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NEVADA PUBLIC PURCHASING STUDY COMMISSION

(NRS 332.215)

consisting of the

Northern Nevada Consortium for Cooperative Purchasing

and the

Southern Nevada Public Purchasing Professionals Association

Welcome to the 2005 Legislative session and congratulations on your appointment to the Assembly Government Affairs Committee. We are pleased to introduce you to the Nevada Public Purchasing Study Commission.

We are a non-profit, unfunded, state-wide group established by the Legislature in 1975 under NRS Chapter 332.215 "...to study practices in governmental purchasing and laws related thereto and ... make recommendations with respect to those laws to the next regular session of the legislature."

The Commission membership consists of approximately 100 public employees, from over 60 state and local municipalities, who work in public purchasing and related fields. A membership list, which provides the names of those who represent each of the member agencies, is attached for your convenience.

As a group, the Commission works for the Legislature, typically the Senate and Assembly Government Affairs Committees. The Commission's role is to advise the Legislature on public purchasing related legislation. Because the annual state and local expenditures on goods and services is so large, the public purchasing process and its associated governing laws are of extreme importance. The Commission meets monthly, via video teleconferencing, and any information or recommendations presented to you are the consensus of the group and are based on a complete and comprehensive analysis.

We look forward to working with you during and after the 2005 legislative session. Please feel free to call us at any time to assist you with any local government purchasing related issues that you or one of your constituents may have.

Sincerely,

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1/5/2005

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NEVADA PUBLIC PURCHASING STUDY COMMISSION
(NRS 332.215)
Consisting of
Northern Nevada Consortium for Cooperative Purchasing
And
Southern Nevada Public Purchasing Professionals Association

Bill Number AB 39 (BDR 27-560)
February 15, 2005

Executive Summary: relating to purchasing by local governments; providing an optional procedure for a bidder to file a notice of protest regarding certain contracts; authorizing a local government to use on-line bidding as the exclusive means to receive bids in reverse auctions; expanding the criteria that may be used to select the lowest responsive, responsible bidder on certain contracts; expanding the types of contracts which by nature are not adapted to award by competitive bidding; and adding the State of Nevada back into the joinder provision.

Purpose: modernize, simplify and standardize public purchasing procedures for supplies and services state-wide to reduce administrative costs and increase efficiency.

Justification for the bill: this bill has several changes:

Section 1:

This section adds an optional provision and procedure for a bidder to protest the award of a contract. This provision has been in NRS 333 (State Purchasing) for several years and was added to NRS 338 (Public Works) without objection in the last session. This bill standardizes the procedure for all types of public purchasing. It has proven to be a valuable tool in virtually eliminating frivolous protests by bidders. We respectfully propose a minor amendment to this section to eliminate the additional advertising requirement.

Section 2:

This section clarifies that the governing body or its authorized representative may or may not request bids. This clarifies that the governing body or its authorized representative may direct staff to make the request for bids.

Section 3:

The first change in this section makes the newspaper qualifications for advertising consistent with NRS 338.

The second change in this section adds an additional advertising requirement which we respectfully propose to remove as requested in Section 1 above.

Section 4:

On-line bidding, an element of e-procurement, has been allowed by statute for some time with the provision that it not be the only method allowed for bidding. This is a normally a reasonable restriction because not all bidders have computers and our goal is to maximize bidding, not to restrict the number of bidders. However, when using a specific process within e-procurement known as "reverse auctions," on-line bidding is the only process that allows reverse auctions to work. Reverse auctions call for and allow bidders to bid in "real time" with computers. This is the only way a reverse auction can work. Therefore we are requesting the addition of reverse

auctions as the only exception to on-line bidding. This bill includes a definition of reverse auctions so that the sole exception can be understood by all who use it.

Section 5:

This section clarifies that all “proprietary information” as defined in NRS 332.025 is confidential and shall not be disclosed to give one bidder an unfair advantage over any other bidder.

Section 6:

This section expands the list of criteria a local government may use to find bidders responsive and responsible. This enhances the ability of the local government to award a contract to the bidder that meets all of the unique requirements of the bid document.

Section 7:

The first change in this section clarifies the authority that local governments can join on federal (GSA) contracts without competitive bidding as well as public contracts of other governments inside and outside the state. We respectfully request that this section be amended to clarify that the State of Nevada has the same authority.

The second change in this section exempts communications design, services, and equipment from the competitive bidding process. This exemption is recommended as a result of the passage of the state homeland security act last session that mandated the compatibility, standardization and integration of communications state-wide. With such requirements, pure competitive bidding for each system is impossible.

Section 8:

This section clarifies that any information, proprietary or not, that will give a particular bidder an advantage prior to submitting a bid would result in voiding all bids.

Conclusion: That these changes to NRS 332 are administrative in nature, serve to standardize, clarify and simplify the public purchasing of supplies and services and will benefit local governments and their citizens.

Recommendation: that this bill be unanimously passed into law.

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NEVADA PUBLIC PURCHASING STUDY COMMISSION (NPPSC)

(NRS 332.215)

Consisting of the

Northern Nevada Consortium for Cooperative Purchasing

and the

Southern Nevada Public Purchasing Professionals Association

Request for Amendment to AB 39 (BDR 27-560)

Assembly Government Affairs Committee

February 16, 2005

1. **Page 2, Section 1, subsection 1, lines 5 - 6**

Delete: "notice to bid that is published pursuant to NRS 332.045"

Replace with: "bid document after the date the bids were opened"

Recommended revised paragraph:

"1. A person who submits a bid on a contract that is required to be advertised pursuant to paragraph (a) of subsection 1 of NRS 332.039 may, within the time frame specified in the [notice to bid that is published pursuant to NRS 332.045] bid document and after the date the bids were opened, file with the governing body or its authorized representative a notice of protest regarding the awarding of the contract."

Page 3, Section 3, subsection 2, lines 40 – 41

Delete revised paragraph (d) and revert to original language.

Section recommended for deletion: "The period within which a person may file a notice of protest pursuant to section 1 of this act."

Justification for requests: These suggested revisions are based on similar language found in NRS 338.142 "Public Works" and NRS 333.370 "State Purchasing" where advertising of the protest time period is not required. A protest cannot be made on the award of a project until after the bids are opened and a recommendation is made for award. We suggest that including the protest time frame in the advertisement has no value to the business community who may be interested in the solicitation. The notice requirements currently in the statute are sufficient.

2. **Page 6, Section 7, lines 42-43 and page 7, lines 1-5, paragraph (m)**

Delete the changes to these sections and return NRS 332.115.1(m) to its original form.

Amend NRS 332.195 as follows:

NRS 332.195 Joinder or mutual use of contracts by local governments.

1. A governing body or its authorized representative **and the State of Nevada** may join or use the contracts of other local governments located within or outside this state with the authorization of the contracting vendor. The originally contracting local government is not liable for the obligations of the local government which joins or uses the contract.

2. A governing body or its authorized representative may join or use the contracts of the State of Nevada or another state with the authorization of the contracting vendor. The State of Nevada or other state is not liable for the obligations of the local government which joins or uses the contract.

Justification for request: These changes clarify that the State of Nevada is allowed to use the contracts of other local governments.

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