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ASSEMBLY BILL NO. 116—COMMITTEE ON  
GOVERNMENT AFFAIRS

(ON BEHALF OF THE PURCHASING DIVISION)

FEBRUARY 13, 2003

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to state purchasing.  
(BDR 27-485)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

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AN ACT relating to state purchasing; requiring the Chief of the Purchasing Division of the Department of Administration to contract for the lease-purchase of equipment under certain circumstances; providing for the use of price agreements; providing specifically that the Chief may determine to design a contract to be awarded to more than one responsible bidder; revising provisions relating to advertisements for bids or proposals; revising provisions relating to the security of bids; revising the penalties that the Chief may impose against a person who breaches a contract; revising provisions relating to the purchase of products containing recycled material; providing specifically that the Chief may purchase or acquire services on behalf of governmental entities in this state; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1     **Section 1.** NRS 333.150 is hereby amended to read as follows:  
2     333.150 The Chief shall:  
3         1. Purchase or contract for all supplies, materials and  
4     equipment; and



\* A B 1 1 6 \*

1 2. Contract for the rental , ~~for~~ lease *or lease-purchase* of  
2 equipment,  
3 needed by any using agency, unless otherwise provided by law.

4 **Sec. 2.** NRS 333.160 is hereby amended to read as follows:

5 333.160 1. The Chief may decide whether and to what extent  
6 the needs of any using agency may be supplied:

7 ~~1-1~~ (a) From stores of commodities on hand;

8 ~~2-1~~ (b) By transfer of surplus items or stocks from other using  
9 agencies;

10 ~~3-1~~ (c) By deliveries under contracts;

11 ~~4-1~~ (d) By open market purchases through the Chief; ~~for~~

12 ~~5-1~~ (e) Directly by the using agencies; *or*

13 (f) *Through price agreements,*

14 but he shall have thorough discussions on such matters with  
15 authorized representatives of each using agency.

16 2. *As used in this section, "price agreement" means a definite*  
17 *quantity contract or indefinite quantity contract which requires*  
18 *the contractor to furnish goods or services to the using agency*  
19 *pursuant to an authorization for the purchase of goods or services*  
20 *within the quantity limitations of the contract, if any.*

21 **Sec. 3.** NRS 333.162 is hereby amended to read as follows:

22 333.162 1. The Chief may designate the method of obtaining  
23 a contract, including:

24 (a) An invitation to bid;

25 (b) A request for proposals;

26 (c) A request for a quotation; or

27 (d) Any other accepted method of purchasing that complies with  
28 the provisions of this chapter.

29 2. *If the Chief determines that it would be in the best interests*  
30 *of this state to design a contract to be awarded to more than one*  
31 *responsible bidder, the Chief shall specify, or shall ensure the*  
32 *method of obtaining the contract specifies, that the contract may*  
33 *be awarded to more than one responsible bidder.*

34 3. The Chief shall adopt regulations governing the methods of  
35 obtaining a contract.

36 **Sec. 4.** NRS 333.280 is hereby amended to read as follows:

37 333.280 1. Except as otherwise provided in this subsection,  
38 the Chief may enter into a contract using a standard form of  
39 contract, by advertising in accordance with the provisions of NRS  
40 333.310, for the furnishing of supplies, materials and equipment for  
41 not more than ~~2-1~~ 4 years. If an extended contractual period is  
42 necessary to promote the use of a manufacturing process which  
43 emphasizes the efficient use of energy or to promote the  
44 manufacture of products which use recycled materials, the Chief  
45 may enter into such a contract for not more than ~~3-1~~ 5 years.



1 2. The original terms of a contract may be extended annually  
2 thereafter if the conditions for extension are specified in the original  
3 solicitation, and the Chief determines that an extension is in the best  
4 interest of the State.

5 **Sec. 5.** NRS 333.300 is hereby amended to read as follows:

6 333.300 1. Except as otherwise provided in NRS 333.375,  
7 the Chief shall give reasonable notice, by advertising and by written  
8 notice provided to persons in a position to furnish the classes of  
9 commodities involved, as shown by its records, of all proposed  
10 purchases of supplies, materials and equipment to be purchased in  
11 accordance with a schedule prepared in conformity with the  
12 provisions of NRS 333.250.

13 2. All such materials, supplies and equipment, except as  
14 otherwise provided in this section, if the estimated cost thereof  
15 exceeds \$25,000, must be purchased by formal contract from the  
16 lowest responsible bidder after notice inviting the submission of  
17 sealed proposals to the Chief of the Purchasing Division at the date,  
18 hour and location set forth in the proposal, and at that date, hour and  
19 location the proposals must be publicly opened. The Purchasing  
20 Division may reject any or all proposals, or may accept the proposal  
21 determined best for the interest of the State. The notice must be  
22 published as prescribed in NRS 333.310.

23 3. In case of emergencies caused by acts of God or the national  
24 defense or other unforeseeable circumstances, the provisions for  
25 advertisements on competitive bids may be waived by the Chief, but  
26 every effort must be made to secure the maximum competitive  
27 bidding under the circumstances. In no case may contracts be  
28 awarded until every possible effort has been made to secure at least  
29 three bona fide competitive bids.

30 4. In awarding contracts for the purchase of supplies, materials  
31 and equipment ~~§~~ *where the invitation to bid or other method of*  
32 *obtaining the contract does not specify that the contract may be*  
33 *awarded to more than one responsible bidder*, if two or more  
34 lowest bids are identical, the Chief shall:

35 (a) If the lowest bids are by bidders resident in the State of  
36 Nevada, accept the proposal which, in his discretion, is in the best  
37 interests of this state.

38 (b) If the lowest bids are by bidders resident outside the State of  
39 Nevada:

40 (1) Accept the proposal of the bidder who will furnish goods  
41 or commodities produced or manufactured in this state; or

42 (2) Accept the proposal of the bidder who will furnish goods  
43 or commodities supplied by a dealer resident in the State of Nevada.



1       **Sec. 6.** NRS 333.310 is hereby amended to read as follows:  
2       333.310 1. An advertisement must contain a general  
3 description of the classes of commodities or services for which a bid  
4 or proposal is wanted and must state:

5       (a) The *type of bid or proposal that is wanted*;  
6       **(b) Whether the bid or proposal is for commodities or services**  
7 **to be used by:**

8       **(1) A specific department, agency, local government,**  
9 **district or institution; or**

10       **(2) All such entities;**

11       **(c) If applicable, the** name and location of the department,  
12 agency, local government, district or institution for which the  
13 purchase is to be made ~~f~~

14 ~~(b)~~;

15       **(d) Where and how specifications and quotation forms may be**  
16 **obtained** ~~f~~

17 ~~(e)~~;

18       **(e) If the advertisement is for bids, whether the Chief is**  
19 **authorized by the using agency to be supplied to consider a bid for**  
20 **an article that is an alternative to the article listed in the original**  
21 **request for bids if:**

22       (1) The specifications of the alternative article meet or  
23 exceed the specifications of the article listed in the original request  
24 for bids;

25       (2) The purchase of the alternative article results in a lower  
26 price; and

27       (3) The Chief deems the purchase of the alternative article to  
28 be in the best interests of the State of Nevada ~~f~~

29 ~~(d)~~;

30       **(f) The date and time not later than which responses must be**  
31 **received by the Purchasing Division** ~~f~~

32 ~~(e)~~; **and**

33       **(g) The date and time when responses will be opened.**

34 The Chief or his designated agent shall approve the copy for the  
35 advertisement.

36 2. Each advertisement must be published in at least one  
37 newspaper of general circulation in the State. The selection of the  
38 newspaper to carry the advertisement must be made in the manner  
39 provided by this chapter for other purchases, on the basis of the  
40 lowest price to be secured in relation to the paid circulation.

41       **Sec. 7.** NRS 333.330 is hereby amended to read as follows:

42       333.330 1. All bids on more than one item on which bids are  
43 called for by the same notice must be itemized and give a price for  
44 each item.

45 2. All bids must:



1 (a) Except as otherwise provided in NRS 333.313, be in writing  
2 and signed.

3 (b) Be ~~[sealed or, if]~~ **secured:**  
4 **(1) By sealing the bid;**  
5 **(2) If the bid is submitted by facsimile, in a manner**  
6 **approved by the Chief; or**  
7 **(3) If** the bid is submitted electronically, ~~[secured]~~ by an  
8 electronic equivalent of a seal, as approved by the Purchasing  
9 Division.

10 (c) Be opened and read publicly by the Chief or his designated  
11 agent as they are opened.

12 **Sec. 8.** NRS 333.365 is hereby amended to read as follows:

13 333.365 1. A person who has entered into a contract with the  
14 Purchasing Division **or another agency of this state** and who does  
15 not perform according to the terms of the contract is liable for, in  
16 addition to any other applicable damages for breach of contract, a  
17 penalty of not more than 5 percent of the total value of the bid ~~[.]~~ **or**  
18 **contract.** The penalty must be recovered in a civil action upon the  
19 complaint of the Chief in any court of competent jurisdiction. In  
20 addition to recovering the penalty and any other applicable  
21 damages, the Chief may ~~[remove the name of the person from the~~  
22 ~~list of bidders and]~~ refuse to accept a bid from ~~[him]~~ **the person or**  
23 **refuse to award a contract to the person, or both,** for not more than  
24 2 years.

25 2. If the Chief does not bring an action to recover the penalty  
26 prescribed by subsection 1, he may:

27 (a) ~~[Remove the name of the person from the list of bidders and~~  
28 ~~refuse]~~ **Refuse** to accept a bid from ~~[him]~~ **the person or refuse to**  
29 **award a contract to the person, or both,** for not more than 2 years;  
30 and

31 (b) Impose an administrative penalty, in an amount not to  
32 exceed 5 percent of the total value of the bid ~~[.]~~ **or contract.** Such a  
33 penalty may be recovered only after notice is given to the person by  
34 mail.

35 3. ~~[If the Chief has removed the name of a person from the list~~  
36 ~~of bidders, that person must apply to the Chief to have his name~~  
37 ~~reinstated on the list of bidders.~~

38 ~~—4.]~~ A penalty imposed pursuant to subsection 1 or 2 may be  
39 deducted from any payment due the person or, if a bond has been  
40 issued or a check received, a claim may be made against the bond or  
41 check. If no payment is due and no bond was issued or check  
42 received, the Chief may issue a claim for payment of the penalty.  
43 The claim must be paid within 30 days.



1       **Sec. 9.** NRS 333.4603 is hereby amended to read as follows:  
2       333.4603 As used in this section and NRS 333.4606 and  
3       333.4609, unless the context otherwise requires:

4       1. "Postconsumer waste" means a finished material which  
5       would normally be disposed of as a solid waste having completed its  
6       life cycle as a consumer item.

7       2. "Recycled paper product" means all paper and wood-pulp  
8       products ~~[containing in some combination at least 50 percent of its~~  
9       ~~total weight;~~

10      ~~—(a) Postconsumer waste; and~~

11      ~~—(b) Secondary waste,~~

12      ~~but]~~ *that contain postconsumer waste and secondary waste in a*  
13      *combination that meets prevailing industry standards for the*  
14      *designation of paper products as being recycled. The term* does not  
15      include fibrous waste generated during the manufacturing process  
16      such as fibers recovered from wastewater or trimmings of paper  
17      machine rolls, wood slabs, chips, sawdust or other wood residue  
18      from a manufacturing process.

19      3. "Secondary waste" means fragments of products or finished  
20      products of a manufacturing process, which has converted a virgin  
21      resource into a commodity of real economic value.

22      **Sec. 10.** NRS 333.4606 is hereby amended to read as follows:

23      333.4606 1. The Chief shall review and revise the  
24      specifications for procuring goods and products for the using  
25      agencies to eliminate discrimination against the procurement or  
26      purchase of recycled products whenever the quality of a recycled  
27      product is reasonably equal to the same product manufactured with  
28      virgin resources. Except for specifications which have been  
29      established to preserve the public health and safety, all  
30      specifications for procurement must be established in a manner  
31      which results in the maximum procurement and purchase of  
32      recycled products.

33      2. When purchasing goods and products for the using agencies,  
34      the Chief shall give preference to recycled products if:

35      (a) The product meets the applicable standards;

36      (b) The product can be substituted for a comparable nonrecycled  
37      product; and

38      (c) The product costs no more than a comparable nonrecycled  
39      product.

40      3. When purchasing goods and products for the using agencies,  
41      the Chief may give preference to recycled products if:

42      (a) The product meets the applicable standards;

43      (b) The product can be substituted for a comparable nonrecycled  
44      product; and



1 (c) The product costs no more than 5 percent more than a  
2 comparable nonrecycled product.

3 4. To encourage the use of postconsumer waste, a bidder who  
4 manufactures a product in Nevada that contains postconsumer waste  
5 shall be deemed to be the lowest bidder if:

6 (a) ~~[At least 50 percent of the product, by weight, contains~~  
7 ~~postconsumer waste;~~

8 ~~—(b)]~~ The product ~~[complies with the applicable standards; and~~  
9 ~~—(c)]~~ *contains postconsumer waste in an amount that meets*  
10 *prevailing industry standards for the use of postconsumer waste;*  
11 *and*

12 (b) The amount of the bid is not more than 10 percent higher  
13 than the bid of any other bidder.

14 5. A bidder whose product contains postconsumer waste shall  
15 certify in writing:

16 (a) That the product contains postconsumer waste; and

17 (b) The percentage of postconsumer waste, by weight, that is  
18 contained in the product.

19 **Sec. 11.** NRS 333.4609 is hereby amended to read as follows:

20 333.4609 1. After consultation with the State Department of  
21 Conservation and Natural Resources, the Chief shall ~~[adopt~~  
22 ~~regulations governing the bidding procedure and specifications for~~  
23 ~~paper and paper products purchased by the Purchasing Division~~  
24 ~~that]~~ encourage the maximum purchase of recycled paper products.  
25 ~~[The specifications must give preference to recycled paper products~~  
26 ~~manufactured with the highest percentage of recycled material.]~~

27 2. When purchasing any paper or paper products for use by a  
28 using agency, the Chief shall purchase recycled paper products if the  
29 specific recycled paper product is:

30 (a) Available at a price not more than that of paper products  
31 made from virgin material;

32 (b) Of adequate quality; and

33 (c) Available to the purchaser within a reasonable period.

34 3. When purchasing any paper or paper products for use by a  
35 using agency, the Chief may purchase recycled paper products if the  
36 specific recycled paper product is:

37 (a) Available at a price not more than 10 percent higher than that  
38 of paper products made from virgin material;

39 (b) Of adequate quality; and

40 (c) Available to the purchaser within a reasonable period.

41 **Sec. 12.** NRS 333.480 is hereby amended to read as follows:

42 333.480 The Chief may purchase or acquire on behalf of the  
43 State of Nevada, and all officers, departments, institutions, boards,  
44 commissions, schools and other agencies in the Executive  
45 Department of the State Government, volunteer fire departments,



1 local governments as defined in NRS 354.474, conservation districts  
2 or irrigation districts of the State of Nevada, any *services*, supplies,  
3 materials or equipment of any kind required or deemed advisable for  
4 the state officers, departments, institutions, boards, commissions,  
5 schools, volunteer fire departments and other agencies or local  
6 governments as defined in NRS 354.474, conservation districts or  
7 irrigation districts that may be available pursuant to an agreement  
8 with a vendor who has entered into an agreement with the General  
9 Services Administration or another governmental agency dealing in  
10 *services*, supplies, materials, equipment or donable surplus material  
11 if:

12 1. The prices for the *services*, supplies, materials or equipment  
13 negotiated in the agreement that the Chief enters into with the  
14 vendor are substantially similar to the prices for those *services*,  
15 supplies, materials or equipment that the vendor had negotiated with  
16 the General Services Administration or other governmental agency;  
17 and

18 2. The Chief determines that such an agreement would be in  
19 the best interests of the State.

20 **Sec. 13.** This act becomes effective upon passage and  
21 approval.

