 has, while licensed as a general contractor in this State:

11 (a) Paid directly, on his or her own behalf:

12 (1) The sales and use taxes imposed pursuant to chapters
13 372, 374 and 377 of NRS on materials used for construction in this
14 State, including, without limitation, construction that is undertaken
15 or carried out on land within the boundaries of this State that is
16 managed by the Federal Government or is on an Indian reservation
17 or Indian colony, of not less than \$5,000 for each consecutive 12-
18 month period for 60 months immediately preceding the submission
19 of the affidavit from the certified public accountant;

20 (2) The governmental services tax imposed pursuant to
21 chapter 371 of NRS on the vehicles used in the operation of his or
22 her business in this State of not less than \$5,000 for each
23 consecutive 12-month period for 60 months immediately preceding
24 the submission of the affidavit from the certified public accountant;
25 or

26 (3) Any combination of such sales and use taxes and
27 governmental services tax; or

28 (b) Acquired, by purchase, inheritance, gift or transfer through a
29 stock option plan, all the assets and liabilities of a viable, operating
30 construction firm that possesses a:

31 (1) License as a general contractor pursuant to the provisions
32 of chapter 624 of NRS; and

33 (2) Certificate of eligibility to receive a preference in bidding
34 on public works.

35 4. The State Contractors' Board shall issue a certificate of
36 eligibility to receive a preference in bidding on public works to a
37 specialty contractor who is licensed pursuant to the provisions of
38 chapter 624 of NRS and submits to the Board an affidavit from a
39 certified public accountant setting forth that the specialty contractor
40 has, while licensed as a specialty contractor in this State:

41 (a) Paid directly, on his or her own behalf:

42 (1) The sales and use taxes pursuant to chapters 372, 374 and
43 377 of NRS on materials used for construction in this State,
44 including, without limitation, construction that is undertaken or
45 carried out on land within the boundaries of this State that is



1 managed by the Federal Government or is on an Indian reservation
2 or Indian colony, of not less than \$5,000 for each consecutive 12-
3 month period for 60 months immediately preceding the submission
4 of the affidavit from the certified public accountant;

5 (2) The governmental services tax imposed pursuant to
6 chapter 371 of NRS on the vehicles used in the operation of his or
7 her business in this State of not less than \$5,000 for each
8 consecutive 12-month period for 60 months immediately preceding
9 the submission of the affidavit from the certified public accountant;
10 or

11 (3) Any combination of such sales and use taxes and
12 governmental services tax; or

13 (b) Acquired, by purchase, inheritance, gift or transfer through a
14 stock option plan, all the assets and liabilities of a viable, operating
15 construction firm that possesses a:

16 (1) License as a specialty contractor pursuant to the
17 provisions of chapter 624 of NRS; and

18 (2) Certificate of eligibility to receive a preference in bidding
19 on public works.

20 5. For the purposes of complying with the requirements set
21 forth in paragraph (a) of subsection 3 and paragraph (a) of
22 subsection 4, a contractor shall be deemed to have paid:

23 (a) Sales and use taxes and governmental services taxes paid in
24 this State by an affiliate or parent company of the contractor, if the
25 affiliate or parent company is also a general contractor or specialty
26 contractor, as applicable; and

27 (b) Sales and use taxes paid in this State by a joint venture in
28 which the contractor is a participant, in proportion to the amount of
29 interest the contractor has in the joint venture.

30 6. A contractor who has received a certificate of eligibility to
31 receive a preference in bidding on public works from the State
32 Contractors' Board pursuant to subsection 3 or 4 shall ~~at the time~~
33 ~~for the renewal of his or her contractor's license pursuant to NRS~~
34 ~~624.283.~~ **annually** submit to the Board an affidavit from a certified
35 public accountant setting forth that the contractor has, during the
36 immediately preceding 12 months, paid the taxes required pursuant
37 to paragraph (a) of subsection 3 or paragraph (a) of subsection 4, as
38 applicable, to maintain eligibility to hold such a certificate.

39 7. A contractor who fails to submit an affidavit to the Board
40 pursuant to subsection 6 ceases to be eligible to receive a preference
41 in bidding on public works unless the contractor reapplies for and
42 receives a certificate of eligibility pursuant to subsection 3 or 4, as
43 applicable.

44 8. If a contractor holds more than one contractor's license, the
45 contractor must submit a separate application for each license



1 pursuant to which the contractor wishes to qualify for a preference
2 in bidding. Upon issuance, the certificate of eligibility to receive a
3 preference in bidding on public works becomes part of the
4 contractor's license for which the contractor submitted the
5 application.

6 9. If a contractor who applies to the State Contractors' Board
7 for a certificate of eligibility to receive a preference in bidding on
8 public works:

9 (a) Submits false information to the Board regarding the
10 required payment of taxes **† or fails to submit an affidavit as**
11 **required by subsection 7 of NRS 338.0117**, the contractor is not
12 eligible to receive a preference in bidding on public works for a
13 period of 5 years after the date on which the Board becomes aware
14 of the submission of the false information **† or the failure to**
15 **submit the affidavit**; or

16 (b) Is found by the Board to have, within the preceding 5 years,
17 materially breached a contract for a public work for which the cost
18 exceeds \$5,000,000, the contractor is not eligible to receive a
19 preference in bidding on public works.

20 10. If any federal statute or regulation precludes the granting of
21 federal assistance or reduces the amount of that assistance for a
22 particular public work because of the provisions of subsection 2,
23 those provisions do not apply insofar as their application would
24 preclude or reduce federal assistance for that work.

25 11. If a bid is submitted by two or more contractors as a joint
26 venture or by one of them as a joint venturer, the bid may receive a
27 preference in bidding only if both or all of the joint venturers
28 separately meet the requirements of subsection 2.

29 12. The State Contractors' Board shall adopt regulations and
30 may assess reasonable fees relating to the certification of contractors
31 for a preference in bidding on public works.

32 13. A person who submitted a bid on the public work or an
33 entity who believes that the contractor who was awarded the
34 contract for the public work wrongfully holds a certificate of
35 eligibility to receive a preference in bidding on public works may
36 challenge the validity of the certificate by filing a written objection
37 with the local government to which the contractor has submitted a
38 bid on a contract for the construction of a public work. A written
39 objection authorized pursuant to this subsection must:

40 (a) Set forth proof or substantiating evidence to support the
41 belief of the person or entity that the contractor wrongfully holds a
42 certificate of eligibility to receive a preference in bidding on public
43 works; and



1 (b) Be filed with the local government not later than 3 business
2 days after the opening of the bids by the local government or its
3 authorized representative.

4 14. If a local government receives a written objection pursuant
5 to subsection 13, the local government shall determine whether the
6 objection is accompanied by the proof or substantiating evidence
7 required pursuant to paragraph (a) of that subsection. If the local
8 government determines that the objection is not accompanied by the
9 required proof or substantiating evidence, the local government shall
10 dismiss the objection and the local government or its authorized
11 representative may proceed immediately to award the contract. If
12 the local government determines that the objection is accompanied
13 by the required proof or substantiating evidence, the local
14 government shall determine whether the contractor qualifies for the
15 certificate pursuant to the provisions of this section and the local
16 government or its authorized representative may proceed to award
17 the contract accordingly.

18 **Sec. 14.** NRS 338.1693 is hereby amended to read as follows:

19 338.1693 1. The public body or its authorized representative
20 shall appoint a panel consisting of at least three but not more than
21 seven members, a majority of whom must have experience in the
22 construction industry, to rank the proposals submitted to the public
23 body by evaluating the proposals as required pursuant to subsections
24 2 and 3.

25 2. The panel appointed pursuant to subsection 1 shall rank the
26 proposals by:

27 (a) Verifying that each applicant satisfies the requirements of
28 NRS 338.1691; and

29 (b) Evaluating and assigning a score to each of the proposals
30 received by the public body based on the factors and relative weight
31 assigned to each factor that the public body specified in the request
32 for proposals.

33 3. When ranking the proposals, the panel appointed pursuant to
34 subsection 1 shall assign a relative weight of ~~15~~ 10 percent to the
35 applicant's possession of a certificate of eligibility to receive a
36 preference in bidding on public works if the applicant submits a
37 signed affidavit that meets the requirements of subsection 1 of NRS
38 338.0117. If any federal statute or regulation precludes the granting
39 of federal assistance or reduces the amount of that assistance for a
40 particular public work because of the provisions of this subsection,
41 those provisions of this subsection do not apply insofar as their
42 application would preclude or reduce federal assistance for that
43 work.

44 4. After the panel appointed pursuant to subsection 1 ranks the
45 proposals, the public body or its authorized representative shall,



1 except as otherwise provided in subsection 8, select at least the two
2 but not more than the five applicants whose proposals received the
3 highest scores for interviews.

4 5. The public body or its authorized representative may appoint
5 a separate panel to interview and rank the applicants selected
6 pursuant to subsection 4. If a separate panel is appointed pursuant to
7 this subsection, the panel must consist of at least three but not more
8 than seven members, a majority of whom must have experience in
9 the construction industry.

10 6. During the interview process, the panel conducting the
11 interview may require the applicants to submit a preliminary
12 proposed amount of compensation for managing the preconstruction
13 and construction of the public work, but in no event shall the
14 proposed amount of compensation exceed 20 percent of the scoring
15 for the selection of the most qualified applicant. All presentations
16 made at any interview conducted pursuant to this subsection or
17 subsection 5 may be made only by key personnel employed by
18 the applicant, as determined by the applicant, and the employees of
19 the applicant who will be directly responsible for managing the
20 preconstruction and construction of the public work.

21 7. After conducting such interviews, the panel that conducted
22 the interviews shall rank the applicants by using a ranking process
23 that is separate from the process used to rank the applicants pursuant
24 to subsection 2 and is based only on information submitted during
25 the interview process. The score to be given for the proposed
26 amount of compensation, if any, must be calculated by dividing
27 the lowest of all the proposed amounts of compensation by the
28 applicant's proposed amount of compensation multiplied by the
29 total possible points available to each applicant. When ranking
30 the applicants, the panel that conducted the interviews shall assign a
31 relative weight of 5 percent to the applicant's possession of a
32 certificate of eligibility to receive a preference in bidding on public
33 works if the applicant submits a signed affidavit that meets the
34 requirements of subsection 1 of NRS 338.0117. If any federal
35 statute or regulation precludes the granting of federal assistance or
36 reduces the amount of that assistance for a particular public work
37 because of the provisions of this subsection, those provisions of this
38 subsection do not apply insofar as their application would preclude
39 or reduce federal assistance for that work.

40 8. If the public body did not receive at least two proposals, the
41 public body may not contract with a construction manager at risk.

42 9. Upon receipt of the final rankings of the applicants from the
43 panel that conducted the interviews, the public body or its
44 authorized representative shall enter into negotiations with the most
45 qualified applicant determined pursuant to the provisions of this



1 section for a contract for preconstruction services, unless the public
2 body required the submission of a proposed amount of
3 compensation, in which case the proposed amount of compensation
4 submitted by the applicant must be the amount offered for the
5 contract. If the public body or its authorized representative is unable
6 to negotiate a contract with the most qualified applicant for an
7 amount of compensation that the public body or its authorized
8 representative and the most qualified applicant determine to be fair
9 and reasonable, the public body or its authorized representative shall
10 terminate negotiations with that applicant. The public body or its
11 authorized representative may then undertake negotiations with the
12 next most qualified applicant in sequence until an agreement is
13 reached and, if the negotiation is undertaken by an authorized
14 representative of the public body, approved by the public body or
15 until a determination is made by the public body to reject all
16 applicants.

17 10. The public body or its authorized representative shall:

18 (a) Make available to all applicants and the public the following
19 information, as determined by the panel appointed pursuant to
20 subsection 1 and the panel that conducted the interviews, as
21 applicable:

22 (1) The final rankings of the applicants;

23 (2) The score assigned to each proposal received by the
24 public body; and

25 (3) For each proposal received by the public body, the score
26 assigned to each factor that the public body specified in the request
27 for proposals; and

28 (b) Provide, upon request, an explanation to any unsuccessful
29 applicant of the reasons why the applicant was unsuccessful.

30 **Sec. 15.** NRS 338.1727 is hereby amended to read as follows:

31 338.1727 1. After selecting the finalists pursuant to NRS
32 338.1725, the public body shall provide to each finalist a request for
33 final proposals for the public work. The request for final proposals
34 must:

35 (a) Set forth the factors that the public body will use to select a
36 design-build team to design and construct the public work, including
37 the relative weight to be assigned to each factor; and

38 (b) Set forth the date by which final proposals must be
39 submitted to the public body.

40 2. If one or more of the finalists selected pursuant to NRS
41 338.1725 is disqualified or withdraws, the public body may select a
42 design-build team from the remaining finalist or finalists.

43 3. Except as otherwise provided in this subsection, in assigning
44 the relative weight to each factor for selecting a design-build team
45 pursuant to subsection 1, the public body shall assign, without



1 limitation, a relative weight of ~~15~~ 10 percent to the possession of
2 both a certificate of eligibility to receive a preference in bidding on
3 public works by all contractors on the design-build team if the
4 contractors submit signed affidavits that meet the requirements of
5 subsection 1 of NRS 338.0117, and a certificate of eligibility to
6 receive a preference when competing for public works by all design
7 professionals on the design-build team, and a relative weight of at
8 least 30 percent to the proposed cost of design and construction of
9 the public work. If any federal statute or regulation precludes the
10 granting of federal assistance or reduces the amount of that
11 assistance for a particular public work because of the provisions of
12 this subsection relating to a preference in bidding on public works,
13 or a preference when competing for public works, those provisions
14 of this subsection do not apply insofar as their application would
15 preclude or reduce federal assistance for that public work.

16 4. A final proposal submitted by a design-build team pursuant
17 to this section must be prepared thoroughly and be responsive to the
18 criteria that the public body will use to select a design-build team to
19 design and construct the public work described in subsection 1. A
20 design-build team that submits a final proposal which is not
21 responsive shall not be awarded the contract and shall not be eligible
22 for the partial reimbursement of costs provided for in subsection 7.

23 5. A final proposal is exempt from the requirements of
24 NRS 338.141.

25 6. After receiving and evaluating the final proposals for the
26 public work, the public body or its authorized representative shall
27 enter into negotiations with the most qualified applicant, as
28 determined pursuant to the criteria set forth pursuant to subsections
29 1 and 3, and award the design-build contract to the design-build
30 team whose proposal is selected. If the public body or its authorized
31 representative is unable to negotiate with the most qualified
32 applicant a contract that is determined by the parties to be fair and
33 reasonable, the public body may terminate negotiations with that
34 applicant. The public body or its authorized representative may then
35 undertake negotiations with the next most qualified applicant in
36 sequence until an agreement is reached and, if the negotiation is
37 undertaken by an authorized representative of the public body,
38 approved by the public body or until a determination is made by the
39 public body to reject all applicants.

40 7. If a public body selects a final proposal and awards a design-
41 build contract pursuant to subsection 6, the public body shall:

42 (a) Partially reimburse the unsuccessful finalists if partial
43 reimbursement was provided for in the request for preliminary
44 proposals pursuant to paragraph (j) of subsection 2 of NRS
45 338.1723. The amount of reimbursement must not exceed, for each



1 unsuccessful finalist, 3 percent of the total amount to be paid to the
2 design-build team as set forth in the design-build contract.

3 (b) Make available to the public the results of the evaluation of
4 final proposals that was conducted and the ranking of the design-
5 build teams who submitted final proposals. The public body shall
6 not release to a third party, or otherwise make public, financial or
7 proprietary information submitted by a design-build team.

8 8. A contract awarded pursuant to this section:

9 (a) Must comply with the provisions of NRS 338.020 to
10 338.090, inclusive.

11 (b) Must specify:

12 (1) An amount that is the maximum amount that the public
13 body will pay for the performance of all the work required by the
14 contract, excluding any amount related to costs that may be incurred
15 as a result of unexpected conditions or occurrences as authorized by
16 the contract;

17 (2) An amount that is the maximum amount that the public
18 body will pay for the performance of the professional services
19 required by the contract; and

20 (3) A date by which performance of the work required by the
21 contract must be completed.

22 (c) May set forth the terms by which the design-build team
23 agrees to name the public body, at the cost of the public body, as an
24 additional insured in an insurance policy held by the design-build
25 team.

26 (d) Except as otherwise provided in paragraph (e), must not
27 require the design professional to defend, indemnify or hold
28 harmless the public body or the employees, officers or agents of that
29 public body from any liability, damage, loss, claim, action or
30 proceeding caused by the negligence, errors, omissions, recklessness
31 or intentional misconduct of the employees, officers and agents of
32 the public body.

33 (e) May require the design-build team to defend, indemnify and
34 hold harmless the public body, and the employees, officers and
35 agents of the public body from any liabilities, damages, losses,
36 claims, actions or proceedings, including, without limitation,
37 reasonable attorneys' fees, that are caused by the negligence, errors,
38 omissions, recklessness or intentional misconduct of the design-
39 build team or the employees or agents of the design-build team in
40 the performance of the contract.

41 (f) Must require that the design-build team to whom a contract is
42 awarded assume overall responsibility for ensuring that the design
43 and construction of the public work is completed in a satisfactory
44 manner.



* S B 3 1 7 R 1 *

1 9. Upon award of the design-build contract, the public body
2 shall make available to the public copies of all preliminary and final
3 proposals received.

4 **Sec. 16.** NRS 408.3886 is hereby amended to read as follows:

5 408.3886 1. After selecting the finalists pursuant to NRS
6 408.3885, the Department shall provide to each finalist a request for
7 final proposals for the project. The request for final proposals must:

8 (a) Set forth the factors that the Department will use to select a
9 design-build team to design and construct the project, including the
10 relative weight to be assigned to each factor; and

11 (b) Set forth the date by which final proposals must be
12 submitted to the Department.

13 2. Except as otherwise provided in this subsection, in assigning
14 the relative weight to each factor for selecting a design-build team
15 pursuant to subsection 1, the Department shall assign, without
16 limitation, a relative weight of ~~15~~ 10 percent to the design-build
17 team's possession of both a certificate of eligibility to receive a
18 preference in bidding on public works by the prime contractor on
19 the design-build team, if the design-build team submits a signed
20 affidavit that meets the requirements of subsection 1 of NRS
21 338.0117, and a certificate of eligibility to receive a preference
22 when competing for public works by all persons who hold a
23 certificate of registration to practice architecture or a license as a
24 professional engineer on the design-build team, and a relative
25 weight of at least 30 percent for the proposed cost of design and
26 construction of the project. If any federal statute or regulation
27 precludes the granting of federal assistance or reduces the amount of
28 that assistance for a particular project because of the provisions of
29 this subsection relating to a preference in bidding on public works or
30 a preference when competing for public works, those provisions of
31 this subsection do not apply insofar as their application would
32 preclude or reduce federal assistance for that project.

33 3. A final proposal submitted by a design-build team pursuant
34 to this section must be prepared thoroughly, be responsive to the
35 criteria that the Department will use to select a design-build team to
36 design and construct the project described in subsection 1 and
37 comply with the provisions of NRS 338.141.

38 4. After receiving the final proposals for the project, the
39 Department shall:

40 (a) Select the most cost-effective and responsive final proposal,
41 using the criteria set forth pursuant to subsections 1 and 2;

42 (b) Reject all the final proposals; or

43 (c) Request best and final offers from all finalists in accordance
44 with subsection 5.



1 5. If the Department determines that no final proposal received
2 is cost-effective or responsive and the Department further
3 determines that requesting best and final offers pursuant to this
4 subsection will likely result in the submission of a satisfactory offer,
5 the Department may prepare and provide to each finalist a request
6 for best and final offers for the project. In conjunction with
7 preparing a request for best and final offers pursuant to this
8 subsection, the Department may alter the scope of the project, revise
9 the estimates of the costs of designing and constructing the project,
10 and revise the selection factors and relative weights described in
11 paragraph (a) of subsection 1. A request for best and final offers
12 prepared pursuant to this subsection must set forth the date by which
13 best and final offers must be submitted to the Department. After
14 receiving the best and final offers, the Department shall:

15 (a) Select the most cost-effective and responsive best and final
16 offer, using the criteria set forth in the request for best and final
17 offers; or

18 (b) Reject all the best and final offers.

19 6. If the Department selects a final proposal pursuant to
20 paragraph (a) of subsection 4 or selects a best and final offer
21 pursuant to paragraph (a) of subsection 5, the Department shall hold
22 a public meeting to:

23 (a) Review and ratify the selection.

24 (b) Partially reimburse the unsuccessful finalists if partial
25 reimbursement was provided for in the request for preliminary
26 proposals pursuant to paragraph (f) of subsection 3 of NRS
27 408.3883. The amount of reimbursement must not exceed, for each
28 unsuccessful finalist, 3 percent of the total amount to be paid to the
29 design-build team as set forth in the design-build contract.

30 (c) Make available to the public a summary setting forth the
31 factors used by the Department to select the successful design-build
32 team and the ranking of the design-build teams who submitted final
33 proposals and, if applicable, best and final offers. The Department
34 shall not release to a third party, or otherwise make public, financial
35 or proprietary information submitted by a design-build team.

36 7. A contract awarded pursuant to this section:

37 (a) Must comply with the provisions of NRS 338.020 to
38 338.090, inclusive; and

39 (b) Must specify:

40 (1) An amount that is the maximum amount that the
41 Department will pay for the performance of all the work required by
42 the contract, excluding any amount related to costs that may be
43 incurred as a result of unexpected conditions or occurrences as
44 authorized by the contract;



1 (2) An amount that is the maximum amount that the
2 Department will pay for the performance of the professional
3 services required by the contract; and

4 (3) A date by which performance of the work required by the
5 contract must be completed.

6 8. A design-build team to whom a contract is awarded pursuant
7 to this section shall:

8 (a) Assume overall responsibility for ensuring that the design
9 and construction of the project is completed in a satisfactory
10 manner; and

11 (b) Use the workforce of the prime contractor on the design-
12 build team to construct at least 15 percent of the project.

13 **Sec. 17.** This act becomes effective:

14 1. Upon passage and approval for the purpose of adopting any
15 regulations and performing any other preparatory administrative
16 tasks that are necessary to carry out the provisions of this act; and

17 2. On July 1, 2018, for all other purposes.

