

**PROPOSED REGULATION OF THE
STATE PUBLIC WORKS BOARD**

LCB FILE NO. R075-18I

**The following document is the initial draft regulation proposed
by the agency submitted on 04/23/2018**

**State Public Works Division
Draft Regulations (April 2018)
Nevada Administrative Code Section 338**

(Additions are in ***bold italic red text***, and deletions are noted in ~~strikeout~~)

NAC 338.240 Criteria for qualification for public work with estimated cost of \$100,000 or more; pertinent documentation and information; exceptions.

Except as otherwise provided in subsection 3, the following criteria must be used to determine whether a prime contractor is qualified to bid on a contract for one or more public works for which the estimated cost is \$100,000 or more:

(a) The financial ability of the prime contractor to perform the contract. The prime contractor must include with the application submitted pursuant to NAC 338.250:

(1) Evidence that the prime contractor is properly licensed pursuant to chapter 624 of NRS.

(2) A statement regarding whether the prime contractor, the principal personnel or any business entity associated with the principal personnel has filed as a debtor under the United States Bankruptcy Code during the 5 years immediately preceding the date of the application.

(3) A certified ~~original~~ statement of the bonding capacity of the prime contractor obtained for a surety which is authorized to issue bid, performance and payment bonds in this State and which:

(I) Has received a rating of “A-” or better, as determined by A.M. Best Company of Oldwick, New Jersey; and

(II) For a contract that:

(i) Is more than \$5,000,000, is classified in a financial size category of “VII” or better, as determined by A.M. Best Company of Oldwick, New Jersey, and is included on the list of approved sureties in Circular 570 of the United States Department of the Treasury; or

(ii) Is \$5,000,000 or less, is included on the list of approved sureties in Circular 570 of the United States Department of the Treasury.

È The requirements of sub-subparagraphs (I) and (II) do not apply if the surety is Lloyd’s of London. The certified original statement must specify the single and aggregate limits on and the available bonding capacity of the prime contractor to work on a public work.

(b) The qualifications of the principal personnel of the prime contractor. The prime contractor must include in the application submitted pursuant to NAC 338.250 a description of the professional qualifications and relevant experience of the principal personnel of the prime contractor and list not more than 10 public works and private construction projects, or any combination thereof, within the cost category for which the prime contractor is applying that have been successfully completed by the principal personnel. For each such successfully completed project included on the list, the prime contractor must provide:

(1) The name of the project;

(2) The scope of the project or work done;

(3) The dollar amount of the project; and

(4) The month and year of substantial completion and final completion of the project.

(c) Whether the prime contractor, the principal personnel or any business entity associated with the principal personnel has been found to be in breach of contract by a court of competent

jurisdiction or through binding arbitration during the 5 years immediately preceding the date of the application. For each such action, the prime contractor must include in the application submitted pursuant to NAC 338.250 a description of:

- (1) The circumstances surrounding the action;
- (2) Whether any liquidated damages were imposed in connection with the action; and
- (3) Any judgment entered against the prime contractor, the principal personnel or business entity associated with the principal personnel relating to the action.

(d) Whether the prime contractor, the principal personnel or any business entity associated with the principal personnel has been disqualified from the award of any contract pursuant to NRS 338.017, *as amended by section 1 of Senate Bill No. 340, chapter 470, Statutes of Nevada 2015, at page 2720, NRS 338.13845* or 338.13895 during the 5 years immediately preceding the date of the application.

(e) The past performance history of the prime contractor, the principal personnel and each business entity associated with the principal personnel during the 5 years immediately preceding the date of the application. The prime contractor must include in the application submitted pursuant to NAC 338.250:

- (1) A description *and copy* of:

~~(I) Any any~~ civil judgment, findings of fact, administrative proceeding, criminal conviction or binding arbitration relating to a *public works or to a* violation of any law pertaining to *discrimination in employment with respect to constructions work performed by the prime contractor*, wage and hour standards, prevailing wage rates or licensing either against or *by in favor of* the prime contractor, principal personnel or business entity associated with the principal personnel; ~~and~~

~~(II) Any civil judgment, findings of fact, administrative proceeding, criminal conviction or binding arbitration relating to a violation of any law pertaining to discrimination in employment with respect to construction work performed by the prime contractor either against or by the prime contractor, principal personnel or business entity associated with the business personnel, including, for each such action, the following:~~

- ~~(I) The name of the project;~~
- ~~(II) The scope of work;~~
- ~~(III) The circumstances surrounding the action;~~
- ~~(IV) Whether any liquidated damages were imposed in connection with the action;~~

and

- ~~(V) The outcome of the action.~~

(2) A list of all public works and private construction projects undertaken or completed by the prime contractor, principal personnel or business entity associated with the principal personnel during the 5 years immediately preceding the date of the application for which the cost exceeded \$25,000 and for which:

(I) The prime contractor, principal personnel or business entity associated with the principal personnel failed to substantially complete the contract within the deadline for completion of the project specified in the contract, as adjusted by any change order or extension of time granted;

(II) The prime contractor, principal personnel or business entity associated with the principal personnel failed to complete any remaining requirements of the contract within 90 days after substantial completion of the contract; or

(III) The prime contractor, principal personnel or business entity associated with the principal personnel failed to complete the contract and the remaining work on the project was performed by another person.

(3) If the application is for qualification for a 2-year period, a list of not more than 10 public works and private construction projects, or any combination thereof, that the prime contractor has successfully completed during the 5 years immediately preceding the date of the application and for which the cost of each of those projects is within the cost category for which the prime contractor seeks qualification to submit bids. For each project included on the list, the prime contractor must provide:

(I) The name of the project;

(II) The location of the project;

(III) The cost of the project;

(IV) A brief explanation of the type of work performed on the project; and

(V) The name, address and telephone number of the owner of the project, the owner's project manager, and the architect or engineer of the project.

(4) If the application is for qualification on a specific public work, a list of all public works and private construction projects undertaken or completed by the prime contractor during the 5 years immediately preceding the date of the application for which the level of complexity or special requirements of the project were similar to the complexity or special requirements specified by the Division in the application for the specific public work. For each project included on the list, the prime contractor must provide:

(I) The name of the project;

(II) The location of the project;

(III) A brief explanation of the type of work performed on the project; and

(IV) The name, address and telephone number of the owner of the project, the owner's project manager, and the architect or engineer of the project.

(f) Whether the prime contractor, the principal personnel or any business entity associated with the principal personnel 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 prime contractor to perform the work.

2. In addition to the information provided by a prime contractor:

(a) Any other verifiable information relating to the criteria set forth in subsection 1 that is provided to or discovered by the Division or its employees regarding the prime contractor may be used to determine whether the prime contractor is qualified to bid on one or more contracts for public works for which the estimated cost is \$100,000 or more; and

(b) Each final evaluation of the performance of the prime contractor on a public work of this State that was provided to the prime contractor pursuant to NAC 338.285 on or after September 18, 2008, and within the 5 years immediately preceding the date of the application will be used to determine whether the prime contractor is qualified to bid on one or more contracts for public works for which the estimated cost is \$100,000 or more.

3. The criteria set forth in subsection 1 are not required to be used if:

(a) The Department of Transportation requested that bidders on the contract for the public work be qualified to bid on the contract pursuant to NRS 408.333; and

(b) The public work involves the construction, reconstruction, improvement or maintenance of highways pursuant to this chapter, chapter 408 of NAC or chapter 338 or 408 of NRS.

4. As used in this section, "highway" has the meaning ascribed to it in NRS 408.070.

NAC 338.245 Criteria for qualification for public work with estimated cost of less than \$100,000; pertinent documentation and information.

1. The following criteria must be used to determine whether a prime contractor is qualified to bid on a contract for one or more public works for which the estimated cost is less than \$100,000:

(a) The financial ability of the prime contractor to perform the contract. The prime contractor must include with the application submitted pursuant to NAC 338.250:

(1) Evidence that the prime contractor is properly licensed pursuant to chapter 624 of NRS.

(2) A statement regarding whether the prime contractor, principal personnel or any business entity associated with the principal personnel has filed as a debtor under the United States Bankruptcy Code during the 5 years immediately preceding the date of the application.

(b) Whether the prime contractor, the principal personnel or any business entity associated with the principal personnel has been disqualified from the award of any contract pursuant to NRS 338.017, *as amended by section 1 of Senate Bill No. 340, chapter 470, Statutes of Nevada 2015, at page 2720, NRS 338.13845* or 338.13895 during the 5 years immediately preceding the date of the application.

2. In addition to the information provided by a prime contractor:

~~(a) Any any~~ other verifiable information relating to the criteria set forth in subsection 1 that is provided to or discovered by the Division or its employees regarding the prime contractor may be used to determine whether the prime contractor is qualified to bid on one or more contracts for public works for which the estimated cost is less than \$100,000. ~~; and~~

~~(b) Each final evaluation of the performance of the prime contractor on a public work of this State that was provided to the prime contractor pursuant to NAC 338.285 on or after September 18, 2008, and within the 5 years immediately preceding the date of the application will be used to determine whether the prime contractor is qualified to bid on one or more contracts for public works for which the estimated cost is less than \$100,000.~~

NAC 338.250 Application for qualification; eligibility to bid on public work.

1. To qualify to bid on one or more contracts for public works, a prime contractor must:

(a) Submit an application to the Administrator on a form prescribed and provided by the Board.

(b) Be qualified before bids are required to be submitted for a public work on which the prime contractor wishes to bid. The Division will not delay the opening of bids on a public work pending the determination or appeal of the qualification of a prime contractor who wishes to bid on the public work.

2. The Division will specify:

(a) In the application for a specific public work, any special requirements for the specific public work that the Division prescribes.

(b) In the application for qualification for a 2-year period, the cost categories:

- (1) Of less than \$100,000;
- (2) Of \$100,000 to \$1,000,000;
- (3) Of \$1,000,001 to \$5,000,000; and
- (4) Of more than \$5,000,000,

È for which a prime contractor may be qualified, which are based on the estimated cost of an individual public work. If a prime contractor is qualified to bid on public works in one of the cost categories specified in this subsection, the prime contractor is eligible to bid on public works in any lower cost category.

3. If the application is for qualification for a 2-year period, the prime contractor must indicate on the application:

(a) Whether the prime contractor is interested in receiving offers to bid on public works for which the estimated cost is more than \$25,000 but less than \$100,000; and

(b) The cost category for which the prime contractor seeks to qualify to submit bids.

4. If the prime contractor is qualified to receive the preference set forth in *subsection 1 or 2 of NRS 338.13844, as amended by section 19 of Assembly Bill No. 62, chapter 145, Statutes of Nevada 2015, at page 560*, the prime contractor must indicate on the application his or her qualification for the preference.

5. An application must contain the signature of the prime contractor who is submitting the application.

6. The submission of a materially incomplete or falsified application or the failure of a prime contractor to disclose information in the application may be grounds for a delay in the qualification of the prime contractor or the denial or revocation of the qualification of a bidder.

NAC 338.285 Evaluation of performance of prime contractor on public work.

1. Within 30 days after the final completion of a public work *; for which the estimated cost is \$100,000 or more*, the Division or its designee will provide the prime contractor on the public work with a copy of an initial evaluation of the performance of the prime contractor on the public work. The initial evaluation must be prepared by the employee of the Division who was primarily responsible for managing the public work and must be approved by the supervisor of the employee.

2. Within 30 days after receipt of an initial evaluation pursuant to subsection 1, a prime contractor may submit to the Division or its designee a response to the initial evaluation, which must include, without limitation, any information or documentation that the prime contractor determines is relevant to the initial evaluation.

3. The Division or its designee will provide to the prime contractor a copy of the final evaluation of the performance of the prime contractor on the public work:

(a) If the prime contractor submitted a response pursuant to subsection 2, within 30 days after receipt of the response by the Division or its designee.

(b) If the prime contractor did not submit a response pursuant to subsection 2, within 60 days after provision of the initial evaluation to the prime contractor pursuant to subsection 1.

4. The final evaluation of the performance of the prime contractor on the public work:

(a) Must:

(1) Be prepared by the employee of the Division who prepared the initial evaluation and approved by the supervisor of the employee; and

(2) If the prime contractor submitted a response pursuant to subsection 2, include the response as an attachment; and

(b) If the prime contractor submitted a response pursuant to subsection 2, may include any revisions to the initial evaluation that the employee of the Division who prepared the initial evaluation deemed necessary based upon the response.

NAC 338.370 Criteria for qualification; pertinent documentation and information; list of subcontractors determined not to be qualified.

1. The following criteria will be used to determine whether a subcontractor who submits an application for qualification is qualified pursuant to NRS 338.1376 to be included in a bid:

(a) The financial ability of the subcontractor to perform the contract. The subcontractor must include with his or her application for qualification:

(1) A certified original statement of the bonding capacity of the subcontractor obtained from a surety which is authorized to issue bid, performance and payment bonds in this State and which:

(I) Has received a rating of “A-” or better, as determined by A.M. Best Company of Oldwick, New Jersey; and

(II) Is included on the list of approved sureties in Circular 570 of the Department of the Treasury.

Ê The requirements of sub-subparagraphs (I) and (II) do not apply if the surety is Lloyd’s of London. The certified original statement must specify the present single and aggregate limits of the subcontractor to work on a public work.

(2) If the subcontractor is going to be performing work for which he or she is required to be licensed pursuant to chapter 624 of NRS, evidence that the subcontractor is properly licensed pursuant to that chapter.

(3) A statement regarding whether the subcontractor, the principal personnel or any business entity associated with the principal personnel has filed as a debtor under the United States Bankruptcy Code during the 5 years immediately preceding the date of the application.

(b) The qualifications of the principal personnel of the subcontractor. The subcontractor must include in his or her application for qualification a description of the professional qualifications and relevant experience of the principal personnel of the subcontractor and list not more than 10 public works and private construction projects, or any combination thereof, within the cost category for which the subcontractor is applying for qualification that have been successfully completed by the principal personnel. For each successfully completed project included on the list, the subcontractor must provide:

(1) The name of the project or the name of the prime contractor on the project;

(2) The scope of the project or the scope of the portion of work within the project for which the principal personnel was responsible;

(3) The dollar amount of the project or the dollar amount of the portion of work within the project for which the principal personnel was responsible; and

(4) The month and year of substantial completion and final completion of the contract or portion of work for which the principal personnel was responsible.

(c) Whether the subcontractor, the principal personnel or any business entity associated with the principal personnel has been found to be in breach of contract by a court of competent jurisdiction or through binding arbitration during the 5 years immediately preceding the date of the application. For each such action, the subcontractor must include in the application for qualification a description of:

(1) The circumstances surrounding the action;

(2) Whether any liquidated damages were imposed in connection with the action; and

(3) Any judgment entered against the subcontractor, principal personnel or business entity associated with the principal personnel relating to the action.

(d) Whether the subcontractor, the principal personnel or any business entity associated with the principal personnel has been disqualified from the award of any contract pursuant to NRS 338.017 as amended by section 1 of Senate Bill No. 340, chapter 470, Statutes of Nevada 2015, at page 2720, NRS 338.13485 or 338.13895 during the 5 years immediately preceding the date of the application.

(e) The past performance history of the subcontractor, the principal personnel and each business entity associated with the principal personnel during the 5 years immediately preceding the date of the application. The subcontractor must include in the application for qualification:

(1) A description *and copy* of :

~~(I) Any any~~ civil judgment, findings of fact, administrative proceeding, criminal conviction or binding arbitration relating to *a public work or to* a violation of any law pertaining to *discrimination in employment with respect to construction work performed by the subcontractor*, wage and hour standards, prevailing wage rates or licensing either against or ~~by~~ *in favor of* the subcontractor, principal personnel or business entity associated with the principal personnel; ~~and~~

~~(II) Any civil judgment, findings of fact, administrative proceeding, criminal conviction or binding arbitration either against or by the subcontractor, principal personnel or business entity associated with the principal personnel relating to a violation of any law pertaining to discrimination in employment with respect to construction work. , including, for each such action, the following;~~

~~(I) The name of the project;~~

~~(II) The scope of the work;~~

~~(III) The circumstances surrounding the action;~~

~~(IV) Whether any liquidated damages were imposed in connection with the action;~~

and

~~(V) The outcome of the action.~~

(2) A list of all public works and private construction projects undertaken or completed by the subcontractor, principal personnel or business entity associated with the principal personnel during the 5 years immediately preceding the date of the application for which the cost exceeded \$25,000 and for which the subcontractor, principal personnel or business entity associated with the principal personnel failed to complete:

(I) Its portion of the work in a timely manner, as adjusted by any change order or extension of time granted;

(II) Any remaining requirements of the contract or failed to complete its portion of the work within 90 days after substantial completion of the contract; or

(III) Its portion of the work and the remaining work on the project was performed by another person.

(3) A list of not more than 10 public works and private construction projects, or any combination thereof, on which the subcontractor has successfully completed his or her portion of the work during the 5 years immediately preceding the date of the application which is within the cost category for which the subcontractor seeks qualification. For each project included on the list, the subcontractor must provide:

(I) The name of the project;

(II) The location of the project;

- (III) The cost of the portion of the work for which the subcontractor, the principal personnel and each business entity associated with the principal personnel were responsible;
 - (IV) A brief explanation of the type of work performed on the project; and
 - (V) The name, address and telephone number of:
 - (i) The owner of the project;
 - (ii) The owner’s project manager;
 - (iii) The architect or engineer of the project;
 - (iv) The prime contractor for the project; and
 - (v) The superintendent of the prime contractor for the project.
 - (f) Whether the subcontractor, the principal personnel or any business entity associated with the principal personnel 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 subcontractor to perform the work.
2. In addition to the information provided by the subcontractor pursuant to subsection 1, any other verifiable information relating to the criteria set forth in subsection 1 that is provided to or discovered by the Division or its employees regarding the subcontractor may be used to determine whether the subcontractor is qualified to be included in a bid pursuant to NRS 338.141.
3. The Division will maintain a public list of subcontractors that have been determined not to be qualified to be included in a bid pursuant to NRS 338.141.

Preference for Bids on Smaller Contracts Submitted by Local Businesses Owned by Veterans With Service-Connected Disabilities

Add the following definitions:

“Business owned and operated by a veteran with a service-connected disability” has the meaning ascribed to it in NRS 338.13841, as amended by section 18.5 of Assembly Bill No. 62, chapter 145, Statutes of Nevada 2015, at page 560.

“Local Business” has the meaning ascribed to it in NRS 333.3363.

“Veteran with a service-connected disability” has the meaning ascribed to it in NRS 338.13843.

NAC 338.450 Application; list of businesses qualified to receive preference.

1. To qualify to receive the preference set forth in *subsection 1 of NRS 338.13844, as amended by section 19 of Assembly Bill No. 62, chapter 145, Statutes of Nevada 2015, at page 560*, a business must:
- (a) Submit an application to the Administrator on a form prescribed and provided by the Board; and
 - (b) Certify in writing on the application and include with the application documentation evidencing that the business is:
 - (1) A local business; and

- (2) A business owned ***and operated*** by a veteran with a service-connected disability
2. The Division ~~will~~ ***shall***:
- (a) Compile and maintain a list of the businesses that the Administrator has determined are qualified to receive the preference set forth in ***subsection 1 of NRS 338.13844 ; as amended by section 19 of Assembly Bill No. 62, chapter 145, Statutes of Nevada 2015, at page 560;*** and
- (b) Post the list on the Internet website maintained by the Division.
- ~~3.—As used in this section:~~
- ~~—(a) “Business owned by a veteran with a service-connected disability” has the meaning ascribed to it in NRS 338.13841.~~
- ~~—(b) “Local business” has the meaning ascribed to it in NRS 333.3363.~~
- ~~—(c) “Veteran with a service-connected disability” has the meaning ascribed to it in NRS 338.13843.~~
- 3. To qualify to receive the preference set forth in subsection 2 of NRS 338.13844, as amended by section 19 of Assembly Bill No. 62, chapter 145, Statutes of Nevada 2015, at page 560, a business must:***
- (a) ***Submit an application to the Administrator on a form prescribed and provided by the Board; and***
- (b) ***Certify in writing on the application and include with the application documentation evidencing that the business is:***
- (1) ***A local business; and***
- (2) ***A business owned and operated by a veteran with a service-connected disability that has been determined to be 50 percent or more by the United States Department of Veterans Affairs.***
4. The Division ~~will~~ ***shall***:
- (a) ***Compile and maintain a list of the businesses that the Administrator has determined are qualified to receive the preference set forth in subsection 2 of NRS 338.13844 ; as amended by section 19 of Assembly Bill No. 62, chapter 145, Statutes of Nevada 2015, at page 560; and***
- (b) ***Post the list on the Internet website maintained by the Division.***
- ~~3.—As used in this section:~~
- ~~—(a) “Business owned by a veteran with a service-connected disability” has the meaning ascribed to it in NRS 338.13841.~~
- ~~—(b) “Local business” has the meaning ascribed to it in NRS 333.3363.~~
- ~~—(c) “Veteran with a service-connected disability” has the meaning ascribed to it in NRS 338.13843.~~

Contracts Between Construction Managers at Risk and Subcontractors to Provide Labor,
Materials or Equipment on Projects

NAC 338.580 Submission of applications for qualification.

1. The ***construction manager at risk shall advertise advertisement*** for applications for qualifications ***pursuant to NRS 338.1385 (1)(a). The advertisement for applications for qualifications*** published by a construction manager at risk pursuant to subsection 3 of NRS 338.16991, must state that the construction manager at risk will return unopened a proposal

received from a subcontractor who has not qualified to submit a proposal pursuant to NRS 338.16991.

2. To qualify to submit a proposal pursuant to NRS 338.16991, a subcontractor must:

(a) Submit to the construction manager at risk an application for qualification on a form prescribed and provided by the construction manager at risk.

(b) Be qualified by the construction manager at risk pursuant to the provisions of NRS 338.16991 before proposals are required to be submitted to the construction manager at risk for the public work on which the subcontractor wishes to submit a proposal.

3. For the purpose of ensuring that the determination of whether subcontractors are qualified to submit proposals is based on the criteria set forth in subsection 4 of NRS 338.16991, the construction manager at risk must provide to the public body or its authorized representative a copy of the application form used by the construction manager at risk to qualify subcontractors.

4. An application for qualification must:

(a) Contain the original signature of the subcontractor; and

(b) At a minimum, include the following information:

(1) The monetary limit on the applicant's license established by the State Contractors' Board pursuant to subsection 2 of NRS 624.220;

(2) A statement of the applicant's bonding capacity which is obtained from a surety authorized to issue bid, performance and payment bonds in this State;

(3) A description of the applicant's current workload and schedule;

(4) A balance sheet for the applicant which was prepared within 1 year of the notice to proceed; and

(5) Evidence of a bank account in good standing.

5. The submission of a materially incomplete or falsified application for qualification by a subcontractor and the failure of the subcontractor to disclose information required in the application may be grounds for the disqualification of the subcontractor.

6. A construction manager at risk may not delay the opening of proposals pursuant to NAC 338.630 pending the determination or appeal of the determination of the qualification of a subcontractor who wishes to submit a proposal.

7. A construction manager at risk must determine that at least three subcontractors in each trade or scope of work necessary to provide labor, materials and equipment for a public work are qualified to submit a proposal for the public work, unless the construction manager at risk has obtained the written approval of the public body to qualify fewer than three subcontractors in a particular trade or scope of work.

NAC 338.610 Notice of request for proposals.

1. The notice of a request for proposals required by subsection 3 of NRS 338.16995 must contain:

(a) The information required by subsection 4 of NRS 338.16995; and

(b) Plans sufficiently complete to allow a subcontractor to submit a meaningful and responsive proposal.

2. Before disseminating to subcontractors the notice of a request for proposals required by subsection 3 of NRS 338.16995, the construction manager at risk must provide to the public

body or its authorized representative a copy of the notice, ~~and~~ any instructions for proposals, *and the form that the subcontractor must use when submitting their proposal.*

NAC 338.620 Proposals: When considered responsive; process if fewer than three received; envelopes must be time stamped.

1. To be considered responsive a proposal must:
 - (a) Satisfy the requirements of subsection 6 of NRS 338.16995;
 - (b) Be submitted:
 - (1) In a sealed envelope; ~~and~~
 - (2) By a subcontractor whom the construction manager at risk determined to be qualified in the trade or scope of work for which the proposal was submitted and who attended the preproposal meeting; ~~and~~
(3) On the proposal form provided by the CMAR; and
 - (c) Respond to the details and requirements included in the instructions related to the proposal and the bid package.
2. If a construction manager at risk has determined that three or more subcontractors are qualified to submit proposals for a trade or scope of work and has received fewer than three proposals for that trade or scope of work at the time proposals are opened, the construction manager at risk may not open any proposal for that trade or scope of work until the construction manager at risk receives from the public body or its authorized representative written directions concerning the manner in which to proceed. The public body has complete discretion to develop the written directions and the construction manager at risk must proceed in a manner consistent with the written directions developed by the public body. If the public body directs the construction manager at risk to solicit additional proposals, a subcontractor that has submitted a proposal may withdraw the proposal.
3. A construction manager at risk shall time stamp all envelopes containing proposals to provide labor, materials or equipment on a public work which are submitted by subcontractor.

NAC 338.630 Proposals: Opening; qualifications.

1. A construction manager at risk shall open proposals submitted by subcontractors who were qualified to submit proposals in accordance with the provisions of subsection 7 of NRS 338.16995.
2. Before the construction manager at risk opens a proposal submitted by a subcontractor, the construction manager at risk must confirm that the proposal was:
 - (a) Submitted by a subcontractor who was determined to be qualified to submit a proposal in the trade or for the scope of work for which the subcontractor has submitted a proposal;
 - (b) Submitted by a subcontractor who attended the preproposal meeting, *if a preproposal meeting was held*; ~~and~~
(c) Submitted on the form provided by the construction manager at risk in the request for proposal pursuant to NAC 338.610; and
 - (c) Timely received by the construction manager at risk.
3. If a proposal does not satisfy the requirements of subsection 2, the construction manager at risk must return the proposal unopened to the subcontractor who submitted the proposal.