

**NAC 333.150 Requirements for contract for services of independent contractor; competitive selection; request for proposals; effective date. (NRS 333.130, 333.135)**

1. Except as otherwise provided by specific statute, a contract entered into pursuant to [NRS 284.173](#) for the services of an independent contractor must:

- (a) Be awarded pursuant to the provisions of this chapter and [chapter 333 of NRS](#);
- (b) Conform to the form, terms and conditions prescribed by the attorney general; and
- (c) Include any provisions related to insurance that the state risk manager determines are required.

2. Such a contract which by its nature is not adapted to be awarded by competitive selection, including, without limitation, a contract for:

- (a) Services which may only be contracted from a sole source as determined by the chief;
- (b) Professional services, including, without limitation, a contract for the services of:
  - (1) An expert witness;
  - (2) A professional engineer;
  - (3) A registered architect;
  - (4) An attorney;
  - (5) An accountant; or
  - (6) Any other professional, if the services of that professional are not adapted to competitive selection as determined by the chief; or
- (c) Services necessitated by an emergency affecting the national defense or an emergency caused by an act of God or any other unforeseeable circumstances, as determined by the chief,

is not subject to the requirements of this chapter and [chapter 333 of NRS](#) for competitive selection.

3. If such a contract is required to be awarded by competitive selection and the estimated value of the contract exceeds \$25,000 per fiscal year, it must be solicited through a request for proposals. The request for proposals must conform to the form for a request for proposals prescribed by the attorney general.

4. If an effective date is not set forth in a contract for the services of an independent contractor awarded pursuant to [NRS 284.173](#), the contract is effective on the date on which it is approved by the state board of examiners.

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

**NAC 333.155 Communication with contact person. (NRS 333.130, 333.135)**

1. Before advertising a request for proposals, the chief or the using agency must designate a person to answer questions concerning the contract to be awarded by competitive selection pursuant to the request for proposals. Except as otherwise provided in [NAC 333.165](#), that person must be the only contact person throughout the process of awarding the contract.

2. A person who wishes to submit a proposal or a representative of such a person shall not ask questions of or otherwise discuss the contents of a request for proposals with an employee or representative of a using agency identified in the request for proposals as the agency for which the purchase is to be made unless the employee or representative of

the using agency is the person designated by the using agency as the contact person pursuant to subsection 1.

3. The chief of the division or the chief of the using agency may disqualify a proposal submitted by a person who violates the provisions of subsection 2.

4. The provisions of this section do not prohibit discussions between a person who wishes to submit a proposal and an employee or representative of a using agency identified in a request for proposals as the agency for which the purchase is to be made if those discussions are unrelated to the contract to be awarded pursuant to the request for proposals.

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

**NAC 333.160 Evaluation criteria for award of contract. ([NRS 333.130](#), [333.135](#))**

1. In addition to the requirement set forth in subsection 1 of [NAC 333.155](#), before advertising a request for proposals, the chief of the using agency, the chief of the division, or the committee to evaluate proposals, if such a committee is established, must determine the evaluation criteria for awarding the contract.

2. In addition to the factors set forth in [NRS 333.335](#), before making an award, the chief of the using agency, the chief of the division or each member of the committee to evaluate proposals must review, consider and consistently score each responsive proposal in accordance with the evaluation criteria determined pursuant to subsection 1.

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

**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 has received, read and understands the written instructions provided pursuant to subsection 1. The acknowledgement 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 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 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 chief 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 chief of the division, 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 chief of the division, 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 chief of the division 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 chief of the division, or the committee to evaluate proposals selects a proposal for the award of the contract, the person designated by the chief 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 chief 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 chief of the division, or the committee to evaluate proposals was unable to agree upon a final contract.

(b) The chief of the division 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 chief of the division 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 chief 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)

**NAC 333.175 Award of contract on multistate basis. ([NRS 333.130](#), [333.135](#))**

1. A using agency may participate in the award of a contract on a multistate basis if:

(a) The contract is awarded by competitive selection pursuant to:

(1) The applicable provisions of [chapter 332](#) or [333](#) of NRS; or

(2) The law of another state or federal law in a manner that substantially complies with [chapter 332](#) or [333](#) of NRS.

(b) The document used to solicit proposals for the contract is advertised in accordance with the provisions of [NRS 333.310](#).

(c) Participation in the award of the contract on a multistate basis is in the best interest of the State of Nevada as determined by the chief.

2. As used in this section, “public agency” has the meaning ascribed to it in subsection 1 of [NRS 277.100](#).

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

**NAC 333.180 Limitation of vendors from participation in multiple-step projects. ([NRS 333.130](#), [333.135](#))** If the division or a using agency undertakes a project that requires:

1. More than one request for proposals or invitation for bids; and

2. An initial contract for the design of the project,

the person who is awarded the initial contract for the design of the project or any subcontractor who performs work pursuant to the initial contract may not bid upon or assist another person in bidding upon or submitting a proposal or otherwise materially participate in any subsequent contract related to that project, unless his participation in the subsequent contract is within the scope of the initial contract.

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

**NAC 333.185 Review or reproduction of bid or proposal deemed public record.** ([NRS 333.130](#))

1. Except as otherwise provided in [NRS 333.333](#), the information contained in a bid or proposal submitted to the division or a using agency becomes a public record on the date of award as entered on the bid record or the date the notice of award is posted in at least three public buildings, whichever is later.

2. Any person may:

(a) Review a bid or proposal that is a public record pursuant to subsection 1 at the offices of the division at no charge.

(b) Request from the division a copy of a bid or proposal that is a public record pursuant to subsection 1.

3. The division may, as it determines is in the best interest of the state, prepare a copy of a bid or proposal that is requested pursuant to subsection 2 by:

(a) Preparing the copy using the equipment and personnel of the division and charging a fee that does not exceed the actual cost to the division of preparing the copy; or

(b) Forwarding the bid or proposal to a private entity for preparation and delivery of a copy to the requester.

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

**APPEAL FROM UNSUCCESSFUL BID OR PROPOSAL**

**NAC 333.190 Forms of security.** ([NRS 333.130](#), [333.372](#)) The forms of security that may be submitted with a notice of appeal filed pursuant to [NRS 333.370](#) are a certified check or a cashier's check.

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

**NAC 333.195 Written notice of claim against bond or other security; return of bond or other security if no claim made.** ([NRS 333.130](#), [333.372](#))

1. Written notice of a claim against a bond or other security pursuant to subsection 10 of [NRS 333.370](#) must be made to the hearings division of the department of administration within 10 days after the hearing officer has rejected the appeal for which the bond or other security was posted.

2. If a claim is not made against a bond or other security pursuant to subsection 10 of [NRS 333.370](#) within the time set forth in subsection 1, the division shall return the entire bond or other security to the person who posted the bond or other security and no other claims may be filed by the division or a using agency regarding that bond or security.

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

**DECLARATORY ORDERS AND ADVISORY OPINIONS**

**NAC 333.200 Petition for declaratory order or advisory opinion.** ([NRS 233B.120](#), [333.130](#))

1. A person may petition the chief to issue a declaratory order or an advisory opinion if the person has a direct or tangible interest in the applicability of a statutory provision, regulation of the chief or decision of the chief or division.

2. A petition must be:

(a) Submitted to the chief in writing; and

(b) Signed by the petitioner.

3. If the chief receives a petition filed pursuant to this section, he will issue a declaratory order or an advisory opinion not more than 30 days after receiving the petition. A copy of the order or opinion must be mailed to the petitioner.

(Added to NAC by Chief of Purchasing Div. by R179-97, eff. 3-5-98)