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Potential Substantive Conflict between A.B. 425 R1, § 15 and A.B. 295 R1 § 6 with regard to NRS 338.1377 (3)

A.B. 425 R1, § 15

Sec. 15. NRS 338.1377 is hereby amended to read as follows:

... 3. The criteria adopted by a governing body pursuant to this section to determine whether an applicant is qualified to bid on a contract for a public work:

(a) Must be adopted in such a form that the determination of whether an applicant is qualified to bid on a contract for a public work does not require or allow the exercise of discretion by any one person.

(b) May include only:

- (1) The financial ability of the applicant to perform a contract;
- (2) The principal personnel of the applicant;
- (3) Whether the applicant has breached any contracts with a public {agency} body or person in this state or any other state; {and}
- (4) Whether the applicant has been disqualified from being awarded a contract pursuant to NRS 338.017 or 338.1387 {,}; and

(5) *The performance history of the applicant on other recent contracts, if any, that have been completed by the applicant and which are similar to the work that the governing body requires.*

A.B. 295 R1, § 6

Sec. 6. NRS 338.1377 is hereby amended to read as follows:

338.1377 {1.} Except as otherwise provided in NRS 338.1383 {,} and section 2 of this act, the governing body of each local government that sponsors or finances a public work shall adopt *the following* criteria for {the qualification of bidders} *determining whether a person who has applied pursuant to NRS 338.1379 is qualified to bid on contracts for public works of the local government* {The governing body shall use the criteria to determine the qualification of bidders on contracts for public works of the local government.

~~2. Before adopting criteria pursuant to this section, the governing body of a local government shall hold at least one public hearing to solicit and evaluate public opinion regarding the criteria to be adopted. Notice of such a hearing must be provided by mail at least 10 days before the hearing to:~~

- ~~(a) Construction trade associations in this state; and~~
- ~~(b) Labor unions representing trades in the building industry in this state.~~

~~3. The criteria adopted by a governing body pursuant to this section to determine whether an applicant is qualified to bid on a contract for a public work:~~

~~(a) Must be adopted in such a form that the determination of whether an applicant is qualified to bid on a contract for a public work does not require or allow the exercise of discretion by any one person.~~

~~(b) May include only:~~

- ~~(1) The financial ability of the applicant to perform a contract;~~
- ~~(2) The principal personnel of the applicant;~~
- ~~(3) :~~

1. *Whether the applicant possesses a valid contractor's license of a class corresponding to the work to be required by the local government;*

2. *Whether the applicant has the ability to obtain the necessary bonding for the work to be required by the local government;*

3. *Whether the applicant has successfully completed one or more projects during the 5 years immediately preceding the date of application of similar size, scope or type as the work to be required by the local government;*

4. Whether the principal personnel employed by the applicant have the necessary professional qualifications and experience for the work to be required by the local government;

5. Whether the applicant has breached any contracts with a public agency or person in this state or any other state ~~and~~

~~(4)~~ during the 5 years immediately preceding the date of application;

6. Whether the applicant has been disqualified from being awarded a contract pursuant to NRS 338.017 or 338.1387 ~~and~~;

7. Whether the applicant has been convicted of a violation for discrimination in employment during the 2 years immediately preceding the date of application;

8. Whether the applicant has the ability to obtain and maintain insurance coverage for public liability and property damage within limits sufficient to protect the applicant and all the subcontractors of the applicant from claims for personal injury, accidental death and damage to property that may arise in connection with the work to be required by the local government;

9. Whether the applicant has established a safety program that complies with the requirements of chapter 618 of NRS;

10. Whether the applicant has been disciplined or fined by the State Contractors' Board or another state or federal agency for conduct that relates to the ability of the applicant to perform the work to be required by the local government;

11. Whether, during the 5 years immediately preceding the date of application, the applicant has filed as a debtor under the provisions of the United States Bankruptcy Code;

12. Whether the application of the applicant is truthful and complete; and

13. Whether, during the 5 years immediately preceding the date of application, the applicant has, as a result of causes within the control of the applicant or a subcontractor or supplier of the applicant, failed to perform any contract:

(a) In the manner specified by the contract and any change orders initiated or approved by the person or governmental entity that awarded the contract or its authorized representative;

(b) Within the time specified by the contract unless extended by the person or governmental entity that awarded the contract or its authorized representative; or

(c) For the amount of money specified in the contract or as modified by any change orders initiated or approved by the person or governmental entity that awarded the contract or its authorized representative.

Evidence of the failures described in this subsection may include, without limitation, the assessment of liquidated damages against the applicant, the forfeiture of any bonds posted by the applicant, an arbitration award granted against the applicant or a decision by a court of law against the applicant.

Potential Substantive Conflict between A.B. 401 R1, § 9.5 and A.B. 425 R1 § 37 with regard to NRS 338.1727 (7)

A.B. 425 R1, § 37

Sec. 37. NRS 338.1727 is hereby amended to read as follows:

- ...
6. A contract awarded pursuant to this section:
- ...
- (c) Except as otherwise provided in paragraph (d), must not require the design professional to defend, indemnify or hold harmless the public body or the employees, officers or agents of that public body from any liability, damage, loss, claim, action or proceeding caused by the negligence, errors, omissions, recklessness or intentional misconduct of the employees, officers and agents of the public body.
- (d) May require the design-build team to defend, indemnify and hold harmless the public body, and the employees, officers and agents of the public body from any liabilities, damages, losses, claims, actions or proceedings, including, without limitation, reasonable attorneys' fees, that are caused by the negligence, errors, omissions, recklessness or intentional misconduct of the design-build team or the employees or agents of the design-build team in the performance of the contract.
7. ~~Any provision of a contract that is in violation of paragraph (c) of subsection 6 is declared to be contrary to the public policy of this state and is void.~~
- ~~8.~~ A design-build team to whom a contract is awarded pursuant to this section shall:
- (a) Assume overall responsibility for ensuring that the design and construction of the public work is completed in a satisfactory manner; and
- (b) Use the workforce of the prime contractor on the design-build team to construct at least 15 percent of the public work.

A.B. 401 R1, § 9.5

Sec. 9.5. NRS 338.1727 is hereby amended to read as follows:

- ...
6. A contract awarded pursuant to this section:
- (a) *Must comply with the provisions of NRS 338.020 to 338.090, inclusive;*
- (b) Must specify:
- (1) An amount that is the maximum amount that the public body will pay for the performance of all the work required by the contract, excluding any amount related to costs that may be incurred as a result of unexpected conditions or occurrences as authorized by the contract;
- (2) An amount that is the maximum amount that the public body will pay for the performance of the professional services required by the contract; and
- (3) A date by which performance of the work required by the contract must be completed.
- ~~(b)~~ (c) May set forth the terms by which the design-build team agrees to name the public body, at the cost of the public body, as an additional insured in an insurance policy held by the design-build team.
- ~~(c)~~ (d) Except as otherwise provided in paragraph ~~(d)~~, (e), must not require the design professional to defend, indemnify or hold harmless the public body or the employees, officers or agents of that public body from any liability, damage, loss, claim, action or proceeding caused by the negligence, errors, omissions, recklessness or intentional misconduct of the employees, officers and agents of the public body.
- ~~(d)~~ (e) May require the design-build team to defend, indemnify and hold harmless the public body, and the employees, officers and agents of the public body from any liabilities, damages, losses, claims, actions or proceedings, including, without limitation, reasonable attorneys' fees, that are caused by the negligence, errors, omissions, recklessness or intentional

misconduct of the design-build team or the employees or agents of the design-build team in the performance of the contract.

7. Any provision of a contract that is in violation of paragraph ~~{(e)}~~ (d) of subsection 6 is declared to be contrary to the public policy of this state and is void.

Potential Substantive Conflict between A.B. 425 R1, § 17 and S.B. 491 R1 § 4 with regard to NRS 338.1381

A.B. 425 R1, § 17

Sec. 17. NRS 338.1381 is hereby amended to read as follows:

338.1381 1. If, within 10 days after receipt of the notice denying his application ~~{}~~ pursuant to NRS 338.1379, the applicant files a written request for a hearing with the State Public Works Board or the governing body, ~~{of the local government,}~~ the Board or governing body shall set the matter for a hearing within ~~{10}~~ 20 days after receipt of the request. The hearing must be held not later than ~~{20}~~ 30 days after the receipt of the request for a hearing.

2. The hearing must be held at a time and place prescribed by the Board or governing body. At least 10 days before the date set for the hearing, the Board or governing body shall serve the applicant with written notice of the hearing. The notice may be served by personal delivery to the applicant or by certified mail to the last known business or residential address of the applicant.

3. The Board or governing body shall issue a decision ~~{on the matter within 5 days after}~~ at the hearing. ~~{and notify the applicant, in writing, of its decision within 5 days after it is issued.}~~ The decision of the Board or governing body is a final decision for purposes of judicial review.

S.B. 491 R1, § 4

Sec. 4. NRS 338.1381 is hereby amended to read as follows:

338.1381 1. If, within 10 days after receipt of the notice denying ~~{his application,}~~ an application pursuant to NRS 338.1379 or disqualifying a subcontractor pursuant to section 1 of this act, the applicant or subcontractor, as applicable, files a written request for a hearing with the State Public Works Board or the governing body of the local government, the Board or governing body shall set the matter for a hearing within ~~{10}~~ 20 days after receipt of the request. The hearing must be held not later than ~~{20}~~ 45 days after the receipt of the request for a hearing ~~{}~~ unless the parties, by written stipulation, agree to extend the time.

2. The hearing must be held at a time and place prescribed by the Board or governing body. At least 10 days before the date set for the hearing, the Board or governing body shall serve the applicant or subcontractor with written notice of the hearing. The notice may be served by personal delivery to the applicant or subcontractor or by certified mail to the last known business or residential address of the applicant ~~{}~~ or subcontractor.

3. *The applicant or subcontractor has the burden at the hearing of proving by substantial evidence that the applicant is entitled to be qualified to bid on a contract for a public work, or that the subcontractor is qualified to be a subcontractor on a contract for a contract for a public work.*

4. *In conducting a hearing pursuant to this subsection, the Board or the governing body of a local government may:*

- (a) Administer oaths;*
- (b) Take testimony;*
- (c) Issue subpoenas to compel the attendance of witnesses to testify before the Board or governing body;*
- (d) Require the production of related books, papers and documents; and*
- (e) Issue commissions to take testimony.*

5. *If a witness refuses to attend or testify or produce books, papers or documents as required by the subpoena issued pursuant to subsection 4, the Board or governing body may petition the district court to order the witness to appear or testify or produce the requested books, papers or documents.*

6. The Board or governing body shall issue a decision on the matter within 5 days after the hearing and notify the applicant, in writing, of its decision within ~~{5}~~ 15 days after it is issued. The decision of the Board or governing body is a final decision for purposes of judicial review.

Potential Substantive Conflict between A.B. 425 R1, § 28 and S.B. 19 R1 § 15
with regard to NRS 338.147

A.B. 425 R1, § 28

Sec. 28. NRS 338.147 is hereby amended to read as follows:

338.147 1. Except as otherwise provided in *subsection 10* and NRS 338.143 , ~~{and 338.1711 to 338.1727, inclusive,}~~ a local government or its authorized representative shall award a contract for a public work *for which the estimated cost exceeds \$250,000* to the contractor who submits the best bid.

2. Except as otherwise provided in subsection 10 or limited by subsection 11, ~~{for the purposes of this section, a contractor who:~~

~~— (a) Has} the lowest bid that is:~~

(a) Submitted by a contractor who:

(1) Has been found to be a responsible and responsive contractor by the local government ~~}; and~~

~~— (b) At the time he submits his bid, provides to the local government a copy of} or its authorized representative; and~~

(2) At the time he submits his bid, has a valid certificate of eligibility to receive a preference in bidding on public works issued to ~~{him}~~ the contractor by the State Contractors' Board pursuant to subsection 3 or 4 ~~};~~

~~shall be deemed to have submitted a better bid than a competing contractor who has not provided a copy of such a valid certificate of eligibility if the amount of his bid is not} ; and~~

(b) Not more than 5 percent higher than the ~~{amount bid}~~ bid submitted by the ~~{competing contractor.}~~ lowest responsive and responsible bidder who does not have, at the time he submits the bid, a valid certificate of eligibility to receive a preference in bidding on public works issued to him by the State Contractors' Board pursuant to subsection 3 or 4, shall be deemed to be the best bid for the purposes of this section.

3. The State Contractors' Board shall issue a certificate of eligibility to receive a preference in bidding on public works to a general contractor who is licensed pursuant to the provisions of chapter 624 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the general contractor has, while licensed as a general contractor in this state:

(a) Paid directly, on his own behalf:

(1) The sales and use taxes imposed pursuant to chapters 372, 374 and 377 of NRS on materials used for construction in this state, including, without limitation, construction that is undertaken or carried out on land within the boundaries of this state that is managed by the Federal Government or is on an Indian reservation or Indian colony, of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant;

(2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his business in this state of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant; or

(3) Any combination of such sales and use taxes and governmental services tax; or

(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating construction firm that possesses a:

(1) License as a general contractor pursuant to the provisions of chapter 624 of NRS; and

(2) Certificate of eligibility to receive a preference in bidding on public works.

4. The State Contractors' Board shall issue a certificate of eligibility to receive a preference in bidding on public works to a specialty contractor who is licensed pursuant to the provisions of chapter 624 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the specialty contractor has, while licensed as a specialty contractor in this state:

(a) Paid directly, on his own behalf:

(1) The sales and use taxes imposed pursuant to chapters 372, 374 and 377 of NRS on materials used for construction in this state, including, without limitation, construction that is undertaken or carried out on land within the boundaries of this state that is managed by the Federal Government

or is on an Indian reservation or Indian colony, of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant;

(2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his business in this state of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant; or

(3) Any combination of such sales and use taxes and governmental services tax; or

(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating construction firm that possesses a:

(1) License as a specialty contractor pursuant to the provisions of chapter 624 of NRS; and

(2) Certificate of eligibility to receive a preference in bidding on public works.

5. For the purposes of complying with the requirements set forth in paragraph (a) of subsection 3 and paragraph (a) of subsection 4, a contractor shall be deemed to have paid:

(a) Sales and use taxes and governmental services taxes paid in this state by an affiliate or parent company of the contractor, if the affiliate or parent company is also a general contractor or specialty contractor, as applicable; and

(b) Sales and use taxes paid in this state by a joint venture in which the contractor is a participant, in proportion to the amount of interest the contractor has in the joint venture.

6. A contractor who has received a certificate of eligibility to receive a preference in bidding on public works from the State Contractors' Board pursuant to subsection 3 or 4 shall, at the time for the annual renewal of his contractor's license pursuant to NRS 624.283, submit to the Board an affidavit from a certified public accountant setting forth that the contractor has, during the immediately preceding 12 months, paid the taxes required pursuant to paragraph (a) of subsection 3 or paragraph (a) of subsection 4, as applicable, to maintain his eligibility to hold such a certificate.

7. A contractor who fails to submit an affidavit to the Board pursuant to subsection 6 ceases to be eligible to receive a preference in bidding on public works unless he reapplies for and receives a certificate of eligibility pursuant to subsection 3 or 4, as applicable.

8. If a contractor holds more than one contractor's license, he must submit a separate application for each license pursuant to which he wishes to qualify for a preference in bidding. Upon issuance, the certificate of eligibility to receive a preference in bidding on public works becomes part of the contractor's license for which the contractor submitted the application.

9. If a contractor who applies to the State Contractors' Board for a certificate of eligibility to receive a preference in bidding on public works submits false information to the Board regarding the required payment of taxes, the contractor is not eligible to receive a preference in bidding on public works for a period of 5 years after the date on which the Board becomes aware of the submission of the false information.

10. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of subsection 2, those provisions do not apply insofar as their application would preclude or reduce federal assistance for that work. ~~{The provisions of subsection 2 do not apply to any contract for a public work which is expected to cost less than \$250,000.}~~

11. If a bid is submitted by two or more contractors as a joint venture or by one of them as a joint venturer, ~~{the provisions of subsection 2 apply}~~ *the bid may be deemed a best bid* only if both or all of the joint venturers separately meet the requirements of ~~{that subsection.}~~ *subsection 2.*

12. The State Contractors' Board shall adopt regulations and may assess reasonable fees relating to the certification of contractors for a preference in bidding on public works.

13. A person or entity who believes that a contractor wrongfully holds a certificate of eligibility to receive a preference in bidding on public works may challenge the validity of the certificate by filing a written objection with the ~~{public body}~~ *local government* to which the contractor has submitted a bid ~~{or proposal}~~ on a contract for the ~~{completion}~~ *construction* of a public work. A written objection authorized pursuant to this subsection must:

(a) Set forth proof or substantiating evidence to support the belief of the person or entity that the contractor wrongfully holds a certificate of eligibility to receive a preference in bidding on public works; and

(b) Be filed with the ~~{public body}~~ at or after the time at which the contractor submitted the bid or proposal to the public body and before the time at which the public body awards the contract for which the bid or proposal was submitted.

~~14. If a public body local government not later than 3 business days after the opening of the bids by the local government or its authorized representative.~~

14. If a local government receives a written objection pursuant to subsection 13, the ~~{public body}~~ local government shall determine whether the objection is accompanied by the proof or substantiating evidence required pursuant to paragraph (a) of that subsection. If the ~~{public body}~~ local government determines that the objection is not accompanied by the required proof or substantiating evidence, the ~~{public body}~~ local government shall dismiss the objection and the local government or its authorized representative may proceed immediately to award the contract. If the ~~{public body}~~ local government determines that the objection is accompanied by the required proof or substantiating evidence, the ~~{public body}~~ local government shall determine whether the contractor qualifies for the certificate pursuant to the provisions of this section and the local government or its authorized representative may proceed to award the contract accordingly.

S.B. 19 R1, § 15

Sec. 15. NRS 338.147 is hereby amended to read as follows:

338.147 1. Except as otherwise provided in *sections 5 and 7 of this act*, NRS 338.143 and 338.1711 to 338.1727, inclusive, a local government shall award a contract for a public work to the contractor who submits the best bid.

2. Except as otherwise provided in subsection 10 or limited by subsection 11, for the purposes of this section, a contractor who:

(a) Has been found to be a responsible and responsive contractor by the local government; and

(b) At the time he submits his bid, provides to the local government a copy of a certificate of eligibility to receive a preference in bidding on public works issued to him by the State Contractors' Board pursuant to subsection 3 or 4, shall be deemed to have submitted a better bid than a competing contractor who has not provided a copy of such a valid certificate of eligibility if the amount of his bid is not more than 5 percent higher than the amount bid by the competing contractor.

3. The State Contractors' Board shall issue a certificate of eligibility to receive a preference in bidding on public works to a general contractor who is licensed pursuant to the provisions of chapter 624 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the general contractor has, while licensed as a general contractor in this state:

(a) Paid directly, on his own behalf:

(1) The sales and use taxes imposed pursuant to chapters 372, 374 and 377 of NRS on materials used for construction in this state, including, without limitation, construction that is undertaken or carried out on land within the boundaries of this state that is managed by the Federal Government or is on an Indian reservation or Indian colony, of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant;

(2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his business in this state of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant; or

(3) Any combination of such sales and use taxes and governmental services tax; or

(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating construction firm that possesses a:

(1) License as a general contractor pursuant to the provisions of chapter 624 of NRS; and

(2) Certificate of eligibility to receive a preference in bidding on public works.

4. The State Contractors' Board shall issue a certificate of eligibility to receive a preference in bidding on public works to a specialty contractor who is licensed pursuant to the provisions of

chapter 624 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the specialty contractor has, while licensed as a specialty contractor in this state:

(a) Paid directly, on his own behalf:

(1) The sales and use taxes pursuant to chapters 372, 374 and 377 of NRS on materials used for construction in this state, including, without limitation, construction that is undertaken or carried out on land within the boundaries of this state that is managed by the Federal Government or is on an Indian reservation or Indian colony, of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant;

(2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his business in this state of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant; or

(3) Any combination of such sales and use taxes and governmental services tax; or

(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating construction firm that possesses a:

(1) License as a specialty contractor pursuant to the provisions of chapter 624 of NRS; and

(2) Certificate of eligibility to receive a preference in bidding on public works.

5. For the purposes of complying with the requirements set forth in paragraph (a) of subsection 3 and paragraph (a) of subsection 4, a contractor shall be deemed to have paid:

(a) Sales and use taxes and governmental services taxes paid in this state by an affiliate or parent company of the contractor, if the affiliate or parent company is also a general contractor or specialty contractor, as applicable; and

(b) Sales and use taxes paid in this state by a joint venture in which the contractor is a participant, in proportion to the amount of interest the contractor has in the joint venture.

6. A contractor who has received a certificate of eligibility to receive a preference in bidding on public works from the State Contractors' Board pursuant to subsection 3 or 4 shall, at the time for the annual renewal of his contractor's license pursuant to NRS 624.283, submit to the Board an affidavit from a certified public accountant setting forth that the contractor has, during the immediately preceding 12 months, paid the taxes required pursuant to paragraph (a) of subsection 3 or paragraph (a) of subsection 4, as applicable, to maintain his eligibility to hold such a certificate.

7. A contractor who fails to submit an affidavit to the Board pursuant to subsection 6 ceases to be eligible to receive a preference in bidding on public works unless he reapplies for and receives a certificate of eligibility pursuant to subsection 3 or 4, as applicable.

8. If a contractor holds more than one contractor's license, he must submit a separate application for each license pursuant to which he wishes to qualify for a preference in bidding. Upon issuance, the certificate of eligibility to receive a preference in bidding on public works becomes part of the contractor's license for which the contractor submitted the application.

9. If a contractor who applies to the State Contractors' Board for a certificate of eligibility to receive a preference in bidding on public works submits false information to the Board regarding the required payment of taxes, the contractor is not eligible to receive a preference in bidding on public works for a period of 5 years after the date on which the Board becomes aware of the submission of the false information.

10. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of subsection 2, those provisions do not apply insofar as their application would preclude or reduce federal assistance for that work. The provisions of subsection 2 do not apply to any contract for a public work which is expected to cost less than \$250,000.

11. If a bid is submitted by two or more contractors as a joint venture or by one of them as a joint venturer, the provisions of subsection 2 apply only if both or all of the joint venturers separately meet the requirements of that subsection.

12. The State Contractors' Board shall adopt regulations and may assess reasonable fees relating to the certification of contractors for a preference in bidding on public works.

13. A person or entity who believes that a contractor wrongfully holds a certificate of eligibility to receive a preference in bidding on public works may challenge the validity of the certificate by filing a written objection with the public body to which the contractor has submitted

a bid or proposal on a contract for the completion of a public work. A written objection authorized pursuant to this subsection must:

(a) Set forth proof or substantiating evidence to support the belief of the person or entity that the contractor wrongfully holds a certificate of eligibility to receive a preference in bidding on public works; and

(b) Be filed with the public body at or after the time at which the contractor submitted the bid or proposal to the public body and before the time at which the public body awards the contract for which the bid or proposal was submitted.

14. If a public body receives a written objection pursuant to subsection 13, the public body shall determine whether the objection is accompanied by the proof or substantiating evidence required pursuant to paragraph (a) of that subsection. If the public body determines that the objection is not accompanied by the required proof or substantiating evidence, the public body shall dismiss the objection and may proceed immediately to award the contract. If the public body determines that the objection is accompanied by the required proof or substantiating evidence, the public body shall determine whether the contractor qualifies for the certificate pursuant to the provisions of this section and may proceed to award the contract accordingly.

Sec. 1. NRS 338.1715 is hereby amended to read as follows:

338.1715 1. A public body that is required to contract with a prime contractor pursuant to subsection 1 of NRS 338.1711 or elects to contract with a prime contractor pursuant to subsection 4 of NRS 338.1711 shall select the prime contractor in accordance with the procedures for bidding that are set forth in:

(a) The provisions of NRS 338.1375 to 338.139, inclusive; or

(b) NRS 338.143 to 338.148, inclusive, if the public body is a local government that elects to award a contract for a public work in accordance with ~~{paragraph (b) of subsection 1}~~ subsection 2 of NRS 338.1373.

2. A public body that contracts with a design-build team pursuant to NRS 338.1711 and 338.1713 shall select the design-build team in accordance with NRS 338.1721 to 338.1727, inclusive.