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ASSEMBLY BILL NO. 519—COMMITTEE ON TRANSPORTATION  
(ON BEHALF OF THE DEPARTMENT OF TRANSPORTATION)

MARCH 24, 2003

Referred to Committee on Transportation

SUMMARY—Revises provisions relating to awarding of design-build contracts by Department of Transportation. (BDR 35-542)

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 the Department of Transportation; authorizing the Department, in carrying out the process for awarding design-build contracts, to request revised final proposals under certain circumstances; establishing procedures for requesting and evaluating revised final proposals; 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.** Chapter 408 of NRS is hereby amended by adding  
2     thereto a new section to read as follows:  
3     ***1. If the Department determines that no final proposal***  
4     ***received pursuant to NRS 408.3886 is cost-effective and***  
5     ***responsive and the Department further determines that requesting***  
6     ***revised final proposals pursuant to this section will likely result in***  
7     ***the submission of a satisfactory proposal, the Department shall***  
8     ***prepare and provide to each finalist a request for revised final***  
9     ***proposals for the project.***  
10    ***2. In conjunction with preparing a request for revised final***  
11    ***proposals pursuant to this section, the Department may:***  
12    ***(a) Alter the scope of the project; and***



- 1     ***(b) Revise the estimates of the costs of designing and***  
2 ***constructing the project.***
- 3     ***3. A request for revised final proposals prepared pursuant to***  
4 ***this section must:***
- 5       ***(a) Set forth the date by which revised final proposals must be***  
6 ***submitted to the Department;***
- 7       ***(b) If the Department has altered the scope of the project, set***  
8 ***forth an updated description of the project;***
- 9       ***(c) If the Department has revised the estimates of the costs of***  
10 ***designing and constructing the project, set forth updated estimates***  
11 ***for those costs; and***
- 12       ***(d) Set forth the factors that the Department will use to select a***  
13 ***design-build team to design and construct the project, including***  
14 ***the relative weight to be assigned to each factor. The factors and***  
15 ***relative weights required to be set forth pursuant to this paragraph***  
16 ***need not be the same as those which were set forth in the request***  
17 ***for final proposals pursuant to NRS 408.3886.***
- 18     ***4. Except as otherwise provided in this subsection, in***  
19 ***assigning the relative weight to each factor for selecting a design-***  
20 ***build team pursuant to subsection 3, the Department shall assign,***  
21 ***without limitation, a relative weight of 5 percent to the possession***  
22 ***of a certificate of eligibility to receive a preference in bidding on***  
23 ***public works and a relative weight of at least 30 percent for the***  
24 ***proposed cost of design and construction of the project. If any***  
25 ***federal statute or regulation precludes the granting of federal***  
26 ***assistance or reduces the amount of that assistance for a***  
27 ***particular project because of the provisions of this subsection***  
28 ***relating to preference in bidding on public works, those provisions***  
29 ***of this subsection do not apply insofar as their application would***  
30 ***preclude or reduce federal assistance for that project.***
- 31     ***5. A revised final proposal submitted by a design-build team***  
32 ***pursuant to this section must be prepared thoroughly, be***  
33 ***responsive to the criteria that the Department will use to select a***  
34 ***design-build team to design and construct the project described in***  
35 ***subsection 3 and comply with the provisions of NRS 338.141.***
- 36     ***6. After receiving the revised final proposals for the project,***  
37 ***the Department shall:***
- 38       ***(a) Select the most cost-effective and responsive revised final***  
39 ***proposal, using the criteria set forth pursuant to subsections 3 and***  
40 ***4; or***
- 41       ***(b) Reject all the revised final proposals.***
- 42     ***7. If the Department selects a revised final proposal pursuant***  
43 ***to paragraph (a) of subsection 6, the Department shall hold a***  
44 ***public meeting to:***
- 45       ***(a) Review and ratify the selection.***



1 *(b) Award the design-build contract to the design-build team*  
2 *whose proposal is selected.*

3 *(c) Partially reimburse the unsuccessful finalists who*  
4 *submitted revised final proposals if partial reimbursement was*  
5 *provided for in the request for preliminary proposals pursuant to*  
6 *paragraph (f) of subsection 3 of NRS 408.3883. The amount of*  
7 *reimbursement must not exceed, for each unsuccessful finalist*  
8 *who submitted a revised final proposal, 3 percent of the total*  
9 *amount to be paid to the design-build team as set forth in the*  
10 *design-build contract.*

11 *(d) Make available to the public a summary setting forth the*  
12 *factors used by the Department to select the successful design-*  
13 *build team and the ranking of the design-build teams who*  
14 *submitted revised final proposals. The Department shall not*  
15 *release to a third party, or otherwise make public, financial or*  
16 *proprietary information submitted by a design-build team.*

17 **8. A contract awarded pursuant to this section must specify:**

18 *(a) An amount that is the maximum amount that the*  
19 *Department will pay for the performance of all the work required*  
20 *by the contract, excluding any amount related to costs that may be*  
21 *incurred as a result of unexpected conditions or occurrences as*  
22 *authorized by the contract;*

23 *(b) An amount that is the maximum amount that the*  
24 *Department will pay for the performance of the professional*  
25 *services required by the contract; and*

26 *(c) A date by which performance of the work required by the*  
27 *contract must be completed.*

28 **9. A design-build team to whom a contract is awarded**  
29 **pursuant to this section shall:**

30 *(a) Assume overall responsibility for ensuring that the design*  
31 *and construction of the project is completed in a satisfactory*  
32 *manner; and*

33 *(b) Use the workforce of the prime contractor on the design-*  
34 *build team to construct at least 15 percent of the project.*

35 **Sec. 2.** NRS 408.215 is hereby amended to read as follows:

36 408.215 1. The Director has charge of all the records of the  
37 Department, keeping records of all proceedings pertaining to the  
38 Department and keeping on file information, plans, specifications,  
39 estimates, statistics and records prepared by the Department, except  
40 those financial statements described in NRS 408.333 and the  
41 financial or proprietary information described in paragraph (d) of  
42 subsection 5 of NRS 408.3886 ~~(c)~~ **and paragraph (d) of subsection**  
43 **7 of section 1 of this act**, which must not become matters of public  
44 record.



1 2. The Director may photograph, microphotograph or film or  
2 dispose of the records of the Department referred to in subsection 1  
3 as provided in NRS 239.051, 239.080 and 239.085.

4 3. The Director shall maintain an index or record of deeds or  
5 other references of title or interests in and to all lands or interests in  
6 land owned or acquired by the Department.

7 4. The Director shall adopt such regulations as may be  
8 necessary to carry out and enforce the provisions of this chapter.

9 **Sec. 3.** NRS 408.3875 is hereby amended to read as follows:

10 408.3875 As used in NRS 408.3875 to 408.3887, inclusive,  
11 *and section 1 of this act*, unless the context otherwise requires, the  
12 words and terms defined in NRS 408.3876 to 408.3879, inclusive,  
13 have the meanings ascribed to them in those sections.

14 **Sec. 4.** NRS 408.3882 is hereby amended to read as follows:

15 408.3882 If the Department desires to contract with a design-  
16 build team pursuant to NRS 408.388 and 408.3881, the Department  
17 must select the design-build team in accordance with NRS 408.3883  
18 to 408.3886, inclusive ~~§~~, *and section 1 of this act*.

19 **Sec. 5.** NRS 408.3883 is hereby amended to read as follows:

20 408.3883 1. The Department shall advertise for preliminary  
21 proposals for the design and construction of a project by a design-  
22 build team in a newspaper of general circulation in this state.

23 2. A request for preliminary proposals published pursuant to  
24 subsection 1 must include, without limitation:

25 (a) A description of the proposed project;  
26 (b) Separate estimates of the costs of designing and constructing  
27 the project;

28 (c) The dates on which it is anticipated that the separate phases  
29 of the design and construction of the project will begin and end;

30 (d) The date by which preliminary proposals must be submitted  
31 to the Department, which must not be less than 30 days after the  
32 date that the request for preliminary proposals is first published in a  
33 newspaper pursuant to subsection 1; and

34 (e) A statement setting forth the place and time in which a  
35 design-build team desiring to submit a proposal for the project may  
36 obtain the information necessary to submit a proposal, including,  
37 without limitation, the information set forth in subsection 3.

38 3. The Department shall maintain at the time and place set  
39 forth in the request for preliminary proposals the following  
40 information for inspection by a design-build team desiring to submit  
41 a proposal for the project:

42 (a) The extent to which designs must be completed for ~~both~~  
43 ~~preliminary and~~ *preliminary*, final *and, if applicable, revised final*  
44 proposals and any other requirements for the design and



1 construction of the project that the Department determines to be  
2 necessary;

3 (b) A list of the requirements set forth in NRS 408.3884;

4 (c) A list of the factors that the Department will use to evaluate  
5 design-build teams who submit a proposal for the project, including,  
6 without limitation:

7 (1) The relative weight to be assigned to each factor pursuant  
8 to NRS 408.3886; and

9 (2) A disclosure of whether the factors that are not related to  
10 cost are, when considered as a group, more or less important in the  
11 process of evaluation than the factor of cost;

12 (d) Notice that a design-build team desiring to submit a proposal  
13 for the project must include with its proposal the information used  
14 by the Department to determine finalists among the design-build  
15 teams submitting proposals pursuant to subsection 2 of NRS  
16 408.3885 and a description of that information;

17 (e) A statement that a design-build team whose prime contractor  
18 holds a certificate of eligibility to receive a preference in bidding on  
19 public works issued pursuant to NRS 338.1389 or 338.147 should  
20 submit a copy of the certificate of eligibility with its proposal; and

21 (f) A statement as to whether a bidding design-build team that is  
22 selected as a finalist pursuant to NRS 408.3885 but is not awarded  
23 the design-build contract pursuant to NRS 408.3886 *or section 1 of*  
24 *this act* will be partially reimbursed for the cost of preparing a final  
25 proposal *or revised final proposal* and, if so, an estimate of the  
26 amount of the partial reimbursement.

27 **Sec. 6.** NRS 408.3886 is hereby amended to read as follows:

28 408.3886 1. After selecting the finalists pursuant to NRS  
29 408.3885, the Department shall provide to each finalist a request for  
30 final proposals for the project. The request for final proposals must:

31 (a) Set forth the factors that the Department will use to select a  
32 design-build team to design and construct the project, including the  
33 relative weight to be assigned to each factor; and

34 (b) Set forth the date by which final proposals must be  
35 submitted to the Department.

36 2. Except as otherwise provided in this subsection, in assigning  
37 the relative weight to each factor for selecting a design-build team  
38 pursuant to subsection 1, the Department shall assign, without  
39 limitation, a relative weight of 5 percent to the possession of a  
40 certificate of eligibility to receive a preference in bidding on public  
41 works and a relative weight of at least 30 percent for the proposed  
42 cost of design and construction of the project. If any federal statute  
43 or regulation precludes the granting of federal assistance or reduces  
44 the amount of that assistance for a particular project because of the  
45 provisions of this subsection relating to preference in bidding on



1 public works, those provisions of this subsection do not apply  
2 insofar as their application would preclude or reduce federal  
3 assistance for that project.

4 3. A final proposal submitted by a design-build team pursuant  
5 to this section must be prepared thoroughly, be responsive to the  
6 criteria that the Department will use to select a design-build team to  
7 design and construct the project described in subsection 1 and  
8 comply with the provisions of NRS 338.141.

9 4. After receiving the final proposals for the project, the  
10 Department shall:

11 (a) Select the most cost-effective and responsive final proposal,  
12 using the criteria set forth pursuant to subsections 1 and 2; ~~or~~

13 (b) Reject all the final proposals ~~or~~; *or*

14 (c) *Request revised final proposals pursuant to section 1 of this*  
15 *act.*

16 5. If the Department selects a final proposal pursuant to  
17 paragraph (a) of subsection 4, the Department shall hold a public  
18 meeting to:

19 (a) Review and ratify the selection.

20 (b) Award the design-build contract to the design-build team  
21 whose proposal is selected.

22 (c) Partially reimburse the unsuccessful finalists if partial  
23 reimbursement was provided for in the request for preliminary  
24 proposals pursuant to paragraph (f) of subsection 3 of NRS  
25 408.3883. The amount of reimbursement must not exceed, for each  
26 unsuccessful finalist, ~~three~~ 3 percent of the total amount to be paid  
27 to the design-build team as set forth in the design-build contract.

28 (d) Make available to the public a summary setting forth the  
29 factors used by the Department to select the successful design-build  
30 team and the ranking of the design-build teams who submitted final  
31 proposals. The Department shall not release to a third party, or  
32 otherwise make public, financial or proprietary information  
33 submitted by a design-build team.

34 6. A contract awarded pursuant to this section must specify:

35 (a) An amount that is the maximum amount that the Department  
36 will pay for the performance of all the work required by the  
37 contract, excluding any amount related to costs that may be incurred  
38 as a result of unexpected conditions or occurrences as authorized by  
39 the contract;

40 (b) An amount that is the maximum amount that the Department  
41 will pay for the performance of the professional services required by  
42 the contract; and

43 (c) A date by which performance of the work required by the  
44 contract must be completed.



- 1 7. A design-build team to whom a contract is awarded pursuant
- 2 to this section shall:
- 3 (a) Assume overall responsibility for ensuring that the design
- 4 and construction of the project is completed in a satisfactory
- 5 manner; and
- 6 (b) Use the workforce of the prime contractor on the design-
- 7 build team to construct at least 15 percent of the project.

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