

**LCB File No. R078-01**

**PROPOSED NEVADA ADMINISTRATIVE CODE  
CHAPTER 333  
STATE PURCHASING**

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*NAC 333.XXX "Award of a contract" Defined. (NRS 333.130, 333.150, 333.135, 333.160)*

*"Award of a contract" means the date consistent with NRS 333.370 (1). At that time all proposals will become public record and NRS 333.335 (6) will cease to apply.*

*NAC 333. XXX "Effective date of contract" Defined. (NRS 333.130, 333.150, 333.135, 333.160) "Effective date of contract" means the date a contract is approved by the Board of Examiners as set forth in NRS 284.173 or the starting date on the contract, whichever is later.*

*NAC 333.XXX The establishment and membership of committees to evaluate proposals.  
(NRS 333.130, 333.135)*

- 1. The committee to evaluate proposals will be established pursuant to NRS 333.335(2).*
- 2. Each evaluator must sign and abide by the written instructions for evaluation committee members as provided by the purchasing division. The signed instructions will become part of the request for proposals file.*
- 3. Each member of the committee to evaluate proposals shall evaluate and score each proposal in a consistent manner. Consistent shall be defined as:
  - a. Each member must evaluate and score each evaluation criteria consistent with the sections of the proposal assigned for their review. This includes:
    - i. Technical proposals***

*ii. Cost proposals, or*

*iii. Both*

*b. Each member must score the evaluation criteria within the point limitations of the evaluation weights.*

- 4. Each member must be able to explain its respective scores if requested to do so.*
- 5. The evaluation committee should contain evaluators from more than one agency.*
- 6. The evaluation committee should not contain evaluators with direct supervisory authority over other members of the evaluation committee.*

*NAC 333.XXX Procedures for claiming expenses from a bond posted by an appellant vendor upon a rejected appeal. (NRS 333.130)*

- 1. Any claim made by the purchasing division and/or the using agency to the hearings division of the department of administration against the bond or other security, posted as a result of an appeal, must be made in accordance with NRS 333.370(10) and be filed within ten (10) days of the order rejecting the appeal.*
- 2. If a claim is not made within the time allotted, the entire bond or other security will be returned by the purchasing division to the appellant and no other claims can be filed.*

*NAC 333.XXX Limitation of vendors from participation in multiple step projects. (NRS 333.130)*

- 1. If the purchasing division or a using agency undertakes a project requiring multiple requests for proposals or bids and the initial contract or contracts is for design of the project or in any other way substantively defines the scope of work or requirements of any*

*subsequent request for proposals or bids on that project, the vendor awarded the initial contract or contracts is prohibited from bidding, partnering with another vendor or materially participating in any subsequent contract related to that project.*

*2. Nothing in the prohibition in section 1 restricts the using agency from contracting for the entire project at one time.*

*3. Nothing in the prohibition in section 1 restricts the initial contract vendor from participating in additional contracts within the scope of work of the original contract.*

*NAC 333.XXX Procedures for obtaining copies of requests for proposals responses (NRS 333.130)*

*1. Requests for Proposals responses become public records upon “award of a contract”, subject to the confidentiality requirements of NRS 333.333. At that time, any person may request copies of proposal responses for that contract.*

*2. The purchasing division may, upon receipt of a request for copies of the responses forward the requested responses to a properly licensed private provider of copies.*

*a. The private provider will provide an estimate of cost for the copies to requesting party.*

*b. The requesting party then determines the viability of the copy request and proceeds with a direct business arrangement with the private copier service.*

*c. The proposal responses will be returned to the Purchasing Division upon completion of the copying.*

3. *The purchasing division reserves the right to copy proposals or parts of proposals if determined to be in the best interest of the state at a fee consistent with the cost to provide the copies.*
4. *No fee will be charged for requests to review proposal responses at the purchasing division office. Any copying will be completed by purchasing division staff consistent with section 2 or 3.*

*NAC 333.XXX Standards for the acceptance of goods by using agencies. (NRS 333.130)*

1. *Whenever an agency is in receipt of goods acquired through the processes established in accordance with the State Purchasing Act, those goods must be inspected and counted within five (5) working days of their receipt.*
  - a. *The using agency must make note of any discrepancies in specifications and/or quantities of goods received and report any problems immediately to the purchasing division and to the vendor.*
  - b. *If five (5) working days elapse after the receipt of goods and no discrepancies are noted, the order shall be deemed complete and the receiver copy of the purchase order shall be signed by the using agency and shall be appropriately processed for payment to the vendor.*
2. *Using agencies failing to return the proper authorization to pay the vendor within the terms of the purchase are liable for any late charges assessed by the vendor consistent with the vendor's demonstrated policy.*
3. *If a using agency determines they must change the delivery location of goods, the using agency must notify the purchasing division in writing of the new location prior to the*

*date the vendor ships the goods. If notification is not received in time to change the location prior to shipping, the using agency must take appropriate steps to accept the shipment at the original location. Any additional costs will be the responsibility of the using agency.*

*4. If a using agency refuses the delivery of a shipment of goods and those goods were shipped in accordance with the purchase order of the purchasing division or the using agency, the using agency will bear the cost of shipping both to and from the using agency location and any restocking charges incurred as a result of the refusal.*

*5. If the using agency requests the goods to be reshipped to the location identified in the purchase order or to another location, the using agency shall be liable for any additional costs above the original delivery.*

*6. Agencies with multiple organizational units in one location are responsible for the proper receipt of any goods shipped to that location.*

*NAC 333.XXX “Unscheduled, Emergency Purchases or Purchases with money from the State Purchasing Fund” (NRS 133.130 & NRS 333.380)*

*1. The chief or his designated representative may authorize an agency to purchase directly specified goods when such a purchase is deemed in the best interest of the State.*

*a. Unscheduled purchases may not exceed \$5,000.00 the limitations of NRS 333.390.*

*i. The unscheduled purchase limit refers to the total amount of the purchase and does not mean the amount of an individual item.*

*ii. The authorization for an unscheduled purchase must be in writing and specific to the commodities identified in the written authorization.*

*b. An emergency purchase is defined as consistent with NRS 414.0345 or any other situation identified by the chief as a threat to health, welfare or safety and is found to be in the best interest of the state.*

*i. Emergency purchases may be for any amount.*

*ii. The chief shall designate an emergency purchase by a using agency or the purchasing division if, in his judgment, such a purchase is in the best interest of the State.*

*iii. The chief shall, in authorizing an emergency purchase, provide written authorization including justification for such designation.*

*iv. Any authorization for emergency purchase shall be for a single purchase and does not constitute recurring emergency purchasing authority.*

*2. The Chief may authorize purchases with monies from the state purchasing fund when he deems such a purchase to be in the best interest of the State.*

*NAC 333.XXX Methods for obtaining a contract (NRS 333.130, 333.162)*

*1. The Purchasing Division shall contract for goods and services at the convenience of the state and in the best interests of the state.*

*2. In addition to the methods identified in NRS 333.162, the chief may utilize quotations, price agreements, spot market purchases or any other generally*

*accepted purchasing method to acquire at best value goods and services for agencies.*

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 ~~[and submitted to the state board of examiners for approval, if required pursuant to NRS 284.173,]~~ 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 Purchasing Div. by R099-99, eff. 12-13-99)