

**REVISED PROPOSED REGULATION OF THE
NEVADA HEALTH AUTHORITY**

LCB File No. R009-26

August 21, 2026

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

AUTHORITY: §§ 1-34, 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 respondents; 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; exempting certain contracts from competitive selection; 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 10** of this regulation defines "solicitation" to mean a written request issued by the Authority for the purposes of awarding a contract. **Section 8** of this regulation defines "response" to mean a written statement submitted in response to a solicitation, and **section 7** of this regulation defines "respondent" to refer to a person who submits a response.

Section 11 of this regulation requires the Director of the Authority to designate a person to serve as the contact person for the purposes of answering questions about a solicitation. **Section 12** of this regulation: (1) requires the Director to give reasonable notice of a solicitation in a manner that varies based on whether the proposed purchase is a large purchase or a small purchase; and (2) establishes procedures governing the purchase of goods or services. **Sections 5 and 9** of this regulation define "large purchase" and "small purchase." **Section 12** authorizes the Director to waive provisions for notice of solicitations in certain emergencies. **Section 13** of this regulation prescribes the required contents of a notice of solicitation. **Section 14** of this regulation prescribes the required contents of a solicitation. **Section 15** of this regulation

authorizes the Director to issue solicitations and accept responses on an Internet website maintained by the Authority.

Section 16 of this regulation provides that the Authority may, for certain purposes, contract with a person who has expert knowledge or special expertise that relates to a contract. **Section 17** of this regulation: (1) requires the Director or a committee appointed by the Director to evaluate each response; and (2) prescribes the membership of such a committee. **Section 3** of this regulation defines “committee to evaluate responses” to refer to such a committee. **Section 18** of this regulation: (1) requires the Director to determine, before issuing a solicitation, the method and criteria for the evaluation of responses and the award of the contract; and (2) establishes certain requirements for the evaluation of responses. **Section 19** of this regulation provides that the Authority will prepare written instructions for a committee to evaluate responses and prescribes certain requirements related to such instructions.

Section 20 of this regulation authorizes the Director or the committee to evaluate responses to: (1) discuss the responses submitted with those persons who submitted the responses; and (2) request and authorize the submission of revised responses. **Section 21** of this regulation: (1) requires the contact person designated pursuant to **section 11** to provide to each respondent a written notice of intent to award the contract on a contingent basis; and (2) prescribes the contents of such a notice. **Section 21** provides that after the contract is awarded on a contingent basis, the negotiations of the final terms of the contract are confidential until a final contract is agreed upon. Further, **section 21** prescribes the procedures if a final contract is not agreed upon. Finally, if a final contract is executed, **section 21** requires the contact person to provide a notice of the award of the contract to each respondent.

Section 22 of this regulation creates a preference of 5 percent for a response for a purchasing contract which is submitted by a Nevada-based business. **Section 24** of this regulation creates a preference of 5 percent for a response for a purchasing contract which is submitted by a Nevada-based business that is owned and operated by a veteran with a service-connected disability, which may be combined with the preference established by **section 22**. **Section 6** of this regulation defines the term “Nevada-based business.” **Sections 23 and 25** 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 22 and 24**, respectively.

Section 26 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 responses and issue a new solicitation if no satisfactory response was received; and (3) the Director to allow a person to withdraw his or her response without a penalty under certain circumstances.

Section 27 of this regulation provides, with certain exceptions, that proprietary information regarding a trade secret does not constitute public information and is confidential.

Section 28 of this regulation authorizes the Director to impose certain restrictions and penalties on a person who breaches a contract with the Authority.

Section 29 of this regulation: (1) requires a respondent who wishes to appeal the award of a contract to file a notice of appeal with the Authority; and (2) prescribes the procedure for such an appeal.

Section 30 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 30** also

requires the Authority to maintain certain public records of the purchase of prescription drugs, pharmaceutical services or medical supplies and related services.

Section 31 of this regulation authorizes the Authority to contract for the services of an independent contractor. **Section 31:** (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 4** of this regulation defines “independent contractor.” **Section 2** of this regulation establishes the applicability of the definitions set forth in **sections 3-10**.

Section 32 of this regulation exempts certain contracts from the requirements set forth in **sections 11-31**.

Section 33 of this regulation requires a person who enters into any contract on behalf of the Authority procured through competitive solicitation to 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 34 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 34** also provides that, if an effective date is not set forth in a contract, the contract is effective on the date on which the contract is fully executed. Finally, **section 34** clarifies that this regulation does not prohibit the Authority from joining a contract with certain public or private entities where the contract was not solicited by the Authority.

Section 1. Chapter 232 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 34, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 34, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 10, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Committee to evaluate responses” means a committee to evaluate responses appointed pursuant to section 17 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. *“Large purchase” means the procurement of goods or services or a combination thereof with an estimated cost of \$100,000 or more.*

Sec. 6. *“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 11 to 31, inclusive, of this regulation are produced in this State.*

Sec. 7. *“Respondent” means a person who submits a response.*

Sec. 8. *“Response” means a written statement submitted in response to a solicitation. The term includes, without limitation, a bid, proposal, statement of qualification or quotation.*

Sec. 9. *“Small purchase” means the procurement of goods or services or a combination thereof with an estimated cost of less than \$100,000.*

Sec. 10. *“Solicitation” means a written request issued by the Authority for the purpose of awarding a contract for goods or services or a combination thereof, including, without limitation, an invitation to bid, a request for proposals, a request for qualifications, a request for information, a request for a quotation or any other procedure for awarding a contract.*

Sec. 11. *1. Before issuing a solicitation, the Director must designate a person to answer questions concerning the solicitation. The person who is so designated must be the only contact person throughout the process of awarding the contract for which the solicitation is issued.*

2. A person who wishes to submit a response or a representative of such a person shall not ask questions of or otherwise discuss the contents of a solicitation with an employee or representative of the Authority identified in the solicitation other than the person designated by the Authority as the contact person pursuant to subsection 1.

3. *The Director may disqualify a response submitted by a respondent 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 response, or a representative of such a person, and an employee or representative of the Authority identified in a solicitation if those discussions are unrelated to the contract to be awarded pursuant to the solicitation.*

Sec. 12. 1. *The Director shall give reasonable notice of a solicitation issued by the Authority to persons in a position to furnish the goods or services involved, as shown by the records of the Authority.*

2. *Except as otherwise provided in this section, a notice of solicitation for a:*

(a) *Large purchase must be posted on the Internet website of the Authority in accordance with section 15 of this regulation.*

(b) *Small purchase must be provided to:*

(1) *At least three persons in a position to furnish the goods or services; and*

(2) *The Office of Economic Development.*

3. *After issuing a solicitation, the Authority may purchase the relevant goods or services by contract from a respondent who, in the determination of the Director, will produce results that are highest in quality and value. The Authority may reject any or all responses, or may accept the response determined best for the interest of the State.*

4. *In case of emergencies caused by acts of God or the national defense or other unforeseeable circumstances, the Director may waive notice requirements for solicitations, but a reasonable effort must be made to secure the maximum amount of competition 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 responses.

5. Except as otherwise provided in this subsection, a contract may be performed in parts or phases. A contract must not be split into separate contracts for the purpose of avoiding any requirements for a large purchase.

6. As used in this section, “highest in quality and value” means the greatest benefits to the State after considering the relevant factors, including, without limitation, cost, quality, functionality, qualifications of the respondent, experience, performance on past contracts, schedule of delivery, maintenance, reliability, life cycle cost or any other criteria identified in the solicitation.

Sec. 13. *1. A notice of solicitation must contain a general description of the goods or services being sought through the notice 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 information concerning the solicitation may be obtained.

(c) Whether a response for goods or services that are alternative to the goods or services listed in the original solicitation may be considered.

(d) Notice of the preferences set forth in sections 22 and 24 of this regulation.

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

2. The Director or a designated agent of the Director must approve the notice of solicitation.

Sec. 14. *1. Each solicitation must include, without limitation:*

(a) The minimum requirements that a respondent must meet for the awarding of a contract pursuant to the provisions of sections 11 to 31, inclusive, of this regulation; and

(b) The evaluation method and criteria established pursuant to section 18 of this regulation for the award of the contract, including, without limitation, how the preferences set forth in sections 22 and 24 of this regulation will be applied.

2. The Authority will not award a contract to a respondent who does not comply with the minimum requirements set forth pursuant to paragraph (a) of subsection 1 in the solicitation.

Sec. 15. 1. The Director may:

(a) Issue a solicitation on an Internet website maintained by the Authority; and

(b) Authorize the submission of responses through that Internet website.

2. A solicitation issued pursuant to subsection 1 must identify:

(a) The manner for submitting a response; and

(b) Any requirements for a person to use or access the Internet website.

3. A response submitted through an Internet website maintained by the Authority shall be deemed received when the response is submitted in accordance with the requirements set forth in the solicitation issued pursuant to subsection 1.

Sec. 16. 1. The Authority may contract with a person who has expert knowledge or special expertise in a subject matter relating to a solicitation for the purposes of:

(a) Advising the Authority on the development of an advertisement or a solicitation;

(b) Reviewing complex and technical components of responses, including, without limitation, components relating to cost; or

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

2. Before a person may perform duties under such a contract, the person must:

(a) Disclose any actual or potential conflict of interest the person has relating to the solicitation; and

(b) Certify that he or she does not have financial interest in the contract that would impair his or her ability to provide impartial advice or evaluate the responses.

Sec. 17. *1. Each response must be evaluated by the Director, or a committee to evaluate responses appointed by the Director, in accordance with the provisions of sections 11 to 31, inclusive, of this regulation.*

2. A committee to evaluate responses must include at least two state officers or employees. The committee to evaluate responses 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 response. If the committee to evaluate responses is appointed to evaluate a response for a large purchase of technology, 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 response.

3. Except as otherwise provided in this subsection, members of a committee to evaluate responses are not entitled to receive compensation for their service on the committee. Members of the committee to evaluate responses who are state officers or employees are entitled to receive their salaries as state officers and employees. Members whose services are contracted for pursuant to section 16 of this regulation are entitled to receive the compensation set forth in the contract. No member of the committee to evaluate responses may have a financial interest in a response that would impair the ability of the member to provide an impartial evaluation.

4. Except as otherwise provided by law or sections 11 to 31, inclusive, of this regulation, any communications between a respondent and the Authority, any officer or employee thereof or a committee to evaluate responses and any information contained in a response are confidential and must not be disclosed.

Sec. 18. *1. Before issuing a solicitation, the Director must determine the method and criteria for evaluating responses and awarding the contract.*

2. Before making an award, the Director or each member of the committee to evaluate responses, as applicable, must review, consider and consistently evaluate each response in accordance with the method and criteria determined pursuant to subsection 1.

3. If the solicitation requires the responses to be scored, the Director or the committee to evaluate responses, as applicable, shall:

(a) Consider and assign a score for each evaluation criterion disclosed in the solicitation; and

(b) Apply the relative weight assigned to each evaluation criterion disclosed in the solicitation.

4. The Director or the committee to evaluate responses, as applicable, shall evaluate the responses and award the contract in accordance with the method and criteria described in the solicitation. Unless otherwise provided in the solicitation, the Director or the committee to evaluate responses, as applicable, is not required to select the response that provides the lowest cost.

Sec. 19. *1. If the Director appoints a committee to evaluate responses, the Authority will:*

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

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

2. Each member of a committee to evaluate responses 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 responses comply with subsection 4 of section 18 of this regulation.

4. Each member of a committee to evaluate responses must, upon the request of the Authority, provide a written explanation of the evaluation he or she assigned to a response.

Sec. 20. *1. The Director or the committee to evaluate responses may discuss the responses submitted with the respondents to clarify the requirements and specifications of the contract to be awarded.*

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

(a) Shall treat the respondents fairly and equally with regard to giving those respondents an opportunity to:

(1) Discuss the responses as described in subsection 1; and

(2) Submit revised responses.

(b) Shall not discuss with a respondent any information that was derived from a competing response.

3. To obtain the best offers, the Director or the committee to evaluate responses, as applicable, may request and authorize the submission of revised responses after the date on which responses are required to be submitted and before the contract is awarded. A request for revised responses must:

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

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

Sec. 21. *1. If the Director or the committee to evaluate responses selects a response for the award of the contract, the person designated by the Director as the contact person pursuant to section 11 of this regulation shall provide to each respondent a written notice of intent to award the contract. The notice of intent to award the contract must:*

(a) Identify the response 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 respondent selected for the award of the contract.

2. After the notice of intent to award the contract has been provided in accordance with subsection 1, the negotiations of the final terms of the contract are confidential and must not be disclosed to any other respondent until a final contract is agreed upon.

3. If a final contract is not agreed upon:

(a) The person designated by the Director as the contact person pursuant to section 11 of this regulation shall:

- (1) Provide written notice to each respondent; and*
- (2) Issue a written withdrawal of the award to the respondent whose response was selected for the award of the contract and with whom the Director or the committee to evaluate responses, as applicable, was unable to agree upon a final contract.*

(b) The Director or the committee to evaluate responses, as applicable, shall:

- (1) Negotiate the final terms of the contract with the respondent who submitted the response that received the next highest evaluation under the evaluation method and criteria described in the solicitation; or*
- (2) Withdraw the solicitation.*

4. The Director or the committee to evaluate responses, as applicable, shall repeat the procedures set forth in this section until a final contract is agreed upon or the solicitation is withdrawn.

5. After the contract has been executed by all the appropriate parties, the person designated by the Director as the contact person pursuant to section 11 of this regulation shall provide to each respondent a written notice of the award of the contract. The notice of the award of the contract must:

- (a) Identify the response pursuant to which the contract will be awarded; and*
- (b) State that:*
 - (1) A respondent who submitted an unsuccessful response may file a notice of appeal pursuant to section 29 of this regulation; and*

(2) The period to file such a notice of appeal as set forth in section 29 of this regulation has commenced.

Sec. 22. 1. Except as otherwise provided in subsection 2, if a business that qualifies as a Nevada-based business submits a response, the Director or the committee to evaluate responses, as applicable, shall apply a preference equal to 5 percent when evaluating the response in accordance with the evaluation method and criteria described in the solicitation.

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. 23. 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 22 of this regulation or has failed to comply with the requirements of that section, the business shall not:

(a) Submit a response for a solicitation issued 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 22 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 22 of this regulation or has failed to comply with the requirements of that section, the business may apply to the Director to review the decision pursuant to chapter 233B of NRS.

Sec. 24. 1. For the purpose of awarding a contract for a large purchase or awarding a contract for the services of a person as an independent contractor pursuant to subsection 1 of section 31 of this regulation, if a Nevada-based business owned and operated by a veteran with a service-connected disability submits a response for such a contract, the Director or the committee to evaluate responses, as applicable, shall, except as otherwise provided in subsection 3, apply a preference equal to 5 percent when evaluating the response in accordance with the evaluation method and criteria described in the solicitation.

2. The preference described in subsection 1 may be combined with the preference described in section 22 of this regulation.

3. 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.

4. As used in this section, “business owned and operated by a veteran with a service-connected disability” has the meaning ascribed to it in NRS 338.13841.

Sec. 25. 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 24 of this regulation, the business is thereafter permanently prohibited from:

(a) Applying for or receiving the preference described in section 24 of this regulation; and

(b) Submitting a response for a solicitation issued by the Authority.

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 24 of this regulation, the business may apply to the Director to review the decision pursuant to chapter 233B of NRS.

Sec. 26. 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, no satisfactory response has been received, the Director may reject all responses, withdraw the solicitation and issue a new solicitation in accordance with sections 11 to 31, inclusive, of this regulation. If a new solicitation is issued pursuant to this subsection, the Director may, until a satisfactory contract is awarded, make as many open market purchases of the goods or services involved as are urgently needed to meet the requirements of the Authority.

3. The Director may allow a person to withdraw his or her response 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 response and the name of the respondent is entered on a record. After the award of the contract, the record, with the name of the successful respondent indicated thereon, must be open to public inspection.

Sec. 27. 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 response. The term does not include the amount of a response.

(b) “Proprietary information” means:

(1) Any trade secret or confidential business information that is contained in a response submitted on a particular solicitation; or

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

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

Sec. 28. *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 response 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 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. 29. 1. A respondent who submits an unsuccessful response may file a notice of appeal with the Hearings Division of the Department of Administration within 11 days after the day the person receives written notice of the award of the contract pursuant to subsection 5 of section 21 of this regulation. The notice of appeal must include a written statement specifying any alleged violation of sections 11 to 31, inclusive, of this regulation.

2. A respondent 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 response submitted.

3. If the total value of the successful response 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 respondent must be given notice of the hearing in the same manner as the person who filed the notice appeal. The successful respondent 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 11 to 31, inclusive, of this regulation. A cancellation of the award requires a new solicitation in accordance with the provisions of sections 11 to 31, 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 respondent who submits an unsuccessful response 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 respondent who submits an unsuccessful response, whether or not the respondent 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 respondent 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 shall 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 respondent 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 of the Department of Administration 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 respondent who posted the bond or other security and the Authority may not file other claims regarding that bond or other security.

Sec. 30. *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 pursuant to this section, 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. 31. *1. The Authority may contract for the services of an independent contractor. Except as otherwise provided in section 32 of this regulation or other applicable law or regulations, each such contract must be awarded pursuant to sections 11 to 31, 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; or
(3) 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.

Sec. 32. A contract is not subject to the requirements of sections 11 to 31, 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:

1. Services which may only be contracted from a sole source as determined by the Director;

2. Professional services, including, without limitation, a contract for the services of:

(a) An expert witness;

(b) A professional engineer;

(c) A registered architect;

(d) An attorney;

(e) An accountant;

(f) An economist;

(g) A clinical advisor;

(h) An actuary; or

(i) Any other professional, if the services of that professional are not adopted to competitive selection as determined by the Director; or

3. 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.

Sec. 33. Each person who is authorized pursuant to the provisions of sections 2 to 34, 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. 34. 1. A contract that is entered into or renewed pursuant to sections 2 to 34, inclusive, of this regulation may not require:

(a) 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

(b) The State to indemnify another party against liability for damages.

2. If an effective date is not set forth in a contract entered into or renewed pursuant to sections 2 to 34, inclusive, of this regulation, the contract is effective on the date on which the contract is fully executed.

3. The provisions of sections 2 to 34, inclusive, of this regulation must not be construed to prohibit the Authority from joining a contract with a public or private entity pursuant to NRS 232.49925 that was not solicited by the Authority.