

SENATE BILL NO. 392—COMMITTEE ON GOVERNMENT AFFAIRS

MARCH 18, 2003

Referred to Committee on Government Affairs

SUMMARY—Establishes pilot program for use of indefinite quantity contracts by Clark County School District for certain public works. (BDR S-1277)

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.

AN ACT relating to public works; establishing a pilot program for the use of indefinite quantity contracts by the Clark County School District for certain public works; 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.** As used in sections 1 to 10, inclusive, of this act,
2 unless the context otherwise requires, the words and terms defined
3 in sections 2, 3 and 4 of this act have the meanings ascribed to them
4 in those sections.

5 **Sec. 2.** “Indefinite quantity contract” means a competitively
6 bid contract for a fixed period between the Clark County School
7 District and a contractor in which the contractor agrees to complete
8 an indefinite quantity of units of work on public works for a fixed
9 unit price and which provides for the use of work orders to define
10 the scope of the public works.

11 **Sec. 3.** “Normal business hours” means 6 a.m. to 6 p.m.,
12 Monday through Friday, except legal holidays declared pursuant to
13 NRS 236.015.

14 **Sec. 4.** “Public work” means:

15 1. The repair, reconstruction, alteration, renovation,
16 improvement, installation or demolition of a building, facility or



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1 other structure that is owned, leased or operated by the Clark
2 County School District;

3 2. The painting or repainting of a building, facility or other
4 structure that is owned, leased or operated by the Clark County
5 School District;

6 3. The routine, recurring or usual maintenance work for the
7 preservation or protection of a building, facility or other structure
8 that is owned, leased or operated by the Clark County School
9 District; and

10 4. Landscape maintenance, including, without limitation, the
11 repair or replacement of irrigation systems, on property owned,
12 leased or operated by the Clark County School District.

13 **Sec. 5.** 1. The Clark County School District may award an
14 indefinite quantity contract pursuant to sections 1 to 10, inclusive, of
15 this act.

16 2. Except as otherwise provided in this section, if the Clark
17 County School District desires to award an indefinite quantity
18 contract, the Clark County School District must accept bids and
19 award the indefinite quantity contract in the manner provided for
20 bidding and awarding a contract pursuant to NRS 338.1377 to
21 338.1389, inclusive, or 338.143, 338.145 and 338.147.

22 3. For the purposes of NRS 338.1385 or 338.143, an indefinite
23 quantity contract shall be deemed to be a project for which the
24 estimated cost exceeds \$100,000.

25 4. An indefinite quantity contract is subject to the provisions of
26 NRS 338.020 to 338.090, inclusive.

27 5. After awarding an indefinite quantity contract, the Clark
28 County School District may issue work orders pursuant to section
29 10 of this act without complying with the provisions of NRS
30 338.1377 to 338.1389, inclusive, or 338.143, 338.145 and 338.147.

31 6. For the purposes of NRS 338.400 to 338.645, inclusive:

32 (a) A work order issued pursuant to section 10 of this act is a
33 contract; and

34 (b) An indefinite quantity contract is not a contract.

35 **Sec. 6.** If the Clark County School District desires to award an
36 indefinite quantity contract, the Clark County School District must
37 develop:

38 1. A catalog of construction tasks which must:

39 (a) Contain a list of public works that may be requested of the
40 contractor pursuant to the indefinite quantity contract;

41 (b) Define what constitutes a unit of each public work listed in
42 the catalog; and

43 (c) Set forth a per-unit price for each public work listed in the
44 catalog; and



1 2. Specifications and standard drawings, if appropriate, for
2 each public work listed in the catalog of construction tasks.

3 **Sec. 7.** An advertisement for bids on an indefinite quantity
4 contract must state the location at which a bidder may obtain a copy
5 of the catalog of construction tasks developed pursuant to section 6
6 of this act for the indefinite quantity contract and any specifications
7 and standard drawings developed for the public works contained in
8 the catalog.

9 **Sec. 8.** 1. A contractor who desires to bid on an indefinite
10 quantity contract must submit to the Clark County School District as
11 a bid:

12 (a) An adjustment factor for work which is performed during
13 normal business hours that is calculated by determining the
14 percentage of the per-unit prices established by the Clark County
15 School District for which the contractor agrees to complete any of
16 the public works contained in the catalog of construction tasks
17 developed pursuant to section 6 of this act during normal business
18 hours; and

19 (b) An adjustment factor for work which is performed during
20 times other than normal business hours that is calculated by
21 determining the percentage of the per-unit prices established by the
22 Clark County School District for which the contractor agrees to
23 complete any of the public works contained in the catalog of
24 construction tasks developed pursuant to section 6 of this act during
25 times other than normal business hours.

26 2. A contractor who submits a bid on an indefinite quantity
27 contract is not required to submit the information described in NRS
28 338.141 with his bid.

29 **Sec. 9.** 1. An indefinite quantity contract must include,
30 without limitation:

31 (a) The adjustment factors submitted pursuant to section 8 of
32 this act by the contractor;

33 (b) A minimum dollar amount of work that the Clark County
34 School District agrees to provide to the contractor pursuant to the
35 contract;

36 (c) A maximum dollar amount of work that the Clark County
37 School District may provide to the contractor pursuant to the
38 indefinite quantity contract, which must not exceed \$5,000,000;

39 (d) A method for amending the catalog of construction tasks
40 developed pursuant to section 6 of this act to include additional
41 public works and a formula for determining a per-unit price for any
42 public work that is added to the catalog of construction tasks;

43 (e) A method for issuing work orders to the contractor;

44 (f) A method for resolving disputes between the Clark County
45 School District and the contractor; and



1 (g) A method for annually reviewing and revising, if necessary,
2 the adjustment factors submitted pursuant to section 8 of this act.
3 The method must be based upon a price index of construction costs
4 that is nationally recognized in the construction industry, as
5 determined by the Clark County School District.

6 2. The term of an indefinite quantity contract must be:

7 (a) Not more than 1 year or until the expiration of any extension
8 or renewal of the indefinite quantity contract; or

9 (b) Until completion of the maximum dollar amount of work set
10 forth in the indefinite quantity contract,
11 whichever occurs earlier.

12 3. An indefinite quantity contract may be renewed or extended
13 once for a period of not more than 1 year upon the agreement of the
14 Clark County School District and the contractor who is a party to
15 the indefinite quantity contract. Any extension or renewal of an
16 indefinite quantity contract must be priced on the basis of the
17 catalog of construction tasks developed pursuant to section 6 of this
18 act for the indefinite quantity contract.

19 **Sec. 10.** 1. If the Clark County School District desires to
20 have a public work completed pursuant to an indefinite quantity
21 contract, the Clark County School District must describe the scope
22 of work in writing to the contractor who was awarded the indefinite
23 quantity contract.

24 2. After receiving the description of the scope of work pursuant
25 to subsection 1, the contractor shall prepare and submit to the Clark
26 County School District a proposal in writing that must include,
27 without limitation:

28 (a) An estimated cost of the public work as determined pursuant
29 to subsection 3;

30 (b) A schedule for completing the public work; and

31 (c) The information required to be submitted with a bid on a
32 contract pursuant to NRS 338.141.

33 3. The estimated cost of a public work submitted pursuant to
34 subsection 2 must be in an amount equal to the number of units of
35 the public work to be completed by the contractor during normal
36 business hours multiplied by the adjusted price for work performed
37 during normal business hours plus the number of units of the public
38 work to be completed during times other than normal business hours
39 multiplied by the adjusted price for work performed during times
40 other than normal business hours. The adjusted price for work
41 performed during normal business hours is equal to the per-unit
42 price of the public work set forth in the catalog of construction tasks
43 developed pursuant to section 6 of this act multiplied by the
44 appropriate adjustment factor submitted pursuant to section 8 of this
45 act for work performed during normal business hours. The adjusted



1 price for work performed during times other than normal business
2 hours is equal to the per-unit price of the public work set forth in the
3 catalog of construction tasks developed pursuant to section 6 of this
4 act multiplied by the appropriate adjustment factor submitted
5 pursuant to section 8 of this act for work performed during other
6 than normal business hours.

7 4. After receiving a proposal pursuant to subsection 2, the
8 Clark County School District shall review the proposal and:

9 (a) If the Clark County School District agrees with the proposal,
10 submit a work order to the contractor that must include, without
11 limitation:

- 12 (1) The scope of work of the public work;
- 13 (2) The estimated cost of the public work; and
- 14 (3) The schedule for completing the public work; or

15 (b) If the Clark County School District does not agree with the
16 proposal, reject the proposal.

17 5. If the Clark County School District rejects a proposal
18 pursuant to subsection 4, the contractor may amend the proposal and
19 resubmit the proposal to the Clark County School District.

20 6. The Clark County School District shall not:

21 (a) Issue a work order pursuant to this section for a public work
22 with an estimated cost of more than \$500,000; or

23 (b) Divide a public work into separate portions to avoid the
24 requirements of paragraph (a).

25 **Sec. 11.** This act becomes effective on July 1, 2003, and
26 expires by limitation on July 1, 2007.

