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NEVADA PUBLIC PURCHASING STUDY COMMISSION
(NRS 332.215)
Consisting of
Northern Nevada Consortium for Cooperative Purchasing
And
Public Purchasing Professionals Association

Bill Number AB 282

Executive Summary

March 24, 2003

Requires that bidder participate in certain programs of training and apprenticeship to be qualified to bid on public works projects. (BDR 28-727).

Purpose: To require all bidders on public works contracts to participate in programs of training and apprenticeship that are registered and approved by the State Apprenticeship Council pursuant to NRS Chapter 610. Further requires all public purchasing managers engaged in public works contracting to require such participation as a condition of responsive bidding, reject all bids from bidders who do not participate and investigate and verify such participation.

Justification against the bill:

1. Although several open-shop contractor programs in some, but not all trades, are available to non-union contractors, it is union contractors who most often participate in such programs, this bill effectively eliminates non-union contractors from bidding on any public works contracts. This constitutes a major competitive restraint on the number of bidders available on public works projects
2. If a non-union contractor uses all his own employees and there are no apprentices in his employ, he cannot bid on public works contracts under this bill.
3. If a non-union contractor calls a union in order to hire workers or apprentices, the union usually denies the request, thus rendering the non-union contractor unable to bid on or perform a public works contract.
4. Since non-union contractors are the majority of contractors in the state of Nevada, this bill effectively eliminates the majority of competitive bidders on public works bids. It is axiomatic that a reduction in the number of competitive bidders raises bid prices accordingly.
5. This bill violates good procurement practices as follows:
 - a. It reduces the number of available bidders when the maximum number of bidders is what is required for good procurement.
 - b. It assigns a criterion for responsiveness that has nothing to do with the bidder's ability to comply with the terms of the bid and perform the work successfully.
6. This bill places inordinate and unnecessary investigative and verification burdens on the public purchasing manager ("*...the person responsible for awarding the contract...*") by requiring that that individual: "*...determines that the bidder does not participate...*"
7. Further, this bill does not explain how the determination should be made or what objective, reliable sources of information are available to make that determination. Before this bill is promulgated, the Labor Commissioner's office should define "participation", what consti-

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- tutes participation, and then investigate, verify and certify to the local governments.
8. NRS Chapter 610 says participation in such programs is voluntary.
 9. Many local government projects have federal money. This bill also violates good federal procurement practices and perhaps federal law as well.

Conclusion: This bill exemplifies poor procurement practices as well as “bad law” by effectively banning the majority of the contractors in the state of Nevada from bidding on public works contracts.

Recommendation: That this bill NOT be voted into law.

Respectfully yours,

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