

Digest for Adopted Regulation R_098-11

Existing law authorizes a public body to construct a public work by: (1) selecting a construction manager at risk; and (2) entering into separate contracts with the construction manager at risk for preconstruction services and to construct the public work. (NRS 338.169) To select a construction manager at risk, existing law requires the public body or its authorized representative to advertise for proposals and follow a two-step process for evaluating and ranking proposals. (NRS 338.1692, 338.1693) The first step requires the public body to appoint a panel of at least three members to evaluate and rank proposals. The second step requires the public body to select for interviews the two but not more than the five applicants whose proposals received the highest scores. After the interviews, the interview panel assigns a final ranking to the proposals and the public body must enter into negotiations with the most qualified applicant for a contract for preconstruction services. (NRS 338.1693) Existing law authorizes the State Public Works Board to adopt regulations relating to public works. (NRS 341.070, 341.110)

This regulation adopts provisions relating to the process of selecting a construction manager at risk for a public work. **Section 2** of this regulation describes the qualifications necessary for a construction manager at risk to enter into a contract with the State Public Works Division of the Department of Administration. **Section 3** of this regulation sets forth the duties of the Administrator of the Division when advertising for proposals. **Section 4** of this regulation describes the information which must be included in a proposal submitted by an applicant to be the construction manager at risk for a public work and provides that the merits of the proposal will not be considered unless the applicant is qualified to enter into a contract with the Division.

Section 5 of this regulation sets forth the process to be followed by the Division in evaluating and ranking proposals submitted by applicants to be the construction managers at risk for a public work. Under **section 5**, the panel which interviews applicants must not include any person appointed to the panel which initially ranked the proposals. Moreover, each applicant selected for an interview must submit a proposed amount of compensation for managing the preconstruction and construction of the public work, and that amount may not be disclosed to the interview panel until the interview panel has assigned a preliminary score to the proposal. After the interview panel assigns a preliminary score to the proposal, the score is adjusted to reflect a score assigned to the proposed amount of compensation.

Existing law provides a preference in bidding on a public work for contractors who submit an affidavit which certifies certain information concerning the residence of the workers employed on the public work, the registration of vehicles used on the public work and the purchase of supplies for the public work. (NRS 338.0117) Existing law requires this preference to be assigned at the initial ranking stage of the process to select a construction manager at risk if the applicant submit this affidavit. However, existing law contains no provision governing the assignment of the preference during the process of interviewing applicants selected for interviews. (NRS 338.1693) Under **section 5** of this regulation, if an applicant to be the construction manager at risk for a public work seeks the preference during the interview process, the preference must be assigned as the final step in scoring a proposal and the preference may be assigned only if the preference will determine the selection of the construction manager at risk.