

Digest for Adopted Regulation R_099-11

Existing law authorizes a public body to enter into a contract with a construction manager at risk for the construction of a public work. (NRS 338.1691) In addition, existing law sets forth the process which a construction manager at risk must follow to qualify and select subcontractors to provide labor, materials or equipment for the construction of the public work. (NRS 338.16991, 338.16995) Under existing law, a subcontractor must be determined to be qualified by the construction manager at risk before submitting a proposal to provide labor, materials or equipment for the construction of the public work and the construction manager at risk must follow certain procedures and criteria for determining whether a subcontractor is qualified to submit a proposal. (NRS 338.16991) After subcontractors have been qualified to submit proposals, existing law sets forth a process which a construction manager at risk must follow to request and evaluate such proposals and select a subcontractor for subcontracts for which the estimated value is at least 1 percent of the total cost of the public work. (NRS 338.16995) 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 by which construction managers at risk qualify and select subcontractors to provide labor, materials or equipment for the construction of a public work. **Section 6** of this regulation provides that the requirements of existing law relating to the qualification of subcontractors and the submission of proposals by subcontractors applies only to subcontracts for which the estimated cost is at least 1 percent of the cost of constructing the public work.

Sections 7-9 of this regulation describe the process by which a construction manager at risk determines whether a subcontractor is qualified to submit a proposal for a public work. According to **section 7**, to be eligible to submit a proposal, the subcontractor must submit an application on a form prescribed and provided by the construction manager at risk. The application must contain the original signature and certain information concerning the financial status of the subcontractor. **Section 8** requires a construction manager at risk to determine whether a subcontractor is qualified to submit a proposal not later than 45 days after the subcontractor has submitted a complete application and describes the criteria which a construction manager at risk must use to make that determination. If a subcontractor is determined to be qualified, the subcontractor is qualified by that construction manager at risk for a period specified by the construction manager at risk but not more than 24 months. **Section 9** sets forth the procedures for a hearing before the public body if a subcontractor appeals a determination that it is not qualified to submit a proposal for the public work.

Sections 10-13 of this regulation describes the process by which a construction manager at risk selects subcontractors to provide labor, materials or equipment for the public work. **Section 10** sets forth requirements for the notice of a request for proposals which is provided to subcontractors. **Section 11** sets forth the requirements for a proposal to be considered responsive. **Section 12** describes the requirements for opening proposals, including, without limitation, requiring each proposal to be opened in accordance with existing law. **Section 13** provides provisions governing the list of information concerning the opened proposals which a construction manager at risk must compile and provide to the public body.