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

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

NAC 338.240 Criteria for qualification for public work with estimated cost of $100,000 or more; pertinent documentation and information; exceptions.
Except as otherwise provided in subsection 3, the following criteria must be used to determine whether a prime contractor is qualified to bid on a contract for one or more public works for which the estimated cost is $100,000 or more:

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

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

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

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

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

(II) For a contract that:

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

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

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

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

(1) The name of the project;

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

(3) The dollar amount of the project; and

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

(c) Whether the prime contractor, the principal personnel or any business entity associated with the principal personnel has been found to be in breach of contract by a court of competent jurisdiction or through binding arbitration during the 5 years immediately preceding the date of

the application. For each such action, the prime contractor must include in the application submitted pursuant to NAC 338.250 a description of:

(1) The circumstances surrounding the action;

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

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

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

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

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

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

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

(I) The name of the project;

(II) The scope of work;

(III) The circumstances surrounding the action;

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

(V) The outcome of the action.

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

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

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

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

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

(I) The name of the project;

(II) The location of the project;

(III) The cost of the project;

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

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

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

(I) The name of the project;

(II) The location of the project;

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

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

(f) Whether the prime contractor, the principal personnel or any business entity associated with the principal personnel has been disciplined or fined by the State Contractors' Board or another state or federal agency for conduct that relates to the ability of the prime contractor to perform the work.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. The Division will specify:

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

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

(1) Of less than $100,000;

(2) Of $100,000 to $1,000,000;

(3) Of $1,000,001 to $5,000,000; and

(4) Of more than $5,000,000,

Ê for which a prime contractor may be qualified, which are based on the estimated cost of an individual public work. If a prime contractor is qualified to bid on public works in one of the cost

categories specified in this subsection, the prime contractor is eligible to bid on public works in any lower cost category.

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Must:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) The circumstances surrounding the action;

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

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

(d) Whether the subcontractor, the principal personnel or any business entity associated with the principal personnel has been disqualified from the award of any contract pursuant to NRS

338.017 ***as amended by section 1 of Senate Bill No. 340, chapter 470, Statutes of Nevada 2015, at page 2720, NRS 338.13485*** or 338.13895 during the 5 years immediately preceding the date of the application.

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

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

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

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

(I) The name of the project;

(II) The scope of the work;

(III) The circumstances surrounding the action;

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

(V) The outcome of the action.

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

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

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

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

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

(I) The name of the project;

(II) The location of the project;

(III) The cost of the portion of the work for which the subcontractor, the principal personnel and each business entity associated with the principal personnel were responsible;

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

(V) The name, address and telephone number of:

(i) The owner of the project;
(ii) The owner's project manager;
(iii) The architect or engineer of the project;
(iv) The prime contractor for the project; and
(v) The superintendent of the prime contractor for the project.

(f) Whether the subcontractor, the principal personnel or any business entity associated with the principal personnel has been disciplined or fined by the State Contractors' Board or another state or federal agency for conduct that relates to the ability of the subcontractor to perform the work.

2. In addition to the information provided by the subcontractor pursuant to subsection 1, any other verifiable information relating to the criteria set forth in subsection 1 that is provided to or discovered by the Division or its employees regarding the subcontractor may be used to determine whether the subcontractor is qualified to be included in a bid pursuant to NRS 338.141.

3. The Division will maintain a public list of subcontractors that have been determined not to be qualified to be included in a bid pursuant to NRS 338.141.

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

Add the following definitions:

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

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

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

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

1. To qualify to receive the preference set forth in ***subsection 1 of*** NRS 338.13844, ***as amended by section 19 of Assembly Bill No. 62, chapter 145, Statutes of Nevada 2015, at page 560,*** a business must:

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

(b) Certify in writing on the application and include with the application documentation evidencing that the business is:

(1) A local business; and

(2) A business owned ***and operated*** by a veteran with a service-connected disability

2. The Division ~~will~~ ***shall***:

(a) Compile and maintain a list of the businesses that the Administrator has determined are qualified to receive the preference set forth in ***subsection 1 of*** NRS 338.13844 ~~;~~ ***as amended by section 19 of Assembly Bill No. 62, chapter 145, Statutes of Nevada 2015, at page 560;*** and

(b) Post the list on the Internet website maintained by the Division.

~~3. As used in this section:~~

~~(a) "Business owned by a veteran with a service-connected disability" has the meaning ascribed to it in NRS 338.13841.~~

~~(b) "Local business" has the meaning ascribed to it in NRS 333.3363.~~

~~(c) "Veteran with a service-connected disability" has the meaning ascribed to it in NRS 338.13843.~~

3. To qualify to receive the preference set forth in subsection 2 of NRS 338.13844, ***as amended by section 19 of Assembly Bill No. 62, chapter 145, Statutes of Nevada 2015, at page 560, a business must:***

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

(b) Certify in writing on the application and include with the application documentation evidencing that the business is:

(1) A local business; and

(2) A business owned and operated by a veteran with a service-connected disability that has been determined to be 50 percent or more by the United States Department of Veterans Affairs.

4. The Division ~~will~~ shall:

(a) Compile and maintain a list of the businesses that the Administrator has determined are qualified to receive the preference set forth in subsection 2 of NRS 338.13844 ~~;~~ as amended by section 19 of Assembly Bill No. 62, chapter 145, Statutes of Nevada 2015, at page 560; and

(b) Post the list on the Internet website maintained by the Division.

~~3. As used in this section:~~

~~(a) "Business owned by a veteran with a service-connected disability" has the meaning ascribed to it in NRS 338.13841.~~

~~(b) "Local business" has the meaning ascribed to it in NRS 333.3363.~~

~~(c) "Veteran with a service-connected disability" has the meaning ascribed to it in NRS 338.13843.~~

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

NAC 338.580 Submission of applications for qualification.

1. The ***construction manager at risk shall advertise*** ~~advertisement~~ for applications for qualification***s pursuant to NRS 338.1385 (1)(a). The advertisement for applications for qualifications*** published by a construction manager at risk pursuant to subsection 3 of NRS 338.16991, must state that the construction manager at risk will return unopened a proposal received from a subcontractor who has not qualified to submit a proposal pursuant to NRS 338.16991.

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

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

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

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

4. An application for qualification must:

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

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

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

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

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

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

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

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

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

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

NAC 338.610 Notice of request for proposals.

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

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

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

2. Before disseminating to subcontractors the notice of a request for proposals required by subsection 3 of NRS 338.16995, the construction manager at risk must provide to the public body or its authorized representative a copy of the notice, ~~and~~ any instructions for proposals, ***and the form that the subcontractor must use when submitting their proposal***.

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

1. To be considered responsive a proposal must:

(a) Satisfy the requirements of subsection 6 of NRS 338.16995;

(b) Be submitted:

(1) In a sealed envelope; ~~and~~

(2) By a subcontractor whom the construction manager at risk determined to be qualified in the trade or scope of work for which the proposal was submitted and who attended the preproposal meeting; ~~and~~

(3) On the proposal form provided by the CMAR; and

(c) Respond to the details and requirements included in the instructions related to the proposal and the bid package.

2. If a construction manager at risk has determined that three or more subcontractors are qualified to submit proposals for a trade or scope of work and has received fewer than three proposals for that trade or scope of work at the time proposals are opened, the construction manager at risk may not open any proposal for that trade or scope of work until the construction manager at risk receives from the public body or its authorized representative written directions concerning the manner in which to proceed. The public body has complete discretion to develop the written directions and the construction manager at risk must proceed in a manner consistent with the written directions developed by the public body. If the public body directs the construction manager at risk to solicit additional proposals, a subcontractor that has submitted a proposal may withdraw the proposal.

3. A construction manager at risk shall time stamp all envelopes containing proposals to provide labor, materials or equipment on a public work which are submitted by subcontractor.

NAC 338.630 Proposals: Opening; qualifications.

1. A construction manager at risk shall open proposals submitted by subcontractors who were qualified to submit proposals in accordance with the provisions of subsection 7 of NRS 338.16995.

2. Before the construction manager at risk opens a proposal submitted by a subcontractor, the construction manager at risk must confirm that the proposal was:

(a) Submitted by a subcontractor who was determined to be qualified to submit a proposal in the trade or for the scope of work for which the subcontractor has submitted a proposal;

(b) Submitted by a subcontractor who attended the preproposal meeting***, if a preproposal meeting was held***; ~~and~~

(c) Submitted on the form provided by the construction manager at risk in the request for proposal pursuant to NAC 338.610; and

(c) Timely received by the construction manager at risk.

3. If a proposal does not satisfy the requirements of subsection 2, the construction manager at risk must return the proposal unopened to the subcontractor who submitted the proposal.

State Public Works Division
Draft Regulations (April 2018)
Nevada Administrative Code Section 341

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

NAC 341.045 Standards for design; structural standards for geographic location.

1. The Board hereby adopts by reference the following publications and establishes the standards contained therein as minimum standards for the design of state buildings, other than those excepted in NRS 341.141:

(a) The ~~*2012*~~ ***2018*** *International Building Code* published by the International Code Council with the following exceptions:

(1) References to the *International Plumbing Code* are replaced with references to the *Uniform Plumbing Code*;

(2) References to the *International Electrical Code* are replaced with references to the *National Electrical Code*;

(3) References to the *International Mechanical Code* are replaced with references to the *Uniform Mechanical Code*;

(4) Section 105.1.1 is revised to read as follows:

"1. In lieu of an individual permit for each alteration to an already approved electrical, gas, mechanical or plumbing installation, the building official is authorized to issue an annual permit upon application therefor to any state agency regularly employing one or more qualified tradepersons in the building or structure or on the premises owned or operated by the applicant for the permit.

2. In lieu of any individual permits that would otherwise be required, the building official is authorized to issue an annual permit upon application therefor to any state agency regularly employing one or more qualified tradepersons and one or more qualified design professionals in the building or structure or on the premises owned or operated by the applicant for the permit. The permit may authorize its holder to:

(a) Perform light construction, including, without limitation, a remodel or alteration, to an already approved building or structure; or

(b) Construct a building or structure with a gross area of 1,000 square feet or less for which the building official has already checked the plans and which is to be constructed at a site other than the site shown in the plans or at a location on the site other than the location shown in the plans.

3. An annual permit issued pursuant to this section to perform light construction to an already approved building or structure does not authorize the holder of the permit to perform any construction that:

(a) Changes the occupancy classification of the building or structure;

(b) Increases the occupant load of the building or structure;

(c) Modifies a structural element of the building or structure;

(d) Changes an egress path in or from the building or structure;

(e) Modifies a fire-rated assembly within the building or structure unless the modification is limited to the installation of a listed through penetration for piping or conduit; or

(f) Modifies a fire alarm system or fire sprinkler system within the building or structure.

4. As used in this section:

(a) "Journeyman" means a person who:

(1) Has successfully completed a program of apprenticeship in a building or construction trade that has been approved by the State Apprenticeship Council or an equivalent program accepted by the State Contractors' Board; or

(2) Holds a journeyman's card in a building or construction trade issued by a labor organization.

(b) "Qualified design professional" means a person who holds:

(1) A professional license or certificate issued pursuant to chapter 623, 623A or 625 of NRS that is appropriate for the work to be performed; or

(2) A license issued pursuant to chapter 624 of NRS in a classification or subclassification that is appropriate for the work to be performed.

(c) "Qualified tradeperson" means:

(1) A journeyman in the relevant field of work;

(2) A person who holds a certificate issued by the International Code Council as an inspector in the relevant field of work and who has at least 2 years of work experience in that field;

(3) A person who holds a license issued pursuant to chapter 624 of NRS in a classification or subclassification that is appropriate for the work to be performed; or

(4) An employee of the State or an agency thereof acting within the scope of his or her employment."

(5) To section 105.3, add:

"(8) The permit application must be accompanied by a nonrefundable deposit of 1% of the total project valuation, including materials, labor and equipment."

(6) In section 202 ***High Rise Buildings***, replace the phrase "more than 75 feet" with "more than 55 feet";

(7) To section 403.4.4, add: "Loudspeakers or horns for a fire alarm must achieve at least 80 decibels of sound in all areas within the protected property";

(8) To section 403.4.6, add the following provisions:

"(1) All fire equipment and equipment for the safety of life, including, without limitation, a fire alarm system, smoke management system, status indicator and controls for an air-handling system and an indicator of the status of an emergency generator, contained within the fire command center must be tested as frequently as required by the codes and standards adopted by the State Fire Marshal pursuant to NAC 477.281, but in any case, not less than annually. The test must be performed by a person who holds a license or certification recognized by the authority having jurisdiction as appropriate for the performance of the test. Systems and equipment within the fire command center must be tested in accordance with the procedures set forth in the codes and standards adopted by the State Fire Marshal pursuant to NAC 477.281 and any special procedures prescribed by the designer or manufacturer of the system or equipment. All fire equipment and equipment for the safety of life, after having been tested, must be restored to service and tagged by the person who performed the test. The tag must conform to requirements for recording the maintenance of

a fire alarm system set forth in NAC 477.370. If the person performing the test is unable to restore the equipment to service or determines that the equipment is disabled or in an impaired condition, he or she shall promptly notify the appropriate local fire department and the State Fire Marshal. A log of the tests required by this section must be maintained on the premises and available for inspection by the appropriate local fire department.

(2) The fire command center must be housed in a room separated from the building in which it is located by noncombustible construction rated at a minimum of 2 hours. The room used for that command center must be provided an exterior door.";

(9) To section 403.5.3, at the end of the last sentence, add "or the activation of any fire alarm system or a power failure";

(10) Section 907.5.2.3 is revised by adding the following exceptions:

"(4) Electrical rooms and mechanical rooms that are not normally occupied and are less than 400 square feet.

(5) Janitor closets.

(6) Storage rooms that are less than 400 square feet.

(7) Individual work areas or offices and private toilets serving individual work areas or offices.

(8)"; and

(11) In section ~~1008.1.9.11~~ ***1010.1.9.12***, exception 3 is revised to read as follows: "In stairways serving buildings other than high-rise buildings, doors are permitted to be locked on the side opposite the egress side, provided that the doors can be opened from the egress side. Except for exit discharge doors, the doors must be automatically unlocked upon the activation of a fire alarm system or fire sprinkler alarm and for a power failure."

➥ This code may be obtained from the International Code Council, 25442 Network Place, Chicago, Illinois 60673-1254, or at the Internet address **http://www.iccsafe.org/**, at a price of ~~$91.50~~ ***107.00*** for members and $~~122.00~~ ***143.00*** for nonmembers.

(b) The ~~*2012*~~ ***2018*** *International Existing Building Code* published by the International Code Council with the following exceptions:

(1) References to the *International Plumbing Code* are replaced with references to the *Uniform Plumbing Code*;

(2) References to the *International Electrical Code* are replaced with references to the *National Electrical Code*; and

(3) References to the *International Mechanical Code* are replaced with references to the *Uniform Mechanical Code*.

➥ This code may be obtained from the International Code Council, 25442 Network Place, Chicago, Illinois 60673-1254, or at the Internet address **http://www.iccsafe.org/**, at a price of $~~*49.50*~~ ***58.00*** for members and $~~66.00~~ ***77.25*** for nonmembers.

(c) The ~~*2012*~~ ***2018*** *International Residential Code for One- and Two-Family Dwellings* published by the International Code Council with the following exceptions:

(1) References to the *International Plumbing Code* are replaced with references to the *Uniform Plumbing Code*;

(2) References to the *International Electrical Code* are replaced with references to the *National Electrical Code*; and

(3) References to the *International Mechanical Code* are replaced with references to the *Uniform Mechanical Code*.

➥ This code may be obtained from the International Code Council, 25442 Network Place, Chicago, Illinois 60673-1254, or at the Internet address **http://www.iccsafe.org/**, at a price of ~~$79.50~~ ***105.00*** for members and $~~106.00~~ ***140.00*** for nonmembers.

(d) The ~~*2011*~~ ***2017*** *National Electrical Code* published by the National Fire Protection Association. This code may be obtained from the National Fire Protection Association, 11 Tracy Drive, Avon, Massachusetts 02322, or at the Internet address **http://www.nfpa.org/**, at a price of $~~80.55~~ ***91.80*** for members and $~~89.50~~ ***102.00*** for nonmembers.

(e) The ~~*2012*~~ ***2018*** *Uniform Plumbing Code* published by the International Association of Plumbing and Mechanical Officials, except, in section 412.0, "Table 4-1, Minimum Plumbing Facilities," specifying a minimum number of required fixtures, is replaced by "Table 2902.1, Minimum Number of Required Plumbing Fixtures" of the ~~*2012*~~ ***2018*** *International Building Code*. The ~~*2012*~~ ***2018*** *Uniform Plumbing Code* may be obtained from the International Association of Plumbing and Mechanical Officials, 4755 East Philadelphia Street, Ontario, California 91761-2816, or at the Internet address **http://www.iapmo.org/**, at a price of $84 ***100.00*** for members and $~~105~~ ***125.00*** for nonmembers.

(f) The ~~*2012*~~ ***2018*** *Uniform Mechanical Code* published by the International Association of Plumbing and Mechanical Officials. This code may be obtained from the International Association of Plumbing and Mechanical Officials, 5001 East Philadelphia Street, Ontario, California 91761-2816, or at the Internet address **http://www.iapmo.org/**, at a price of $~~84~~ ***100.00*** for members and $~~105~~ ***125.00*** for nonmembers.

(g) The *Americans with Disabilities Act* published by the United States Department of Justice. This publication may be obtained from the Disability Rights Section, United States Department of Justice, 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530, or at the Internet address **http://www.ada.gov**, free of charge.

(h) The ~~*2012*~~ ***2018*** *International Energy Conservation Code* published by the International Code Council. This code may be obtained from the International Code Council, 25442 Network Place, Chicago, Illinois 60673-1254, or at the Internet address **http://www.iccsafe.org/**, at a price of $~~30~~ ***36.50*** for members and $~~40~~ ***48.75*** for nonmembers.

(i) The "Guidelines for Evaluating Potential Surface Fault Rupture/Land Subsidence Hazards in Nevada" and the "Guidelines for Evaluating Liquefaction Hazards in Nevada" published by the Nevada Earthquake Safety Council. These guidelines may be obtained from the Nevada Earthquake Safety Council, c/o Nevada Bureau of Mines and Geology, University of Nevada, Reno, Mail Stop 178, Reno, Nevada 89557-0178, or at the Internet address **http://www.nbmg.unr.edu/nesc/**, free of charge.

(j) ANSI/ASHRAE Standard 90.1-~~2010~~ ***2016***, *Energy Standard for Buildings Except Low-Rise Residential Buildings*, published by the American Society of Heating, Refrigerating and Air-Conditioning Engineers. This standard may be obtained from the American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc., 1791 Tullie Circle, N.E., Atlanta, Georgia 30329, or at the Internet address **http://www.ashrae.org/**, at a price of $~~119~~ ***140.00*** for nonmembers.

2. In addition to the standards contained in the ~~*2012*~~ ***2018*** *International Building Code* adopted pursuant to subsection 1, all buildings and structures of the State and any parts thereof must be designed using the structural standards for seismic zones, basic wind speed, wind exposure, frost line and the live loads and snow loads for roofs adopted by the political subdivision

in which the building or structure is being constructed~~.~~ ***and which are more stringent than the standards adopted by reference pursuant to subsection 1.*** In the absence of such structural standards adopted by the political subdivision, the Deputy Administrator for Compliance and Code Enforcement may use structural standards that the Deputy Administrator for Compliance and Code Enforcement determines are appropriate for the geographic location at which the building or structure is being constructed.

NAC 341.171 Imposition and submission of fees for certain projects. (NRS 341.070, 341.087, 341.091, 341.110)

1. Except as otherwise provided in subsection 3, any plans and specifications for a project that is not part of the approved program for capital improvement which are submitted to the Division for review and approval must be accompanied by the following permit fees:

(a) A basic fee for inspection services based on the proposed total valuation of the project, including materials, labor and equipment, in accordance with the following schedule:

Total Valuation	Fee
$1 to $500	$23.50
$501 to $2,000	$23.50 for the first $500 plus $3.05 for each additional $100 or fraction thereof, to and including $2,000.
$2,001 to $25,000	$69.25 for the first $2,000 plus $14 for each additional $1,000 or fraction thereof, to and including $25,000.
$25,001 to $50,000	$391.25 for the first $50,000 plus $10.10 for each additional $1,000 or fraction thereof, to and including $50,000.
$50,001 to $100,000	$643.75 for the first $50,000 plus $7 for each additional $1,000 or fraction thereof, to and including $100,000.
$100,001 to $500,000	$993.75 for the first $100,000 plus $5.60 for each additional $1,000 or fraction thereof, to and including $500,000.
$500,001 to $1,000,000	$3,233.75 for the first $500,000 plus $4.75 for each $1,000 or fraction thereof, to and including $1,000,000.
$1,000,001 and up	$5,608.75 for the first $1,000,000 plus $3.15 for each $1,000 or fraction thereof.

(b) Except as otherwise provided in this paragraph, an additional fee for inspection services for each mechanical, electrical and plumbing system of the project in an amount equal to 15 percent of the basic fee for inspection services for each such system. If an application involves only one such system, no additional fee for inspection services is due pursuant to this paragraph.

(c) A fee for the review of the plans and specifications for the project in an amount equal to 70 percent of the total amount of the basic fee for inspection services calculated pursuant to paragraph (a) and any additional fees for inspection services calculated pursuant to paragraph (b).

2. In addition to the fees calculated for a project pursuant to subsection 1, the Division may charge a fee for the following services on an hourly basis at a rate equal to the hourly cost of the Division for:

(a) Inspections outside of normal business hours.

(b) Reinspections.

(c) Inspections for which no fee is specifically indicated.

(d) Additional reviews of plans or specifications required by changes, additions or alterations to the plans or specifications.

(e) Reviews of requests to use alternate materials, designs, methods of construction or equipment.

(f) Investigations of work performed without benefit of or before obtaining a permit.

➥ The Division will calculate its hourly costs based on the average amount the Division pays for the position of employment which is applicable to the service being provided, including, without limitation, inspectors, project managers and plan checkers. The hourly costs of the Division will be maintained on file at the Division's offices in Carson City and Las Vegas and will be posted on the Division's website at ~~http://www.spwb.state.nv.us/.~~ ***http://www.publicworks.nv.gov***

3. The Deputy Administrator for Compliance and Code Enforcement shall determine, based on the actual costs to the Division, the amount of the fee that must accompany:

(a) The plans and specifications for a project which will be***:*** ~~*completed*~~

(1) Completed in phases or on an expedited schedule or which has unique or unusual requirements~~.~~***; or***

(2) Plan checked by a third party contractor.

(b) An application for an annual permit pursuant to section 105.1.1 of the ~~2012~~ ***2018*** *International Building Code,* as adopted by reference in NAC 341.045.

NAC 341.077 General requirements for bids.

1. All bids in excess of $100,000 must be accompanied by a bond securing the bid and a certified check or cash in an amount which is at least 5 percent of the total of the base bid and all alternative bids. The bond must be in a form approved by the Attorney General.

2. A bidder must guarantee that the bid submitted will remain open for 35 calendar days after the date of the opening of the bids unless otherwise provided in the contract documents or this period is extended by written agreement between the Administrator and the contractor.

3. A general contractor must list on the form for proposing bids the subcontractors whom he or she intends to engage for the project for those areas of work identified on the form used to list subcontractors. Subcontractors may not be subsequently substituted by the contractor without the approval of the Administrator.

4. The Division will not consider a bid unless it meets all the following conditions:

(a) The bid is less than the appropriation made by the Legislature for the building project and does not exceed the relevant budget item for that building project as established by the Division by more than 10 percent.

(b) The bid must be in the best interests of the State of Nevada.

(c) The bid must be submitted by a person who is licensed as a contractor in Nevada.

(d) The bid must be submitted by a contractor qualified by the Division pursuant to NRS 338.1379.

State Public Works Division
Buildings & Grounds Section
Draft Regulations (April 2018)
Nevada Administrative Code Section 331

The proposed regulations creates Chapter 331 of NAC is proposes the following language:

Sec. 2. ***As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 8, inclusive, of this regulation have the meanings ascribed to them in those sections.***

Sec. 3. ***"Administrator" means the Administrator of the Division.***

Sec. 4. ***"Agency" means any state officer, department, agency, board or commission described in subsection 1 of NRS 331.110, as amended by section 2 of Assembly Bill No. 59, chapter 125, Statutes of Nevada 2015, at page 461.***

Sec. 5. ***"Buildings and Grounds Section" means the Buildings and Grounds Section of the Division.***

Sec. 6. ***"Department" means the Department of Administration.***

Sec. 7. ***"Division" means the State Public Works Division of the Department.***

Sec. 8. ***"State building" means any building over which the Administrator has supervision and control pursuant to subsection 1 of NRS 331.070.***

Sec. 9. 1. An agency that desires to use the services of the Administrator to lease and equip office rooms outside of a state building pursuant to NRS 331.110, as amended by section 2 of Assembly Bill No. 59, chapter 125, Statutes of Nevada 2015, at page 461, must submit to the Buildings and Grounds Section, in writing:

(a) A request in the form prescribed by the Buildings and Grounds Section and including the information required by section 10 of this regulation;

(b) A spreadsheet in the form prescribed by the Buildings and Grounds Section and including the information required by section 11 of this regulation; and

(c) A narrative statement of:

(1) The requirements of the agency for additional space, replacement space, new space or the renewal of an existing lease;

(2) The desired location of the leased space; and

(3) The desired term of the lease and, if the desired term is longer than 5 years, an explanation of the need for the longer term.

2. The forms described in paragraphs (a) and (b) of subsection 1 are available on the Internet website of the Division at http://publicworks.nv.gov/.

3. The Buildings and Grounds Section will return to the agency any request or spreadsheet that is not completed in accordance with section 10 or 11, as applicable, with directions for correction of the deficiency.

4. The information required by this section must be submitted to the Buildings and Grounds Section:

(a) Not less than 90 days before the estimated beginning of the lease term if, as determined by the Buildings and Grounds Section, the leased space will not require any tenant improvements or only minimal improvements to make the space suitable for use by the agency.

(b) Not less than 270 days before the estimated beginning of the lease term if, as determined by the Buildings and Grounds Section, the leased space will require more substantial tenant improvements to make the space suitable for use by the agency.

Sec. 10. *A request submitted by an agency pursuant to section 9 of this regulation must include:*

1. The names, postal and electronic mail addresses and telephone numbers of the agency,

the budget analyst of the agency and, if different, the person designated by the agency to serve as the point of contact with the Buildings and Grounds Section for purposes of the lease that is the subject of the request;

2. Information about the budget account of the agency, including the budget account number, the amount allocated by the budget for rent and the other costs described in subsection 3, the decision unit, appropriation unit and the percentage of the budget supported by appropriations from the State General Fund; and

3. A certification, signed by the executive head of the agency, attesting that:

(a) The approved budget of the agency includes all necessary expenditures for the space proposed to be leased, including the cost of moving, tenant improvements and other related costs; and

(b) The executive head is authorized to submit the request on behalf of the agency.

Sec. 11. *A spreadsheet submitted by an agency pursuant to section 9 of this regulation must include information relating to:*

1. The number of persons who will occupy the space proposed to be leased;

2. The average number of persons attending any meeting to be held in a conference room in the leased space;

3. The amount of space required in the leased space for photocopiers, facsimile machines, computer servers and other equipment;

4. Any required reception area;

5. The requirements of the agency for shared space and secured space; and

6. Any other special requirements of the agency relating to the agency's performance of its functions.

Sec. 12. ***1. Before undertaking any improvement to or modification of the leased space, an agency for which the Administrator has leased office rooms outside of a state building pursuant to NRS 331.110, as amended by section 2 of Assembly Bill No. 59, chapter 125, Statutes of Nevada 2015, at page 461, must give written notice to and obtain the approval of the Buildings and Grounds Section.***

2. As used in this section, "improvement or modification" includes, without limitation, any architectural change, any modification of the electrical, life safety or heating, ventilation and air conditioning system of the leased space, any change relating to ingress into or egress from the leased space and any change relating to the access to or use of the leased space by persons with disabilities.

Sec. 13. ***The provisions of sections 13 to 16, inclusive, of this regulation apply to any state building and any grounds or other property over which the Administrator has supervision and control pursuant to subsection 1 of NRS 331.070.***

Sec. 14. ***Any person or organization, including, without limitation, any public official or governmental entity, that desires to hold a special event or conduct a business venture in or upon any state building or grounds or property described in section 13 of this regulation must first apply for and obtain from the Administrator a special use permit authorizing that use.***

Sec. 15. ***An agency that desires office rooms in any state building must submit to the Buildings and Grounds Section the request and spreadsheet required by sections 10 and 11 of this regulation.***

Sec. 16. ***In any state building:***

1. The thermostat for any temperature control system in any occupied area must be set at 72 degrees Fahrenheit for heating and 75 degrees Fahrenheit for cooling.

2. Except as otherwise provided in this subsection, electric space heaters and refrigerators are prohibited. If a central break room is provided, it may be equipped with a refrigerator. Upon written request, the Buildings and Grounds Section may grant an exemption from the prohibitions of this subsection for any person having special health needs.

3. Except for dogs used by law enforcement officers in the performance of their duties and as otherwise provided by law for service animals and service animals in training, animals are prohibited.

4. As used in this section:

(a) "Service animal" has the meaning ascribed to it in NRS 426.097, as amended by section 1 of Assembly Bill No. 157, chapter 63, Statutes of Nevada 2015, at page 270.

(b) "Service animal in training" has the meaning ascribed to it in NRS 426.099, as amended by section 2 of Assembly Bill No. 157, chapter 63, Statutes of Nevada 2015, at page 270.