

Nevada Revised Statutes

NRS 333.311 Request for proposals to include minimum requirements for awarding contract; award of contract to noncomplying bidder prohibited. [Effective through June 30, 2018.] Each request for proposals must include minimum requirements that the successful bidder must meet for the awarding of a contract pursuant to the provisions of this chapter. A contract may not be awarded to a bidder who does not comply with the requirements set forth in the request for proposals.

(Added to NRS by [2001, 666](#))

NRS 333.311 Request for proposals to include minimum requirements for awarding contract and notice of certain written certification; award of contract to noncomplying bidder prohibited. [Effective July 1, 2018.]

1. Each request for proposals must include:

(a) Minimum requirements that the successful bidder must meet for the awarding of a contract pursuant to the provisions of this chapter; and

(b) Notice of the written certification required pursuant to [NRS 333.338](#).

2. A contract may not be awarded to a bidder who does not comply with the requirements set forth in the request for proposals.

(Added to NRS by [2001, 666](#); A [2017, 1612](#), effective July 1, 2018)

NRS 333.335 Proposals: Evaluation; factors to be considered before making an award; relative weight of factors; confidentiality.

1. Each proposal must be evaluated by:

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

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

2. A committee appointed pursuant to subsection 1 must consist of not less than two members. A majority of the members of the committee must be state officers or employees. The committee may include persons who are not state officers or employees and possess expert knowledge or special expertise that the chief of the using agency or the Administrator of the Purchasing Division determines is necessary to evaluate a proposal. The members of the committee 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. 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. 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 in subsection 3 before a request for proposals is advertised.

5. 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, and is not required to accept the lowest-priced proposal.

6. 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.

(Added to NRS by [1991, 619](#); A [1999, 1026](#); [2001, 666](#); [2003, 1616](#); [2007, 2088](#); [2009, 2666](#); [2011, 907](#); [2017, 1603, 4109](#))

NRS 333.135 Regulations establishing procedures for awarding contracts. The Administrator shall adopt regulations establishing procedures for awarding contracts pursuant to this chapter. The regulations must include, without limitation, provisions that set forth requirements relating to:

1. The establishment and membership of committees to evaluate proposals;
2. Notices that must be given to persons who submit proposals before and after a contract is awarded;
3. The confidentiality of information submitted in proposals and any communication between a person who submits a proposal and the chief of a using agency, the Administrator of the Purchasing Division or a member of a committee to evaluate proposals;
4. The submission of revised proposals; and
5. The awarding of contracts on a contingency basis.

(Added to NRS by [1999, 1024](#))

NRS 333.370 Appeal by person making unsuccessful bid or proposal.

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 days after:

- (a) 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.

Ê The notice of appeal must include a written statement of the issues to be addressed on appeal.

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:

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

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

4. Within 20 days after receipt of the notice of appeal, a hearing officer of the Hearings Division of the Department of Administration shall hold a contested hearing on the appeal in substantial compliance with the provisions of [NRS 233B.121](#) to [233B.1235](#), inclusive, [233B.125](#) and [233B.126](#). The successful bidder must be given notice of the hearing in the same manner as the person who filed the notice of appeal. The successful bidder may participate in the hearing.

5. The hearing officer may cancel the award for lack of compliance with the provisions of this chapter. A cancellation of the award requires readvertising for bids and a new award in accordance with the provisions of this chapter.

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

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

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

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

10. If the appeal is upheld and the award is cancelled, the bond posted or other security submitted with the notice of appeal must be returned to the person who posted the bond or submitted the security. If the appeal is rejected and the award is upheld, a claim may be made against the bond or other security by the Purchasing Division and the using agency to the Hearings Division of the Department of Administration in an amount equal to the expenses incurred and other monetary losses suffered by the Purchasing Division and the using agency because of the unsuccessful appeal. The hearing officer shall hold a hearing on the claim in the same manner as prescribed in subsection 4. Any

money not awarded by the hearing officer must be returned to the person who posted the bond or submitted the security.

[26:333:1951] — (NRS A [1963, 1058](#); [1971, 14](#); [1985, 45](#); [1991, 623](#); [1995, 378](#); [1997, 487](#))

NRS 333.372 Regulations concerning forms of security to be submitted with notice of appeal.

The Administrator shall adopt regulations specifying the forms of security which may be submitted with a notice of appeal filed pursuant of [NRS 333.370](#).

(Added to NRS by [1995, 378](#))

NAC 333.162 Committees to evaluate proposals: Evaluations of proposals; members. ([NRS 333.130, 333.135](#))

1. The Division shall prepare written instructions concerning the manner in which evaluations of proposals must be conducted by a committee to evaluate proposals established pursuant to [NRS 333.335](#) and shall provide a copy of the instructions to each member of such a committee.

2. Each member of a committee to evaluate proposals shall:

(a) Acknowledge that he or she has received, read and understands the written instructions provided pursuant to subsection 1. The acknowledgment must be on a form provided by the Division.

(b) Comply with the written instructions prepared and provided by the Division pursuant to subsection 1.

3. The written instructions must include, without limitation, a requirement that each member of a committee to evaluate proposals evaluate and score each proposal in a consistent manner by:

(a) Evaluating and scoring each section of the proposal assigned for his or her review using each criterion for evaluating the proposal; and

(b) Scoring each criterion for evaluating a proposal within the relative weight assigned for that criterion.

4. Each member of a committee to evaluate proposals must provide a written explanation of the score he or she assigned to a proposal upon request of the Division.

5. Each committee to evaluate proposals must contain members that represent at least two using agencies.

6. The Administrator will not appoint a member to a committee to evaluate proposals who possesses direct supervisory authority over a majority of the other members of the committee.

(Added to NAC by Chief of Purchasing Div. by R078-01, eff. 12-17-2001)

NAC 333.165 Discussion of submitted proposals; submission of revised proposals; fair and equal treatment. ([NRS 333.130, 333.135](#))

1. The chief of the using agency, the Administrator, or the committee to evaluate proposals may discuss the proposals submitted with those persons who submitted proposals and who are

reasonably likely to be selected for an award to clarify the requirements and specifications of the contract to be awarded.

2. To obtain the best offers, the chief of the using agency, the Administrator, or the committee to evaluate proposals may permit revised proposals to be submitted after the date proposals are required to be submitted and before the contract is awarded.

3. The Administrator will, and the chief of the using agency and each member of the committee to evaluate proposals shall:

(a) Treat the persons who submit proposals fairly and equally with regard to giving them an opportunity to:

(1) Discuss the proposals as described in subsection 1; and

(2) Submit revised proposals.

(b) Not discuss with a person who submitted a proposal any information that was derived from a competing proposal.

(Added to NAC by Chief of Purchasing Div. by R099-99, eff. 12-13-99)

NAC 333.170 Procedures for award or withdrawal of contract. ([NRS 333.130](#), [333.135](#))

1. If the chief of the using agency, the Administrator, or the committee to evaluate proposals selects a proposal for the award of the contract, the person designated by the Administrator or the using agency as the contact person pursuant to [NAC 333.155](#) shall provide to each person who submitted a proposal a written notice of intent to award the contract. The notice of intent to award the contract must:

(a) Identify the proposal selected for the award of the contract; and

(b) State that the award of the contract is contingent upon the successful negotiation of the final terms of the contract with the person selected for the award of the contract.

2. After the contract has been awarded on a contingency basis, the negotiations of the final terms of the contract are confidential and must not be disclosed to any other person who has submitted a proposal until a final contract is agreed upon.

3. If a final contract is not agreed upon:

(a) The person designated by the Administrator or the using agency as the contact person pursuant to [NAC 333.155](#) shall:

(1) Provide written notice to each person who submitted a proposal; and

(2) Issue a written withdrawal of the award to the person whose proposal was selected for the award of the contract and with whom the chief of the using agency, the Administrator, or the committee to evaluate proposals was unable to agree upon a final contract.

(b) The Administrator will, and the chief of the using agency and the committee to evaluate proposals shall:

(1) Negotiate, in a manner consistent with the provisions of subsection 2, the final terms of the contract with the person who submitted the proposal that received the next highest score; or

(2) Withdraw the request for proposals.

4. The Administrator will, and the chief of the using agency and the committee to evaluate proposals shall, repeat the procedure set forth in this section until a final contract is agreed upon or the request for proposals is withdrawn.

5. After the contract has been executed by all the appropriate parties, the person designated by the Administrator or the using agency as the contact person pursuant to [NAC 333.155](#) shall provide to each person who submitted a proposal a written notice of the award of the contract. The notice of the award of the contract must:

(a) Identify the proposal pursuant to which the contract will be awarded provided that, if applicable, the contract is approved by the State Board of Examiners;

(b) State that the 10-day period after which a person who makes an unsuccessful proposal may file a notice of appeal as set forth in subsection 1 of [NRS 333.370](#) has commenced; and

(c) State that a person who made an unsuccessful proposal may file a notice of appeal pursuant to [NRS 333.370](#).

(Added to NAC by Chief of Purchasing Div. by R099-99, eff. 12-13-99; A by R078-01, 12-17-2001)