

**PROPOSED REGULATION OF THE
DEPARTMENT OF TRANSPORTATION**

LCB FILE NO. R047-26I

**The following document is the initial draft regulation proposed
by the agency submitted on 03/17/2026**

TRANSPORTATION FACILITIES

Authorization in Counties Whose Population is 700,000 or More

The following document contains the initial draft regulation proposed by the Department of Transportation (“Department”) for the Transportation Facilities procurement process pursuant to NRS 338.1587 to 338.1588, inclusive. The Department will solicit comments from the industry on the proposed regulation pursuant to NRS 233B.0608(1) to determine whether the regulation would likely impose a direct and significant economic burden upon a small business or directly restrict the formation, operation, or expansion of a small business. The Department will consider all comments and address the industry’s concern(s), if any.

Purpose: The purpose of this regulation is to describe the process by which the Department will process requests for preliminary proposals and requests for final proposals to select a best value proposer.

Authority: NRS 408.100(6).

Explanation: Material in *blue bold italics* is new language; material in ~~bold brackets~~ is to be omitted from current regulation. All comments received from the small business impact notice will be considered but not all may be addressed. The matters to be addressed will be referenced in this draft as *italics* for revised and matters in brackets ~~omitted material~~ is language to be omitted.

Section 1. *Chapter 408 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this regulation.*

Section 2. *Definitions. (NRS 408.100, 338.1587, 338.1588) As used in Section 2 to Section 11, inclusive, unless the context otherwise requires, the words and terms defined in Section 2 to Section 11, inclusive, have the meanings ascribed to them in those sections.*

Sec. 3. *“Apparent successful proposer” defined. (NRS 408.100, 338.1587, 338.1588) “Apparent successful proposer” means the proposer whose proposal for a transportation facility is determined by the Department, on the basis of the criteria set forth in the request for proposals, to be the highest ranked proposal of those proposals submitted and with whom the Department undertakes to negotiate and enter into a contract for the project.*

Sec. 4. *“Financial close” defined. (NRS 408.100, 338.1587, 338.1588) “Financial close” means the stage in an agreement or transaction where the applicable*

financing documents have been executed and all conditions to the commitment or disbursement of funds have been satisfied or waived.

Sec. 5. “Project” defined. (408.100, 338.1587, 338.1588) *“Project” means the planning, development, construction, financing, improvement, maintenance or operation, or any combination thereof, of a transportation facility, as defined by the Department pursuant to a request for qualifications, a request for proposals or both, issued by the Department.*

Sec. 6. “Department” defined. (NRS 408.100, 338.1587, 338.1588) *“Department” means the Department of Transportation.*

Sec. 7. “Proposal” defined. (NRS 408.100, 338.1587, 338.1588) *“Proposal” means a written plan submitted to the Department by a person to plan, develop, construct, finance, improve, maintain or operate, or any combination thereof, a transportation facility.*

Sec. 8. “Proposer” defined. (NRS 408.100, 338.1587, 338.1588) *“Proposer” means a person who submits a solicited proposal to the Department.*

Sec. 9. “Qualification submittal” defined. (NRS 408.100, 338.1587, 338.1588) *“Qualification submittal” means a response to a request for qualifications.*

Sec. 10. “Shortlist” defined. (NRS 408.100, 338.1587, 338.1588) *“Shortlist” means to include a person on a list of persons who have submitted qualification submittals that, based on an evaluation of their qualification submittals, are identified by the Department as eligible to respond to the request for proposals for a project.*

Sec. 11. “Solicited proposal” defined. (NRS 408.100, 338.1587, 338.1588) *“Solicited proposal” means a proposal that is solicited by the Department and is submitted pursuant to the provisions of NRS 338.158 to 338.1588, inclusive.*

Sec. 12. Requests for qualifications. (NRS 408.100, 338.1587, 338.1588)

1. The Department may issue Requests for Letters of Interest (RLOI) prior to the advertising of a transportation facility project to gauge potential interest and provide early industry notification of a project to allow prospective design-build teams to begin teaming arrangements, financial arrangements, and preliminary investigative work. The content of the RLOI may include the general project objectives, location, schedule, estimated budget, and scope.

2. The Department may procure a public-private partnership by means of a request for qualifications:

(a) A request for qualifications must provide the following information:

1. *Date and time that qualifications submittals must be submitted;*
2. *Responsibilities of the proposer;*
3. *Basic project configuration;*
4. *Duration of the contract;*
5. *Timing for financial close which must occur before design and construction of the project can begin; and*
6. *Summary of the major terms and conditions of the contract coupled with the cost estimates the Department is proposing.*

(b) A request for qualifications must generally set forth the evaluation factors contained in subsections 2 and 3 of NRS 338.1588 and

1. *proposer's proposed plan to manage design and construction;*
2. *proposer's proposed plan to operate and maintain the project;*
3. *proposer's organization with functional relationships of proposer's team and key personnel;*
4. *proposer's financial plan to complete all critical tasks to achieve financial close within a few months after contract execution and within the timeframe provided in the related request for qualifications.*

(c) A statement that the proposed form of the contract and technical provisions to design and construct the public work are available for review on the Department's website;

(d) Upon issuance of the request for qualifications, the proposer may submit questions and requests for clarification concerning the request for qualifications. The Department shall establish a deadline for submission of questions and requests for clarifications, and the date by which it will provide formal responses. The Department may issue addenda to the request for qualifications in response to such questions and requests for clarifications to clarify requirements, correct errors, or provide supplemental information.

Sec. 13. *Submission of Statements of Qualifications. (NRS 408.100, 338.1587, 338.1588)*

1. *Qualification Submittals in response to a request for qualifications published pursuant to Section 11 must include:*

(a) *A statement of whether the proposer is qualified to bid on a transportation facility project pursuant to NRS 338.1379 or NRS 408.333;*

(b) A cover letter identifying the proposer's organization, including principal and major participants;

(c) Appropriate certifications for the principal and major participants;

(d) Surety letter from a surety or insurance company with an appropriate rating;

(c) Financial statements;

(d) Credit ratings;

(e) Material changes in financial condition; and

(d) Complete responses to the evaluation factors contained in the request for statements of qualifications.

Sec. 14. Evaluation of statements of qualification. (NRS 408.100, 338.1587, 338.1588)

1. The Department shall appoint a panel consisting of at least three members to rank the qualification submittals as required pursuant to this Section 13. The Department may appoint a committee comprised of its representatives and advisors who have expertise in the subject matter of the request for qualifications to assist the panel. The panel shall select at least three but not more than five proposers for a shortlist in accordance with subsection 3 of NRS 338.1588.

2. The panel appointed in accordance with subsection 1 shall evaluate the following:

(a) Proposer's and guarantor's financial strength;

(b) The financial management plan, financial statements, credit rating, and ability to secure similar size and type of financing for similar types of projects; and

(c) The panel shall also evaluate the management plans for the design and construction and operation and maintenance stages of the project.

3. The Department may:

(a) Accept the panel's recommendations;

(b) Reject the panel's recommendations; or

(c) Request that the panel conduct further analysis and reconsider its respective findings and/or recommendations.

Sec. 15. Requests for final proposals. (NRS 408.100, 338.1587, 338.1588)

1. The Department shall provide each proposer on the shortlist selected pursuant to Section 13 with a request for proposals that meet the requirements of this Section 14.

2. The request for proposals may contain the following information:

(a) The obligations of the proposer during the design, construction, operations, maintenance, and financing aspects of the project;

(b) The basic configuration of the transportation facility;

(c) The length of the term of the contract;

(d) Anticipated project revenues;

(e) The operation and maintenance details, including Key Personnel details and approach to managing operation and management work;

(f) Plan of Finance, including the type of debt to finance and deliver the project, including equity, details to confirm financial feasibility of the proposer and project, such as rating letters;

(g) Financial model requirements, including content, format, and functionality of the model;

(h) Financial model auditor: 3rd party contractor hired by P3 Developer or the Department will complete an independent audit of the apparent successful proposer's financial model. The Department shall be expressly identified in the audit report as an entity entitled to rely on such report. The model will be used for the calculation of compensation or project changes and delays, as well as for termination events;

3. The Department may elect to issue a draft request for proposals to allow for industry review to provide the Department with valuable feedback to improve the quality of its procurement documents. The draft request for proposals also provides proposers with an early look and the project's scope and technical details to allow them additional time to develop their proposals.

4. Starting with issuance of the final request for proposals, proposers may submit questions and request clarifications regarding the final request for proposals. The Department will establish a deadline for submission of questions. The Department's responses are provided to all proposers on the shortlist. The Department may issue formal addenda to the final request for proposals in response to design-build teams' questions and/or requests for clarifications to clarify requirements, to correct errors, or to provide supplemental information.

5. The request for proposals shall include two elements:

(a) A Technical Proposal may include, but is not limited to, the following evaluation factors:

- 1. Proposer's design, construction, schedule, and project management approach;**
- 2. Proposer's preliminary roadway schematic, preliminary baseline schedule, key personnel resumes, and organizational structure;**
- 3. Approach to operation and maintenance management;**

(b) A Price Proposal addressing the following factors:

- 1. Demonstration of reasonableness of the financial proposal and the financial capacity of the proposer and any guarantors;**
- 2. Proposer's approach and ability to execute its plan of finance and demonstrate a reasonable financial model;**
- 3. Validation of the proposal for consistency with the request for proposals (including the financial model);**

6. The Department may establish the overall ranking of proposals using a best value methodology that considers a combination of the technical proposal and price proposal scores.

7. The proposal selection committee shall score technical proposals and price proposals as set forth in this Section 14.

8. The Department shall appoint a technical proposal selection committee consisting of at least three persons to rank the technical proposals submitted as required pursuant to this Section 14. The Department may appoint a committee comprised of Department representatives and advisors who have technical expertise in the subject matter of the request for proposals to support the technical proposal selection committee's evaluation of technical proposals against the request for proposal submittal requirements. The objective when evaluating and scoring technical proposals is to identify proposals that exceed stated requirements and objectives in a beneficial way, providing advantages, benefits, or added value to the project through a consistently outstanding level of quality in the proposal's presentation. The technical proposals shall be scored before undertaking the review and scoring of price proposals.

9. *The Department shall appoint an independent price proposal committee to review the price proposal for balance and calculate each price proposal's score. The scoring of price proposals may be based on the lowest first-year maximum availability payment, which is the agreed first-year payment to the selected proposer for capital, profit, and operating costs, without deductions for non-compliance with pre-established service levels or credits for enhanced performance.*

10. *The price proposal committee will review and assess each proposer's approach and ability to execute their plan of finance, including the financial strength of each of the proposers and any guarantors. The Department may develop a tool to forecast a project's financial performance which may be based on assumptions about cash flows for the completion of design and construction and operation and maintenance and the payment of financing costs and profit over the term of the contract. This financial tool may be used as a comparison to the lowest price proposal to support an understanding of the reasonableness of the apparent successful proposal.*

11. *The Department combines the technical proposal score with the price proposal score to establish the apparent successful proposer. The Department may:*

- (a) Accept the recommendation;*
- (b) Ask for a reevaluation;*
- (c) Reject all proposals; or*
- (d) Direct that best and final offers be considered.*

Sec. 16. Award of contract. (NRS 408.100, 338.1587, 338.1588)

1. *A contract may be awarded to a proposer for a transportation facility pursuant to subsection 4 of NRS 338.1588 and Section 14.*

2. *The Department shall issue a notice of intent to award the contract to make proposers aware of the Department's intent to negotiate and execute a contract with the apparent successful proposer.*

3. *The Department shall negotiate a contract with the apparent successful proposer. If the Department cannot negotiate a reasonable contract, the Department may negotiate with the next highest-ranked proposer and so on until the Department completes a successful negotiation or the Department may cancel the procurement at its sole discretion if it deems it is in the best interest of the State.*

4. The Department shall hold a public meeting in accordance with chapter 241 of the NRS to review and ratify the contract in accordance with the Department's statutory authority.

5. Upon approval of the contract, the contract is executed in accordance with statutory requirements.

6. The Department may offer debriefings to the unsuccessful proposers, if requested, after the Department publishes its notice of intent to award the contract.

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