

**PROPOSED REGULATION OF THE  
NEVADA HEALTH AUTHORITY**

**LCB File No. R009-26**

May 4, 2026

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

AUTHORITY: §§ 1-30, NRS 232.49925.

A REGULATION relating to procurement; prescribing various procedures and requirements for the procurement of goods and services by the Nevada Health Authority; establishing preferences for certain bidders; authorizing the imposition of administrative penalties in certain circumstances; prescribing the procedures for appealing the award of a contract; prescribing procedures for the award of a contract to an independent contractor; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law creates the Nevada Health Authority to assume certain responsibilities relating to the management of certain public health insurance plans and the licensing and regulation of certain persons and entities involved in the provision of health care. (NRS 232.4991) Existing law: (1) exempts, with certain exceptions, the Authority from provisions of law governing state procurement; and (2) requires the Authority to adopt certain regulations governing procurement by the Authority. (NRS 232.49925) Existing law further authorizes the Board of the Public Employees’ Benefits Program to use the services of the Authority for procurement. (NRS 287.043)

This regulation prescribes the procedures for the procurement of goods and services by the Authority. **Section 6** of this regulation requires the Director of the Authority to designate a person to serve as the contact for the purposes of answering questions about a request for proposals. **Section 7** of this regulation requires: (1) the Director to give reasonable notice of proposed purchases of goods or services; and (2) imposes requirements governing the purchase of such goods or services that vary based on the estimated cost of the goods or services. **Section 7** authorizes the Director to waive provisions for advertisements on competitive bids in certain emergencies. **Section 7** also prescribes procedures to be used if two or more bids for a contract for the purchase of goods or services are identical. **Section 8** of this regulation prescribes requirements for the contents and publication of an advertisement for goods or services. **Section 9** of this regulation prescribes the requirements for a request for proposals. **Section 10** of this regulation authorizes the Director to use on-line bidding to receive proposals or bids.

**Section 11** of this regulation authorizes the Authority to contract with a person who has expert knowledge or special expertise that relates to a contract. **Section 12** of this regulation: (1) requires the Director or a committee appointed by the Director to evaluate each proposal; and (2)

prescribes the membership of such a committee. **Section 3** of this regulation defines “committee to evaluate proposals” to refer to such a committee. **Section 13** of this regulation: (1) requires the Director or the committee to evaluate proposals, before advertising a request for proposals, to determine the evaluation criteria for the award of the contract; and (2) establishes certain requirements for the evaluation of proposals. **Section 14** of this regulation requires the Authority to prepare written instructions for a committee to evaluate proposals and prescribes certain requirements related to such instructions.

**Section 15** of this regulation authorizes the Director or the committee to evaluate proposals to discuss the proposals submitted with those persons who submitted the proposals. **Section 16** of this regulation: (1) authorizes the Director or the committee to evaluate proposals to request and authorize the submission of revised proposals; (2) requires the Director or committee to evaluate proposals to provide to each person who submitted a proposal a written notice of intent to award the contract on a contingent basis; and (3) prescribes the contents of such a notice. **Section 16** provides that after the contract is awarded on a contingency basis, the negotiations of the final terms of the contract are confidential until a final contract is agreed upon. Further, **section 16** prescribes the procedures if a final contract is not agreed upon. Finally, if a final contract is executed, **section 16** requires the contact person to provide a notice of the award of the contract to each person who submitted a proposal.

**Section 17** of this regulation creates a preference of 5 percent for a bid or proposal for a purchasing contract which is submitted by a Nevada-based business. **Section 19** of this regulation creates a preference of 5 percent for a bid or proposal for a purchasing contract which is submitted by a Nevada-based business that is owned and operated by a veteran with a specified service-connected disability, which may be combined with the preference established by **section 17**. **Section 5** of this regulation defines the term “Nevada-based business.” **Sections 18 and 20** of this regulation impose certain restrictions upon a business that makes a material misrepresentation or commits a fraudulent act in applying for a preference pursuant to **sections 17 and 19**, respectively.

**Section 21** of this regulation requires that a person who enters into any contract on behalf of the Authority ensure that the contract: (1) includes certain provisions; (2) is reduced to writing; (3) is signed by each party; and (4) is approved by the Director or the Office of the Attorney General. **Section 22** of this regulation prohibits a contract from requiring: (1) the filing of any action or the arbitration of any dispute that arises from the contract to be instituted or heard in another state or nation; and (2) the State to indemnify another party against liability for damages.

**Section 23** of this regulation authorizes: (1) the award of a contract for separate items or portions or groups of items, or for separate portions or groups of portions of a project; (2) the Director to reject all bids or proposals and advertise for new bids or proposals if no satisfactory bid or proposal was received; and (3) the Director to allow a person to withdraw his or her bid without a penalty under certain circumstances.

**Section 24** of this regulation provides, with certain exceptions, that proprietary information regarding a trade secret does not constitute public information and is confidential.

**Section 25** of this regulation authorizes the Director to impose certain restrictions and penalties on a person who breaches a contract with the Authority.

**Section 26** of this regulation requires a person who wishes to appeal the award of a contract to file a notice of intent to appeal with the Authority. Upon receiving such notice, **section 26** provides that the Authority will review the award of the contract and determine

whether to uphold the award, cancel the award or award the contract to a different bidder. **Section 26** further authorizes the person whose bid or proposal remains unsuccessful or was cancelled to file notice of appeal. **Section 27** of this regulation prescribes the procedure for an appeal of an award of a contract after the Authority makes a determination pursuant to **section 26**.

**Section 28** of this regulation authorizes the Authority to purchase prescription drugs, pharmaceutical services or medical supplies and related services in cooperation with other entities under certain circumstances as authorized by law. (NRS 277.110) **Section 28** also requires the Authority to maintain certain public records of the purchase of prescription drugs, pharmaceutical services or medical supplies and related services.

**Section 29** of this regulation authorizes the Authority to contract for the services of an independent contractor. **Section 29**: (1) requires that such a contract be awarded pursuant to the provisions of this regulation, except as otherwise provided by law; and (2) imposes certain other requirements relating to such a contract. **Section 30** of this regulation: (1) exempts certain contracts from the requirement set forth in **section 29** that a contract for the services of an independent contractor be awarded pursuant to the provisions of this regulation; and (2) prescribes certain requirements for a contract for an independent contractor. **Section 4** of this regulation defines “independent contractor.” **Section 2** of this regulation establishes the applicability of the definitions set forth in **sections 3-5**.

**Section 1.** Chapter 232 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 30, inclusive, of this regulation.

**Sec. 2.** *As used in sections 2 to 30, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3, 4 and 5 of this regulation have the meanings ascribed to them in those sections.*

**Sec. 3.** *“Committee to evaluate proposals” means a committee to evaluate proposals appointed pursuant to section 12 of this regulation.*

**Sec. 4.** *“Independent contractor” means a natural person, firm or corporation who agrees to perform services for a fixed price according to his, her or its own methods and without subjection to the supervision or control of the other contracting party, except as to the results of the work, and not as to the means by which the services are accomplished.*

**Sec. 5.** *“Nevada-based business” means a business which certifies that:*

*1. Its principal place of business is in this State; or*

*2. The majority of goods provided for in the contract awarded pursuant to the provisions of sections 2 to 30, inclusive, of this regulation are produced in this State.*

*Sec. 6. 1. Before advertising a request for proposals, the Director must designate a person to answer questions concerning the contract to be awarded by competitive selection pursuant to the request for proposals. That person must be the only contact person throughout the process of awarding the contract.*

*2. A person who wishes to submit a proposal or a representative of such a person shall not ask questions of or otherwise discuss the contents of a request for proposals with an employee or representative of the Authority identified in the request for proposals for which the purchase is to be made unless the employee or representative of the Authority is the person designated by the Authority as the contact person pursuant to subsection 1.*

*3. The Director may disqualify a proposal submitted by a person who violates, or whose representative violates, the provisions of subsection 2.*

*4. The provisions of this section do not prohibit discussions between a person who wishes to submit a proposal, or a representative of such a person, and an employee or representative of the Authority identified in a request for proposals as the agency for which the purchase is to be made if those discussions are unrelated to the contract to be awarded pursuant to the request for proposals.*

*Sec. 7. 1. The Director shall give reasonable notice, by advertising and by written notice provided to persons in a position to furnish the goods or services involved, as shown by the records of the Authority, of all proposed purchases of goods or services.*

*2. Except as otherwise provided in this section, if the Director solicits a large purchase, the Authority will purchase the relevant goods or services by formal contract from a bidder*

*who, in the determination of the Director, will produce results that are highest in quality and value after notice inviting the submission of sealed proposals to the Director. Such notice must set forth the date, hour and location at which the Director must publicly open the proposals. The Authority may reject any or all proposals, or may accept the proposal determined best for the interest of the State. The notice must be published as prescribed in section 8 of this regulation.*

*3. The Director may solicit a small purchase by written contract from a bidder who, in the determination of the Director, will produce results that are highest in quality and value. Notice of the proposed purchase must be provided to:*

- (a) At least three persons in a position to furnish the goods or services; and*
- (b) The Office of Economic Development.*

*4. In case of emergencies caused by acts of God or the national defense or other unforeseeable circumstances, the Director may waive provisions for advertisements on competitive bids, but a reasonable effort must be made to secure the maximum competitive bidding under the circumstances. In no case may contracts be awarded until a reasonable effort has been made to secure at least three bona fide competitive bids.*

*5. In awarding a contract for a small purchase, if two or more bids are identical, the Director shall:*

*(a) If the bids are by bidders resident in the State of Nevada, accept the proposal which, in the discretion of the Director, will produce results that are highest in quality and value.*

*(b) If the bids are by bidders resident outside the State of Nevada:*

*(1) Accept the proposal of the bidder who will furnish goods or services produced or manufactured in this State;*

*(2) Accept the proposal of the bidder who will furnish the goods or services supplied by a dealer who is resident in the State of Nevada; or*

*(3) If the bids are identical for the purposes of subparagraphs (1) and (2), accept the proposal which, in the determination of the Director, will produce results that are highest in quality and value.*

*6. As used in this section:*

*(a) "Highest in quality and value" means the greatest benefits to the State after considering the relevant factors, including, without limitation, quality, functionality, qualifications of the vendor, experience, performance on past contracts, schedule of delivery, maintenance, reliability, life cycle cost or any other criteria identified in the request for proposals.*

*(b) "Large purchase" means the procurement of goods or services or a combination thereof with an estimated cost of \$100,000 or more.*

*(c) "Small purchase" means the procurement of goods or services or a combination thereof with an estimated cost of less than \$100,000.*

*Sec. 8. 1. An advertisement must contain a general description of the goods or services for which a bid or proposal is wanted and must state:*

*(a) The name and location of the Authority or, if the purchase is to be made for the Board of the Public Employees' Benefits Program, the name and location of the Board of the Public Employees' Benefits Program.*

*(b) Where and how specifications may be obtained.*

*(c) If the advertisement is for bids, whether the Director will or is authorized by the Board of the Public Employees' Benefits Program to consider a bid for an article that is an alternative to the article listed in the original request for bids if:*

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

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

*(3) The Director deems the purchase of the alternative articles to be in the best interests of the State of Nevada.*

*(d) Notice of the preferences set forth in sections 17 and 19 of this regulation.*

*(e) The date and time not later than which responses must be received by the Authority.*

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

*2. The Director or a designated agent of the Director must approve the copy for the advertisement.*

*3. Each advertisement must be published on the Internet website of the Authority.*

**Sec. 9. 1. Each request for proposals must include, without limitation:**

*(a) The minimum requirements that the successful bidder must meet for the awarding of a contract pursuant to the provisions of sections 2 to 30, inclusive, of this regulation; and*

*(b) The evaluation criteria established pursuant to section 13 of this regulation for the award of the contract.*

*2. The Authority will not award a contract to a bidder who does not comply with the minimum requirements set forth pursuant to paragraph (a) of subsection 1 in the request for proposals.*

**Sec. 10. 1.** *The Director may use on-line bidding to receive proposals or bids in response to a request for proposals or invitation to bid.*

*2. A request for proposals or invitation to bid for which proposals or bids may be submitted pursuant to subsection 1:*

*(a) Must designate a date and time at which proposals or bids may be submitted; and*

*(b) May designate a date and time after which proposals or bids will no longer be received.*

*3. As used in this section:*

*(a) "Invitation to bid" means a written statement which sets forth the requirements and specifications of a contract to be awarded by competitive selection.*

*(b) "On-line bidding" means a process by which bidders submit proposals or bids for a contract on a secure website on the Internet which is established and maintained for that purpose.*

**Sec. 11. 1.** *The Authority may contract with a person who has expert knowledge or special expertise in a particular subject matter relating to a contract that may be awarded pursuant to the provisions of sections 2 to 30, inclusive, of this regulation, for the purposes of:*

*(a) Advising the Authority on the development of an advertisement or a request for proposals for such a contract;*

*(b) Reviewing complex and technical components of proposals or bids; or*

*(c) Serving as a member of a committee to evaluate proposals.*

*2. Before a person may be employed under such a contract, the person must verify that he or she does not have financial interest in the contract.*

**Sec. 12. 1.** *Each proposal must be evaluated by the Director, or a committee to evaluate proposals appointed by the Director, in accordance with the provisions of sections 2 to 30, inclusive, of this regulation.*

*2. A committee to evaluate proposals must include at least two state officers or employees. The committee to evaluate proposals may include persons who are not state officers or employees and possess expert knowledge or special expertise that the Director determines is necessary to evaluate a proposal. If the committee to evaluate proposals is appointed to evaluate a proposal for the procurement of technology for which the estimated cost is \$100,000 or more, the committee must include a person designated by the Chief Information Officer of the State appointed pursuant to NRS 223.085 if the Chief Information Officer determines the inclusion of such a person is necessary to evaluate the proposal.*

*3. Except as otherwise provided in this subsection, members of a committee to evaluate proposals are not entitled to compensation for their service on the committee. Members of the committee to evaluate proposals who are state officers or employees are entitled to receive their salaries as state officers and employees. Members who are employed pursuant to section 11 of this regulation are entitled to receive the compensation set forth in the contract for the employment of the member. No member of the committee to evaluate proposals may have a financial interest in a proposal.*

*4. Any communications between a person who submits a proposal and the Authority, any officer or employee thereof or a committee to evaluate proposals and any information contained in a proposal are confidential.*

**Sec. 13. 1.** *In addition to the requirement set forth in subsection 1 of section 6 of this regulation, before advertising a request for proposals, the Director or the committee to*

*evaluate proposals, if the Director appoints such a committee, must determine the evaluation criteria for the award of the contract.*

*2. Before making an award, the Director or each member of the committee to evaluate proposals, as applicable, must review, consider and consistently score each responsive proposal in accordance with the evaluation criteria determined pursuant to subsection 1.*

*3. In making an award, the Director or the committee to evaluate proposals, as applicable, shall:*

*(a) Consider and assign a score for each evaluation criterion disclosed in the request for proposals; and*

*(b) Determine the relative weight of each evaluation criterion disclosed in a request for proposals before the request for proposals is advertised.*

*4. The Director or the committee to evaluate proposals, as applicable, shall award the contract based on the total scores assigned pursuant to subsection 3 and is not required to accept the lowest-priced bid.*

**Sec. 14.** *1. If the Director appoints a committee to evaluate proposals, the Authority will:*

*(a) Prepare written instructions concerning the manner in which evaluations of proposals must be conducted by the committee to evaluate proposals; and*

*(b) Provide a copy of the instructions to each member of such a committee to evaluate proposals.*

*2. Each member of a committee to evaluate proposals shall:*

*(a) Acknowledge, on a form provided by the Authority, that he or she has received, read and understands the written instructions provided pursuant to subsection 1; and*

*(b) Comply with the written instructions prepared and provided by the Authority pursuant to subsection 1.*

*3. The written instructions prepared and provided by the Authority pursuant to subsection 1 must include, without limitation, a requirement that each member of a committee to evaluate proposals evaluate and score each proposal in a consistent manner by:*

*(a) Evaluating and scoring each section of the proposal assigned for his or her review using each evaluation criterion established pursuant to section 13 of this regulation; and*

*(b) Scoring each evaluation criterion established pursuant to section 13 of this regulation within the relative weight assigned for that criterion.*

*4. Each member of a committee to evaluate proposals must provide a written explanation of the score he or she assigned to a proposal upon request of the Authority.*

**Sec. 15.** *1. The Director or the committee to evaluate proposals may discuss the proposals submitted with those persons who submitted proposals to clarify the requirements and specifications of the contract to be awarded.*

*2. The Director and each member of the committee to evaluate proposals:*

*(a) Shall treat the persons who submit proposals fairly and equally with regard to giving those persons an opportunity to:*

*(1) Discuss the proposals as described in subsection 1; and*

*(2) Submit revised proposals.*

*(b) Shall not discuss with a person who submitted a proposal any information that was derived from a competing proposal.*

**Sec. 16.** *1. To obtain the best offers, the Director or the committee to evaluate proposals, as applicable, may request and authorize the submission of revised proposals after*

*the date on which proposals are required to be submitted and before the contract is awarded. A request for revised proposals must:*

*(a) Be made in writing and specify a date, time and place for the submission of the revised proposal; and*

*(b) State that if a revised proposal is not submitted in accordance with the requirements specified in paragraph (a), the Director or committee to evaluate proposals will consider the previous proposal submitted by the bidder as the final proposal of that bidder.*

*2. If the Director or the committee to evaluate proposals selects a proposal for the award of the contract, the person designated by the Director as the contact person pursuant to section 6 of this regulation shall provide to each person who submitted a proposal a written notice of intent to award the contract. The notice of intent to award the contract must:*

*(a) Identify the proposal selected for the award of the contract; and*

*(b) State that the award of the contract is contingent upon the successful negotiation of the final terms of the contract with the person selected for the award of the contract.*

*3. After the notice of intent to award the contract has been provided in accordance with subsection 2, the negotiations of the final terms of the contract are confidential and must not be disclosed to any other person who has submitted a proposal until a final contract is agreed upon.*

*4. If a final contract is not agreed upon:*

*(a) The person designated by the Director as the contact person pursuant to section 6 of this regulation shall:*

*(1) Provide written notice to each person who submitted a proposal; and*

*(2) Issue a written withdrawal of the award to the person whose proposal was selected for the award of the contract and with whom the Director or the committee to evaluate proposals was unable to agree upon a final contract.*

*(b) The Director or the committee to evaluate proposals shall:*

*(1) Negotiate, in a manner consistent with the provisions of subsection 2, the final terms of the contract with the person who submitted the proposal that received the next highest score; or*

*(2) Withdraw the request for proposals.*

*5. The Director or the committee to evaluate proposals, as applicable, shall repeat the procedures set forth in this section until a final contract is agreed upon or the request for proposals is withdrawn.*

*6. After the contract has been executed by all the appropriate parties, the person designated by the Director as the contact person pursuant to section 6 of this regulation shall provide to each person who submitted a proposal a written notice of the award of the contract. The notice of the award of the contract must:*

*(a) Identify the proposal pursuant to which the contract will be awarded;*

*(b) State that the period after which a person who makes an unsuccessful proposal may file a notice of intent to appeal as set forth in section 26 of this regulation has commenced; and*

*(c) State that a person who made an unsuccessful proposal may file a notice of intent to appeal pursuant to section 26 of this regulation.*

*Sec. 17. 1. Except as otherwise provided in subsection 2, if a business that qualifies as a Nevada-based business submits a:*

*(a) Bid to furnish goods, the bid shall be deemed to be 5 percent lower than the bid actually submitted.*

*(b) Proposal to contract for services, the score assigned to the proposal pursuant to section 13 of this regulation shall be deemed to be 5 percent higher than the score actually awarded.*

*2. The preference described in subsection 1 may not be:*

*(a) Granted for the award of any contract which uses federal money unless such a preference is authorized by federal law.*

*(b) Granted for the award of any contract procured on a multistate basis.*

**Sec. 18.** *1. In addition to any other remedy or penalty provided by law, if the Authority determines that a business has made a material misrepresentation or otherwise committed a fraudulent act in applying for a preference described in section 17 of this regulation or has failed to comply with the requirements of that section, the business shall not:*

*(a) Bid on a contract awarded by the Authority for 1 year after the date on which the Authority makes such a determination; or*

*(b) Apply for, and may not receive, a preference described in section 17 of this regulation for 5 years after the date on which the Authority makes such a determination.*

*2. If the Authority determines, as described in subsection 1, that a business has made a material misrepresentation or otherwise committed a fraudulent act in applying for a preference described in section 17 of this regulation or has failed to comply with the requirement of that section, the business may apply to the Director to review the decision pursuant to chapter 233B of NRS.*

**Sec. 19.** *1. For the purpose of awarding a formal contract solicited pursuant to subsection 2 of section 7 of this regulation or awarding a contract for the services of a person*

*as an independent contractor pursuant to subsection 1 of section 29 of this regulation, if a Nevada-based business owned and operated by a veteran with a service-connected disability submits a bid or proposal for such a contract and is a responsive and responsible bidder, the bid or proposal shall be deemed to be 5 percent lower than the bid or proposal actually submitted.*

*2. The preference described in subsection 1 may be combined with the preference described in section 17 of this regulation.*

**Sec. 20.** *1. If the Authority determines that a business has made a material misrepresentation or otherwise committed a fraudulent act in applying for the preference described in section 19 of this regulation, the business is thereafter permanently prohibited from:*

- (a) Applying for or receiving the preference described in section 19 of this regulation; and*
- (b) Bidding on a purchasing contract.*

*2. If the Authority determines, as described in subsection 1, that a business has made a material misrepresentation or otherwise committed a fraudulent act in applying for the preference described in section 19 of this regulation, the business may apply to the Director to review the decision pursuant to chapter 233B of NRS.*

**Sec. 21.** *Each person who is authorized pursuant to the provisions of sections 2 to 30, inclusive, of this regulation to enter into any contract on behalf of the Authority shall ensure that the contract:*

- 1. Includes any provision related to insurance that the State Risk Manager determines is necessary;*
- 2. Is reduced to writing;*

3. *Is signed by each party to the contract; and*
4. *Is approved by the Director or the Office of the Attorney General.*

**Sec. 22.** *Any contract that is entered into or renewed pursuant to sections 2 to 30, inclusive, of this regulation may not require:*

1. *The filing of any action or the arbitration of any dispute that arises from the contract to be instituted or heard in another state or nation; or*
2. *The State to indemnify another party against liability for damages.*

**Sec. 23.** 1. *The Authority may award a contract for separate items or portions or groups of items, or for separate portions or groups of portions of a project, as the best interest of the State requires.*

2. *If, in the judgment of the Director:*

*(a) No satisfactory bid has been received, the Director may reject all bids and will promptly advertise for new bids as provided in sections 2 to 30, inclusive, of this regulation. Until a satisfactory contract is awarded, the Director may make as many open market purchases of the goods or services involved as are urgently needed to meet the requirements.*

*(b) No satisfactory proposal has been received, the Director may reject all proposals and may advertise for new proposals as provided in sections 2 to 30, inclusive, of this regulation.*

3. *The Director may allow a person to withdraw his or her bid or proposal without penalty if:*

*(a) The Director believes that an obvious error has been made by the person which would cause him or her financial hardship; and*

- (b) The contract has not yet been awarded.*

*4. The Director shall ensure that each bid or proposal and the name of the person making the bid or proposal is entered on a record. The record, with the name of the successful bidder or proposer indicated thereon, must, after the award of the contract, be open to public inspection.*

*Sec. 24. 1. Except as otherwise provided in subsection 2 and NRS 239.0115, proprietary information regarding a trade secret does not constitute public information and is confidential.*

*2. A person shall not disclose proprietary information regarding a trade secret unless the disclosure is made for the purpose of a civil, administrative or criminal investigation or proceeding, and the person receiving the information represents in writing that protections exist under applicable law to preserve the integrity, confidentiality and security of the information.*

*3. As used in this section:*

*(a) "Confidential business information" means any information relating to the amount or source of any income, profits, losses or expenditures of a person, including, without limitation, data relating to cost or price submitted in support of a bid or proposal. The term does not include the amount of a bid or proposal.*

*(b) "Proprietary information" means:*

*(1) Any trade secret or confidential business information that is contained in a bid or proposal submitted on a particular contract; or*

*(2) Any other trade secret or confidential business information submitted in a bid or proposal and designated as a proprietary by the Director.*

*(c) "Trade secret" has the meaning ascribed to it in NRS 600A.030.*

*Sec. 25. 1. If a person has entered into a contract with the Authority and does not perform according to the terms of the contract, the Director may:*

*(a) Refuse to accept a bid from the person, refuse to award a contract to the person, or both, for not more than 2 years; and*

*(b) Impose an administrative penalty, in an amount not to exceed 5 percent of the total value of the bid or contract. Such a penalty may be recovered only after notice and the opportunity for a hearing pursuant to chapter 233B of NRS.*

*2. A penalty imposed pursuant to subsection 1 may be deducted from any payment due to the person or, if a bond has been issued or a check received, a claim may be made against the bond or check. If no payment is due and no bond was issued or check received, the Director may issue a claim for payment of the penalty. The claim must be paid within 30 days.*

*Sec. 26. 1. A person who wishes to file a notice of appeal pursuant to section 27 of this regulation must file a notice of intent to appeal with the Authority not earlier than the date of award as entered on the bid record and not later than 10 business days after that date. The notice of intent to appeal must include a written statement specifying any alleged violation of sections 2 to 30, inclusive, of this regulation.*

*2. Upon receipt of a notice of intent to appeal, the Authority will conduct an internal administrative review of the award to which the notice pertains which must include, without limitation, a review of:*

*(a) The bids or proposals submitted for the contract; and*

*(b) The evaluation conducted by the Director or committee, as applicable.*

*3. During an internal administrative review conducted pursuant to subsection 2, the Authority may:*

*(a) Request written responses, records or clarifications from employees of the Authority, members of the committee or the person who filed the notice of intent to appeal;*

*(b) Correct any clerical, mathematical or procedural errors made during the process of awarding the contract; or*

*(c) Make reasonable adjustments to the evaluation or scoring of a proposal where the record demonstrates that the applicable requirements or evaluation criteria were not properly applied.*

*4. Upon completion of an internal administrative review pursuant to subsection 2 and within a reasonable time after the receipt of the notice of intent to appeal, the Director shall:*

*(a) Determine whether the award should be upheld, canceled or awarded to another bidder; and*

*(b) Issue written notice of that determination to the person who filed the notice of intent to appeal and the person who was originally awarded the contract. The written notice must state the basis for the determination.*

*5. A person who receives written notice pursuant to subsection 4 that his or her bid or proposal remains unsuccessful or that his or her successful bid or proposal has been cancelled may file a notice of appeal pursuant to section 27 of this regulation.*

*Sec. 27. 1. A person who makes an unsuccessful bid or proposal may file a notice of appeal with the Hearings Division of the Department of Administration within 11 days after the date on which the Director notifies the bidder of the determination of the Authority as required by subsection 4 of section 26 of this regulation. The notice of appeal must include a written statement specifying any alleged violation of sections 2 to 30, inclusive, of this regulation.*

2. *A person filing a notice of appeal must post a bond with good and solvent surety authorized to do business in this State or submit a certified check or a cashier's check to the Authority, who will hold the bond or other security until a determination is made on the appeal. Except as otherwise provided in subsection 3, a bond posted or other security submitted with a notice of appeal must be in an amount equal to 25 percent of the estimated total value of the successful bid submitted.*

3. *If the total value of the successful bid cannot be determined because the total requirements for the contract are estimated as of the date of award, a bond posted or other security submitted with a notice of appeal must be in an amount equal to 25 percent of the estimated total value of the contract. Upon request, the Director shall provide:*

*(a) The estimated total value of the contract; or*

*(b) The method for determining the estimated total value of the contract,*

*↳ based on records of past experience and estimates of anticipated requirements furnished by the Authority.*

4. *Within 20 days after receipt of the notice of appeal, a hearing officer of the Hearings Division of the Department of Administration shall hold a contested hearing on the appeal in substantial compliance with the provisions of NRS 233B.121 to 233B.1235, inclusive, 233B.125 and 233B.126. The successful bidder must be given notice of the hearing in the same manner as the person who filed the notice appeal. The successful bidder may participate in the hearing. Within 60 days after receipt of the notice of appeal, the hearing officer shall make a determination on the appeal.*

5. *The hearing officer may only cancel the award for lack of compliance with the provisions of sections 2 to 30, inclusive, of this regulation. A cancellation of the award*

*requires a new award in accordance with the provisions of sections 2 to 30, inclusive, of this regulation.*

*6. A notice of appeal filed in accordance with the provisions of this section operates as a stay of action in relation to any contract until a determination is made by the hearing officer on the appeal.*

*7. A person who makes an unsuccessful bid or proposal may not seek any type of judicial intervention until the hearing officer has made a determination on the appeal.*

*8. The Director may make as many open market purchases of the goods or services as are urgently needed to meet the requirements of the Authority until a determination is made on the appeal.*

*9. Neither the Authority nor any division or other entity within the Authority, a contractor or any employee or an officer of the State is liable for any costs, expenses, attorney's fees, loss of income or other damages sustained by a person who makes an unsuccessful bid or proposal, whether or not the person files a notice of appeal pursuant to this section.*

*10. If the appeal is upheld and the award is cancelled, the bond posted or other security submitted with the notice of appeal must be returned to the person who posted the bond or submitted the security. If the appeal is rejected and the award is upheld, the Authority may make a claim to the Hearings Division of the Department of Administration against the bond or other security in an amount equal to the expenses incurred and other monetary losses suffered by the Authority because of the unsuccessful appeal. The hearing officer will hold a hearing on the claim in the same manner as prescribed in subsection 4. Any money not awarded by the hearing officer must be returned to the person who posted the bond or submitted the security.*

*11. The Authority must make written notice of a claim against a bond or other security pursuant to subsection 10 to the Hearings Division not later than 10 days after the date on which the hearing officer has rejected the appeal for which the bond or other security was posted.*

*12. If the Authority does not make a claim against a bond or other security pursuant to subsection 10 within the time set forth in that subsection, the Authority will return the entire bond or other security to the person who posted the bond or other security and the Authority may not file other claims regarding that bond or other security.*

**Sec. 28.** *1. The Authority may purchase prescription drugs, pharmaceutical services or medical supplies and related services in cooperation with other governmental entities or private entities within or outside this State in accordance with the provisions of subsection 3 of NRS 277.110 if the Authority can obtain the best value for the prescription drugs, pharmaceutical services or medical supplies and related services through such cooperation.*

*2. If the Authority purchases prescription drugs, pharmaceutical services or medical supplies and related services, the Authority will maintain a record of:*

*(a) The purchase price for the prescription drugs, pharmaceutical services or medical supplies and related services; and*

*(b) The name, address and telephone number of any entity with which the Authority cooperated pursuant to subsection 1 to purchase the prescription drugs, pharmaceutical services or medical supplies and related services.*

*3. Any record created pursuant to subsection 2 is a public record.*

**Sec. 29.** *1. The Authority may contract for the services of a person as an independent contractor. Except as otherwise provided in section 30 of this regulation or other applicable*

*law or regulations, each such contract must be awarded pursuant to sections 2 to 30, inclusive, of this regulation.*

*2. For the purposes of this section:*

*(a) Travel, subsistence and other personal expenses may be paid to an independent contractor, if provided for in the contract, in such amounts as provided for in the contract.*

*Those expenses must not be paid pursuant to the provisions of NRS 281.160.*

*(b) There must be no:*

*(1) Withholding of income taxes by the State;*

*(2) Coverage for industrial insurance provided by the State;*

*(3) Participation in group insurance plans which may be available to employees of the State;*

*(4) Participation or contributions by either the independent contractor or the State to the Public Employees' Retirement System;*

*(5) Accumulation of vacation leave or sick leave; or*

*(6) Coverage for unemployment compensation provided by the State if the requirements of NRS 612.085 are met.*

*3. An independent contractor is not in the classified or unclassified service of the State and has none of the rights or privileges available to officers or employees of the State of Nevada.*

*4. If the contract is for services for which a license, certificate, registration, permit or other type of authorization is required by law, an independent contractor must hold the appropriate, current authorization that is required by law for the services.*

5. *Each contract for the services of an independent contractor must be in writing. The form of the contract must be approved by the Attorney General.*

6. *If the services of an independent contractor are contracted for to represent the Authority in any proceeding in any court, the contract must require the independent contractor to identify in all pleadings that he or she is representing the Authority or the Board of the Public Employees' Benefits Program, as applicable.*

7. *Except as otherwise provided in this subsection, a contract for the services of an independent contractor may be performed in parts or phases. A contract for the services of an independent contractor must not be split into separate contracts for the purpose of avoiding any requirements for competitive bidding.*

**Sec. 30.** 1. *Except as otherwise provided by law, a contract entered into pursuant to section 29 of this regulation for the services of an independent contractor must:*

(a) *Conform to the form, terms and conditions prescribed by the Attorney General; and*

(b) *Include any provisions related to insurance that the State Risk Manager determines are required.*

2. *A contract described in subsection 1 is not subject to the requirements of sections 2 to 30, inclusive, of this regulation for competitive selection if the contract, by its nature, is not adapted to be awarded by competitive selection. Contracts that are not subject to those requirements include, without limitation, a contract for:*

(a) *Services which may only be contracted from a sole source as determined by the Director;*

(b) *Professional services, including, without limitation, a contract for the services of:*

(1) *An expert witness;*

- (2) A professional engineer;*
  - (3) A registered architect;*
  - (4) An attorney;*
  - (5) An accountant; or*
  - (6) Any other professional, if the services of that professional are not adopted to competitive selection as determined by the Director; or*
- (c) Services necessitated by an emergency affecting the national defense or an emergency caused by an act of God or any other unforeseeable circumstances, as determined by the Director.*
- 3. If such a contract is required to be awarded by competitive selection and the estimated value of the contract exceeds \$25,000 per fiscal year, the Authority must solicit the contract through a request for proposals.*
- 4. If an effective date is not set forth in a contract for the services of an independent contractor awarded pursuant to section 29 of this regulation, the contract is effective on the date on which the contract is approved by the Director.*