

CHAPTER 332 - PURCHASING: LOCAL GOVERNMENTS

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NOTE: The section added to chapter 332 by section 1 of chapter 159, Statutes of Nevada 1995, has been codified as [NRS 237.020](#).

GENERAL PROVISIONS

NRS 332.005 Short title. This chapter may be cited as the Local Government Purchasing Act.
(Added to NRS by [1975, 1536](#))

NRS 332.015 “Local government” defined.

1. For the purpose of this chapter, unless the context otherwise requires, “local government” means:
 - (a) Every political subdivision or other entity which has the right to levy or receive money from ad valorem taxes or other taxes or from any mandatory assessments, including counties, cities, towns, school districts and other districts organized pursuant to [chapters 244, 318, 318A, 379, 450, 474, 539, 541, 543](#) and [555](#) of NRS.
 - (b) The Las Vegas Valley Water District created pursuant to the provisions of chapter 167, Statutes of Nevada 1947, as amended.
 - (c) County fair and recreation boards and convention authorities created pursuant to the provisions of [NRS 244A.597](#) to [244A.655](#), inclusive.
 - (d) District boards of health created pursuant to the provisions of [NRS 439.362](#) or [439.370](#).
 - (e) A metropolitan police department created pursuant to the provisions of [NRS 280.110](#).
2. The term does not include the Nevada Rural Housing Authority.

(Added to NRS by [1975, 1536](#); A [1977, 536](#); [1995, 814](#); [2003, 2261](#); [2005, 2478](#); [2015, 1917, 2229](#); [2017, 2033, 2718](#); [2019, 767](#))

NRS 332.025 Other terms defined. As used in this chapter, unless the context otherwise requires:

1. “Authorized representative” means a person designated by the governing body to be responsible for the development, award and proper administration of all purchases and contracts for a local government or a department, division, agency, board or unit of a local government made pursuant to this chapter.

2. “Chief administrative officer” means the person directly responsible to the governing body for the administration of that particular entity.

3. “Evaluator” means an authorized representative, officer, employee, representative, agent, consultant or member of a governing body who has participated in:

- (a) The evaluation of responses;
- (b) Negotiations concerning purchasing by a local government; or
- (c) The review or approval of the award, modification or extension of a contract.

4. “Governing body” means the board, council, commission or other body in which the general legislative and fiscal powers of the local government are vested. The term includes a local school precinct.

5. “Local school precinct” has the meaning ascribed to it in [NRS 388G.535](#).

6. “On-line solicitation” means a process by which a responding offeror submits a response to a solicitation on a secure website on the Internet or its successor, if any, which is established and maintained for that purpose.

7. “Proprietary information” means:

(a) Any trade secret or confidential business information that is contained in a response submitted to a governing body or its authorized representative on a particular contract; or

(b) Any other trade secret or confidential business information submitted to a governing body or its authorized representative by a responding offeror and designated as proprietary by the governing body or its authorized representative.

As used in this subsection, “confidential business information” means any information relating to the amount or source of any income, profits, losses or expenditures of a person, including data relating to cost, price, or the customers of a responding offeror which is submitted in support of a response. The term does not include the amount of a response submitted to a governing body or its authorized representative.

8. “Responding offeror” means a person who responds to a solicitation made by a governing body or its authorized representative.

9. “Solicitation” means a written statement which sets forth the requirements and specifications of a contract to be awarded by:

- (a) An invitation to bid;
- (b) A request for proposals;
- (c) A request for a statement of qualifications;
- (d) A request for a quotation; or
- (e) Any other accepted method of purchasing that complies with the provisions of this chapter.

10. “Trade secret” has the meaning ascribed to it in [NRS 600A.030](#).

(Added to NRS by [1975, 1536](#); A [1985, 514](#); [1995, 1731](#); [2001, 1314](#); [2017, 57](#); [2019, 767](#))

NRS 332.027 Application of chapter to local school precincts.

1. Any action taken by a local school precinct pursuant to this chapter shall not be deemed to be an action by the large school district within which the local school precinct is located for purposes of this chapter and must not be aggregated with any contract of the large school district or any other local school precinct within the large school district.

2. As used in this section, “large school district” has the meaning ascribed to it in [NRS 388G.530](#).

(Added to NRS by [2017, 57](#))

PROCEDURES FOR LOCAL GOVERNMENT PURCHASING

Procedures for Solicitations

NRS 332.039 Advertisements or requests for bid on contract. Repealed. (See chapter 140, [Statutes of Nevada 2019, at page 788](#).)

NRS 332.043 Solicitation: Required contents. Each solicitation must include, without limitation:

1. The minimum requirements that a successful responding offeror must meet for the awarding of the contract pursuant to the provisions of this chapter;

2. The method by which the contract will be awarded, including, without limitation, on the basis of price or lowest responsive and responsible bidder;

3. Notice of the written certification required pursuant to subsection 4 of [NRS 332.065](#), if applicable; and

4. The period during which a notice of protest regarding the awarding of a contract pursuant to [NRS 332.068](#) may be submitted, if applicable.

(Added to NRS by [2019, 766](#))

NRS 332.045 Advertisement of contract: Publication; contents.

1. The advertisement authorized by subsection 1 of [NRS 332.063](#) or required by subsection 1 of [NRS 332.065](#) must be published:

(a) In a newspaper qualified pursuant to [chapter 238](#) of NRS that has a general circulation within the county wherein the local government, or a major portion thereof, is situated at least once and not less than 7 days before the opening of responses.

(b) Every day for not less than 7 days before the opening of responses on:

(1) The Internet website of the local government, if the local government maintains an Internet website; or

(2) A secure website on the Internet or its successor, if any, which is established and maintained for the purpose of an on-line solicitation.

2. The advertisement must state:

(a) The nature, character or object of the contract.

(b) If plans and specifications are part of the contract, where the plans and specifications may be seen.

(c) The time and date on which responses will be opened.

(d) That a written certification is a required part of the contract pursuant to subsection 4 of [NRS 332.065](#), if applicable.

(e) Such other matters as may properly pertain to the contract.

(Added to NRS by [1975, 1536](#); A [1979, 172](#); [1983, 1659](#); [1993, 2554](#); [1999, 1036](#); [2003, 667](#); [2005, 2552](#); [2011, 1863](#); [2017, 1611](#); [2019, 140](#))

NRS 332.047 On-line solicitation.

1. A governing body or its authorized representative may use an on-line solicitation to receive responses to a solicitation. The governing body or its authorized representative shall not use an on-line solicitation as the exclusive means of a solicitation if there is any cost to a responding offeror to submit a response.

2. An on-line solicitation must designate a date and time at which responses may be submitted and may designate a date and time after which responses will no longer be received.

3. A governing body or its authorized representative may require a responding offeror to:

(a) Register for an on-line solicitation before the date and time at which responses may be submitted; and

(b) Agree to terms, conditions or requirements of the solicitation to facilitate the on-line solicitation.

4. The procedures established by a governing body or its authorized representative for the purposes of conducting an on-line solicitation must not conflict with the provisions of this chapter.

(Added to NRS by [2001, 1314](#); A [2005, 2552](#); [2019, 769](#))

NRS 332.061 Limitation on disclosure of proprietary information and of solicitation containing provision requiring negotiation or evaluation.

1. Except as otherwise provided in this subsection and [NRS 239.0115](#), proprietary information does not constitute public information and is confidential. A person shall not disclose proprietary information unless:

(a) The disclosure is made for the purpose of a civil, administrative or criminal investigation or proceeding; and

(b) The person receiving the information represents in writing that protections exist under applicable law to preserve the integrity, confidentiality and security of the information.

2. A solicitation which contains a provision that requires negotiation or evaluation by the governing body or an evaluator may not be disclosed until the response is recommended for the award of a contract.

(Added to NRS by [1995, 1731](#); A [2001, 1315](#); [2005, 2553](#); [2007, 2088](#); [2019, 769](#))

NRS 332.063 Contracts for which estimated annual amount required to perform is more than \$50,000 but not more than \$100,000: Solicitation of responses; permissive advertisement; award.

1. Except as otherwise provided by specific statute, if the estimated annual amount required to perform a contract is more than \$50,000 but not more than \$100,000, the governing body or its authorized representative:

(a) Shall solicit responses from two or more persons capable of performing the contract, if such persons are available; and

(b) May advertise the contract in the manner prescribed in [NRS 332.045](#).

2. The governing body or its authorized representative shall award such a contract on the basis of price, taking into account the minimum requirements of a responding offeror prescribed in the solicitation pursuant to [NRS 332.043](#) and the method prescribed in that solicitation for awarding the contract.

(Added to NRS by [2019, 767](#))

NRS 332.065 Contracts for which estimated annual amount required to perform is more than \$100,000: Advertisement required; permissive solicitation; award; prohibition on entering without certification relating to certain boycotts of Israel.

1. Except as otherwise provided by specific statute, if the estimated annual amount required to perform a contract is more than \$100,000, the governing body or its authorized representative:

(a) Shall advertise the contract in the manner prescribed in [NRS 332.045](#); and

(b) May issue a solicitation for the contract.

2. If the estimated annual amount to perform a contract is more than \$100,000 and the method for obtaining the contract designated in the solicitation is an invitation to bid, the governing body or its authorized representative must, except as otherwise provided by specific statute, award the contract to the lowest responsive and responsible bidder. The lowest responsive and responsible bidder may be judged on the basis of:

(a) Price;

(b) Conformance to specifications;

(c) Qualifications of the bidder, including, without limitation:

(1) The possession of or limit on any required license of the bidder;

- (2) The financial responsibility of the bidder;
- (3) The experience of the bidder; and
- (4) The ability of the bidder to perform the contract;
- (d) Adequacy of the equipment of the bidder;
- (e) Past performance;
- (f) Performance schedule or delivery date;
- (g) If the contract requires the delivery of goods, the total cost of ownership of the goods;
- (h) If the contract requires the delivery of goods, the purpose for which the goods to be supplied are required;
- (i) The best interests of the public; and
- (j) Such other criteria as may be set forth by the governing body or its authorized representative in the advertisement or solicitation, as applicable, that pertains to the contract.

➤ If after the lowest responsive and responsible bidder has been awarded the contract, during the term of the contract he or she does not perform in accordance with the bid specifications, or if he or she repudiates the contract, the governing body or its authorized representative may reaward the contract to the next lowest responsive and responsible bidder without requiring that new bids be submitted. Rewarding the contract to the next lowest responsive and responsible bidder is not a waiver of any liability of the initial bidder awarded the contract.

3. Except as otherwise provided by specific statute, if the estimated annual amount to perform a contract is more than \$100,000 and the method for obtaining the contract designated in the solicitation is a method other than an invitation to bid, the governing body or its authorized representative shall award such a contract taking into account the minimum requirements for a responding offeror prescribed in the solicitation pursuant to [NRS 332.043](#) and the method prescribed in that solicitation for awarding the contract.

4. A governing body or its authorized representative shall not enter into a contract pursuant to this section with a company unless the contract includes a written certification that the company is not currently engaged in, and agrees for the duration of the contract not to engage in, a boycott of Israel.

5. As used in this section:

(a) "Boycott of Israel":

(1) Means, except as otherwise provided in subparagraph (2), refusing to deal or conduct business with, abstaining from dealing or conducting business with, terminating business or business activities with or performing any other action that is intended to limit commercial relations with:

(I) Israel; or

(II) A person or entity doing business in Israel or in territories controlled by Israel,

➤ if such an action is taken in a manner that discriminates on the basis of nationality, national origin or religion.

(2) Does not include an action that is described in subparagraph (1) if the action:

(I) Is based on a bona fide business or economic reason;

(II) Is taken pursuant to a boycott against a public entity of Israel if the boycott is applied in a nondiscriminatory manner; or

(III) Is taken in compliance with or adherence to calls for a boycott of Israel if that action is authorized in 50 U.S.C. § 4607 or any other federal or state law.

(b) "Company" means any domestic or foreign sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited-liability partnership, limited-liability company, or other domestic or foreign entity or business association, including, without limitation, any wholly owned subsidiary, majority owned subsidiary, parent company or affiliate of such an entity or business association, that exists for the purpose of making a profit.

(c) "Total cost of ownership" includes, without limitation:

(1) The history of maintenance and repair of the goods;

(2) The cost of routine maintenance and repair of the goods;

(3) Any warranties provided in connection with the goods;

(4) The cost of replacement parts for the goods; and

(5) The value of the goods as used goods when given in trade on a subsequent purchase.

(Added to NRS by [1975, 1537](#); A [1991, 375, 1673, 2191](#); [1999, 1683](#); [2001, 1315](#); [2003, 618](#); [2005, 2553](#); [2017, 1610, 1611](#); [2019, 769](#))

NRS 332.066 Contract for which estimated annual amount required to perform is more than \$100,000: Preference given to recycled products if method of solicitation is invitation to bid.

1. If the estimated annual amount required to perform a contract is more than \$100,000 and the designated method for awarding the contract specified in the solicitation is an invitation to bid, the governing body or its authorized representative:

(a) Shall give preference to a bid to provide recycled products if:

(1) The products meet the applicable standards;

(2) The products can be substituted for comparable nonrecycled products; and

(3) The products do not cost more than comparable nonrecycled products.

(b) May give preference to a bid to provide recycled products if:

(1) The products meet the applicable standards;

(2) The products can be substituted for comparable nonrecycled products; and

(3) The products do not cost more than 5 percent more than the comparable nonrecycled products.

(c) May purchase recycled paper products if the specific recycled paper product is:

(1) Available at a price which is not more than 10 percent higher than that of the comparable paper product made from virgin material;

(2) Of adequate quality; and

- (3) Available to the purchaser within a reasonable amount of time.
 2. As used in this section:
 - (a) "Postconsumer waste" means a finished material which would normally be disposed of as solid waste having completed its life cycle as a consumer item.
 - (b) "Recycled paper product" means any paper or wood-pulp product containing in some combination comprising at least 50 percent of its total weight:
 - (1) Postconsumer waste; and
 - (2) Secondary waste,
- ↳ but the term does not include fibrous waste generated during the manufacturing process such as fibers recovered from wastewater or trimmings of paper machine rolls, wood slabs, chips, sawdust or other wood residue from a manufacturing process.
- (c) "Secondary waste" means fragments of products or finished products of a manufacturing process which has converted a virgin resource into a commodity of real economic value.
(Added to NRS [2019, 766](#))

NRS 332.068 Contract for which estimated annual amount required to perform is more than \$100,000: Filing and contents of protest of award; posting and disposition of bond or security; stay of action; immunity of governing body from liability to person who submits response.

1. A person who submits a response to a solicitation for a contract for which the estimated annual amount to perform the contract is more than \$100,000 may, after the responses are opened and within the period specified by the governing body or its authorized representative in the solicitation pursuant to [NRS 332.043](#), file with the governing body or its authorized representative a notice of protest regarding the awarding of the contract.
2. A notice of protest must include a written statement setting forth with specificity the reasons the person filing the notice believes the applicable provisions of law were violated.
3. A person filing a notice of protest may be required by the governing body or its authorized representative, at the time the notice of protest is filed, to post a bond with a good and solvent surety authorized to do business in this State or submit other security, in a form approved by the governing body or its authorized representative, to the governing body or its authorized representative who shall hold the bond or other security until a determination is made on the protest. A bond posted or other security submitted with a notice of protest must be in an amount equal to the lesser of:
 - (a) Twenty-five percent of the total value of the response submitted by the person filing the notice of protest; or
 - (b) Two hundred fifty thousand dollars.
4. A notice of protest filed in accordance with the provisions of this section operates as a stay of action in relation to the awarding of any contract until a determination is made by the governing body or its authorized representative on the protest.
5. A person who submits an unsuccessful response may not seek any type of judicial intervention until the governing body or its authorized representative has made a determination on the protest and awarded the contract.
6. A governing body or its authorized representative is not liable for any costs, expenses, attorney's fees, loss of income or other damages sustained by a person who submits a response, whether or not the person files a notice of protest pursuant to this section.
7. If the protest is upheld, the bond posted or other security submitted with the notice of protest must be returned to the person who posted the bond or submitted the security. If the protest is rejected, a claim may be made against the bond or other security by the governing body or its authorized representative in an amount equal to the expenses incurred by the governing body or its authorized representative because of the unsuccessful protest. Any money remaining after the claim has been satisfied must be returned to the person who posted the bond or submitted the security.
(Added to NRS by [2005, 2551](#); A [2019, 772](#))

NRS 332.075 Contract for which estimated annual amount required to perform is more than \$100,000: Rejection of response. Any response to a solicitation for a contract for which the estimated annual amount to perform a contract is more than \$100,000 may be rejected by the governing body or its authorized representative if the governing body or its authorized representative determines that the responding offeror is not responsive or responsible or that the quality of the services, supplies, materials, equipment or labor offered does not conform to requirements or if the public interest would be served by such a rejection.

(Added to NRS by [1975, 1537](#); A [2019, 773](#))

NRS 332.085 Determination of bidder's responsibility. Repealed. (See chapter 140, [Statutes of Nevada 2019, at page 788.](#))

NRS 332.091 Maintenance of records of solicitations and responses. A governing body or its authorized representative shall maintain a record of each solicitation and response to a solicitation for at least 7 years after the date of execution of the contract.

(Added to NRS by [2019, 766](#))

NRS 332.095 Assignment of contracts.

1. Except as otherwise provided in subsection 2:
 - (a) No contract awarded may be assigned to any other person without the consent of the governing body or its authorized representative.
 - (b) No contract awarded or any portion thereof may be assigned to any person who was declared by the governing body or its authorized representative not to be a responsible person to perform the particular contract.

2. The provisions of this section do not apply to the assignment of a contract by virtue of the acquisition of the person who is a party to the contract by a person that purchases the full assets and liabilities of the person who is a party to the contract.

(Added to NRS by [1975, 1537](#); A [1999, 1684](#); [2001, 1316](#); [2019, 773](#))

NRS 332.105 Bonds.

1. A performance bond, payment bond or any other bond or combination thereof, with sufficient surety, in such amount as may be determined necessary by the governing body or its authorized representative, may be required of each responding offeror on a particular contract.

2. Any such bonds may be to insure proper performance of the contract and save, indemnify and keep harmless the local government against all loss, damages, claims, liabilities, judgments, costs and expenses which may accrue against the local government in consequence of the awarding of the contract.

3. If a local government requires such a bond, it shall not also require a detailed financial statement from each responding offeror on the contract.

(Added to NRS by [1975, 1537](#); A [1983, 914](#); [2019, 773](#))

Exceptions to Requirements for Competitive Solicitations

NRS 332.112 Emergency contracts.

1. For the purposes of this section, an “emergency” is one which:

(a) Results from the occurrence of a disaster, including, but not limited to, fire, flood, hurricane, riot, power outage or disease; or

(b) May lead to impairment of the health, safety or welfare of the public if not immediately attended to.

2. If the authorized representative, chief administrative officer or governing body of the local government determines that an emergency exists affecting the public health, safety or welfare, a contract or contracts necessary to contend with the emergency may be let without complying with the requirements of this chapter. If such emergency action was taken by the authorized representative or chief administrative officer, he or she shall report it to the governing body at its next regularly scheduled meeting.

(Added to NRS by [1975, 1537](#); A [1999, 1682](#))

NRS 332.115 Contracts not adapted to award by competitive solicitation; purchase of certain equipment by local law enforcement agency, response agency or other local governmental agency; purchase of goods commonly used by hospital.

1. Contracts which by their nature are not adapted to award by a competitive solicitation, including contracts for:

(a) Items which may only be contracted from a sole source;

(b) Professional services;

(c) Additions to and repairs and maintenance of equipment which may be more efficiently added to, repaired or maintained by a certain person;

(d) Equipment which, by reason of the training of the personnel or of an inventory of replacement parts maintained by the local government is compatible with existing equipment;

(e) Perishable goods;

(f) Insurance;

(g) Hardware and associated peripheral equipment and devices for computers;

(h) Software for computers;

(i) Maintenance and support for:

(1) Hardware and associated peripheral equipment and devices for computers; and

(2) Software for computers;

(j) Equipment containing hardware or software for computers;

(k) Books, instructional materials, library materials and subscriptions;

(l) Motor vehicle fuel purchased by a local law enforcement agency for use in an undercover investigation;

(m) Motor vehicle fuel for use in a vehicle operated by a local law enforcement agency or local fire department if such fuel is not available within the vehicle’s assigned service area from a fueling station owned by the State of Nevada or a local government;

(n) Purchases made with money in a store fund for prisoners in a jail or local detention facility for the provision and maintenance of a canteen for the prisoners;

(o) Supplies, materials, equipment or services that are available pursuant to an agreement with a vendor that has entered into an agreement with the General Services Administration or another federal governmental agency located within or outside this State;

(p) Items for resale through a retail outlet operated in this State by a local government or the State of Nevada;

(q) Commercial advertising within a recreational facility operated by a county fair and recreation board;

(r) Goods or services purchased from organizations or agencies whose primary purpose is the training and employment of persons with disabilities; and

(s) The design of, and equipment and services associated with, systems of communication,

↪ are not subject to the requirements of this chapter for a competitive solicitation, as determined by the governing body or its authorized representative.

2. The purchase of forensic equipment and supplies used in forensic analysis or other equipment for use by a local law enforcement agency in the course of an undercover investigation is not subject to the requirements of this chapter for a competitive solicitation, as determined by the governing body or its authorized representative, if:

- (a) The equipment is an electronic or mechanical device which by design is intended to monitor and document in a clandestine manner suspected criminal activity;
 - (b) Purchasing the equipment pursuant to such requirements would limit or compromise the use of such equipment by an agency authorized to conduct such investigations; or
 - (c) The equipment and supplies are:
 - (1) Used in analysis in such investigations; or
 - (2) Required to comply with specific forensic standards or quality standards.
3. The purchase of personal safety equipment for use by a response agency or any other local governmental agency is not subject to the requirements of this chapter for a competitive solicitation, as determined by the governing body or its authorized representative, if:
- (a) The personal safety equipment will be used by personnel of the response agency or other local governmental agency in preventing, responding to or providing services of recovery or relief in connection with emergencies, acts of terrorism or other natural or man-made disasters in which the health, safety or welfare of those personnel may be compromised, impaired or otherwise threatened; and
 - (b) The cost of the personal safety equipment is comparable to the cost of similar personal safety equipment that is available for purchase by the public.
4. The purchase of goods commonly used by a hospital, including, without limitation, medical equipment, implantable devices and pharmaceuticals, by the governing body of a hospital or its authorized representative is not subject to the requirements of this chapter for a competitive solicitation. The governing body of the hospital or its authorized representative shall make available for public inspection each such contract and records related to those purchases.
5. This section does not prohibit a governing body or its authorized representative from advertising for or requesting responses.
6. As used in this section:
- (a) "Act of terrorism" has the meaning ascribed to it in [NRS 239C.030](#).
 - (b) "Personal safety equipment" means safety equipment that personnel of a response agency or other local governmental agency:
 - (1) Use in the course of preventing, responding to or providing services of recovery or relief in connection with emergencies, acts of terrorism or other natural or man-made disasters; or
 - (2) Wear or otherwise carry on a regular basis.
- ↪ The term includes, without limitation, firearms, boots, bulletproof vests or other types of body armor, protective garments, protective eyewear, gloves, helmets, and any specialized apparatus, equipment or materials approved or recommended by the United States Department of Homeland Security.
- (c) "Response agency" means an agency of a local government that provides services related to law enforcement, firefighting, emergency medical care or public safety.
- (Added to NRS by [1975, 1538](#); A [1987, 296, 1484](#); [1991, 337, 349, 648, 1934, 1935](#); [1997, 132](#); [1999, 889, 1684](#); [2001, 1317](#); [2003, 620, 2262](#); [2005, 226, 2554](#); [2019, 773](#))

NRS 332.117 Award of certain contracts to nonprofit organization or agency whose primary purpose is training and employment of persons with mental or physical disabilities.

1. In accordance with the Program to Encourage and Facilitate Purchases by Agencies of Commodities and Services From Organizations established pursuant to [NRS 334.025](#), a governing body or its authorized representative may award, without complying with the requirements for a competitive solicitation set forth in this chapter, a contract for services or for the purchase of supplies, materials, equipment or labor to a nonprofit organization or agency whose primary purpose is the training and employment of persons with a mental or physical disability, including, without limitation, a provider of jobs and day training services certified pursuant to [NRS 435.130](#) to [435.310](#), inclusive.
2. A nonprofit organization or agency that:
- (a) Wishes to submit a response to a solicitation must:
 - (1) Register with the Purchasing Division of the Department of Administration as required pursuant to [NRS 334.025](#); and
 - (2) Establish a fair-market price for those services, supplies, materials, equipment or labor by conducting a market survey and must include the survey with the response submitted to the local government.
 - (b) Is awarded such a contract must report quarterly to the Purchasing Division as required pursuant to [NRS 334.025](#).
3. As used in this section, "nonprofit organization or agency" means an organization or agency that is recognized as exempt pursuant to the provisions of 26 U.S.C. § 501(c)(3).
- (Added to NRS by [2001, 1535](#); A [2007, 2493](#); [2009, 2237](#); [2017, 1546](#); [2019, 775](#))

NRS 332.135 Contracts with carriers; solicitation of informal rate quotations; contracts with Purchasing Division of Department of Administration.

1. Nothing in this chapter prohibits a governing body or its authorized representative from contracting for interstate or intrastate carriage of persons or property with a certificated common or contract carrier at the rates set forth in the officially approved tariff of such carrier.
2. Nothing in this section prohibits a governing body or its authorized representative from soliciting informal rate quotations.
3. Nothing in this chapter prohibits a governing body or its authorized representative from obtaining supplies, materials, equipment or services on a voluntary basis from the Purchasing Division of the Department of Administration pursuant to [NRS 333.470](#).
- (Added to NRS by [1975, 1538](#); A [1991, 618](#); [1993, 1564](#))

NRS 332.146 Purchase or acquisition at auction, closeout and bankruptcy sales, sale of merchandise left after exhibition or other similar sale.

1. Except as otherwise provided by law, if the governing body or its authorized representative determines that the supplies, materials or equipment can be purchased at any public auction, closeout sale, bankruptcy sale, sale of merchandise left after an exhibition, or other similar sale at a reasonable savings over the cost of like merchandise and below the market cost in the community, a contract or contracts may be let or the purchase made without complying with the requirements of this chapter for a competitive solicitation.

2. The documentation for the purchase or acquisition must be summarized for the next regularly scheduled meeting of the governing body, together with written justification showing the savings involved.

(Added to NRS by [1975, 1538](#); A [1983, 845](#); [2001, 1318](#); [2019, 776](#))

NRS 332.148 Failure to receive responsible responses.

1. Except as otherwise provided in subsection 2, when a governing body or its authorized representative has advertised for or requested responses in letting a contract and no responsible responses are received, the governing body or its authorized representative may let the contract without a competitive solicitation not less than 7 days after it publishes a notice stating that no responses were received on the contract and that the contract may be let without a further solicitation.

2. A governing body or its authorized representative shall entertain any response which is submitted after it publishes such notice and before the expiration of the waiting period.

(Added to NRS by [1977, 463](#); A [1999, 1685](#); [2019, 776](#))

GENERAL POWERS AND DUTIES OF LOCAL GOVERNMENTS

NRS 332.175 Trade-in allowances for personal property. A governing body or its authorized representative may solicit and accept trade-in allowances for personal property of the public entity which has been determined by the governing body or its authorized representative to be no longer required for public use in any manner authorized by law.

(Added to NRS by [1975, 1539](#); A [1999, 1685](#); [2001, 1319](#))

NRS 332.185 Disposal of personal property of local government; donation of surplus personal property by school district; chapter inapplicable to transactions regarding real property.

1. Except as otherwise provided in subsection 2 and [NRS 244.1505](#) and [334.070](#), if the governing body or its authorized representative determines that the personal property of the local government is no longer required for public use and deems such action desirable and in the best interests of the local government, the governing body or its authorized representative may dispose of personal property of the local government by any manner, including, without limitation, by:

- (a) Selling such property at public auction.
- (b) Donating such property to another governmental entity or nonprofit organization.

2. The board of trustees of a school district may donate surplus personal property of the school district to any other school district in this State or to a charter school that is located within the school district without regard to:

- (a) The provisions of this chapter; or
- (b) Any statute, regulation, ordinance or resolution that requires:
 - (1) The posting of notice or public advertising.
 - (2) The inviting or receiving of competitive responses.
 - (3) The selling or leasing of personal property by contract or at a public auction.

3. The provisions of this chapter do not apply to the purchase, sale, lease or transfer of real property by the governing body.

(Added to NRS by [1975, 1539](#); A [1983, 1248](#); [1999, 1685](#), [3320](#), [3322](#); [2001, 238](#), [1319](#); [2013, 1488](#); [2015, 3818](#); [2019, 776](#), [2017, 2078](#))

NRS 332.195 Entering into contract pursuant to solicitation by other governmental entities or cooperative purchasing organizations; prohibition if contractor's license required for portion of work to be performed.

1. Except as otherwise provided in this section, a governing body or its authorized representative may enter into a contract pursuant to a solicitation by:

(a) A governmental entity 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 governmental entity which enters into a contract in response to the solicitation in accordance with this paragraph.

(b) 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 enters into a contract in response to the solicitation in accordance with this paragraph.

(c) A cooperative purchasing organization. A cooperative purchasing organization is not liable for the obligations of the local government which enters into a contract in response to the solicitation in accordance with this paragraph.

2. A governing body or its authorized representative shall not enter into a contract pursuant to this section if a contractor's license issued pursuant to [chapter 624](#) of NRS is required for any portion of the work to be performed under the contract.

3. As used in this section, "cooperative purchasing organization" means an organization that implements a cooperative arrangement to agree to aggregate demand on behalf of public entities for the purpose of obtaining lower prices from certain suppliers to reduce the costs of procurement.

(Added to NRS by [1975, 1539](#); A [1985, 357](#); [1999, 1686](#); [2001, 1320](#); [2003, 2263](#); [2005, 2556](#); [2013, 69](#); [2019, 777](#))

NRS 332.201 Duty of governing body of certain counties to report to Office of Economic Development concerning local emerging small businesses.

1. The governing body or its authorized representative in a county whose population is 100,000 or more shall submit a report every 6 months to the Office. The report must include, without limitation, for the period since the last report:

(a) The number of local emerging small businesses that the governing body or its authorized representative solicited to submit a response to the governing body or its authorized representative for a local purchasing contract;

(b) The number of local emerging small businesses that submitted a response to the governing body or its authorized representative for a local purchasing contract;

(c) The number of local purchasing contracts that were awarded by the governing body or its authorized representative to local emerging small businesses;

(d) The total number of dollars' worth of local purchasing contracts that were awarded by the governing body or its authorized representative to local emerging small businesses; and

(e) Any other information deemed relevant by the Office.

2. The report required pursuant to subsection 1 must be submitted within 90 days after:

(a) The end of each fiscal year; and

(b) The end of each calendar year.

3. As used in this section:

(a) "Local emerging small business" has the meaning ascribed to it in [NRS 231.1402](#).

(b) "Local purchasing contract" means a contract awarded pursuant to the provisions of this chapter for which the estimated cost is not more than \$100,000. The term does not include a contract for which a procurement card is used.

(c) "Office" means the Office of Economic Development.

(d) "Procurement card" means a charge card issued to a governing body or its authorized representative for the purpose of purchasing goods and services pursuant to the provisions of this chapter.

(Added to NRS by [2013, 3689](#); [A 2019, 778](#))

NRS 332.215 Commission to Study Governmental Purchasing: Members; Chair; meetings; duties.

1. Each county of this state whose population is 100,000 or more, must be a member of the Commission to Study Governmental Purchasing which is composed of all purchasing agents of the local governments within those counties. Each county whose population is less than 100,000 may participate as a voting member of the Commission. The members shall select a Chair from among their number.

2. The Commission shall meet no less than quarterly or at the call of the Chair to study practices in governmental purchasing and laws relating thereto and shall make recommendations with respect to those laws to the next regular session of the Legislature.

(Added to NRS by [1975, 1540](#); [A 1979, 537](#); [1985, 358](#))

NRS 332.221 Provision of maintenance services for vehicles and purchase of motor vehicle fuel for sale to public agencies or nonprofit corporations that provide transportation to elderly or persons with disabilities; regulations.

1. A governing body may provide maintenance services for vehicles which belong to, and may purchase motor vehicle fuel to sell to:

(a) Any public agency or organization which is supported by tax money; and

(b) Any private agency or organization which is incorporated as a nonprofit corporation pursuant to [chapter 81](#) or [82](#) of NRS,

and which uses the vehicles and fuel in specially providing transportation to the elderly or persons with disabilities.

2. The governing body shall establish regulations for determining the eligibility of applicants for maintenance services and fuel pursuant to this section.

3. The costs of all maintenance services and fuel provided pursuant to this section must be paid for by the agency or organization which receives the service or fuel.

(Added to NRS by [1979, 88](#); [A 1981, 239](#); [1991, 1313](#))

NRS 332.223 Use of facilities of local government by nonprofit corporation that provides ambulance services pursuant to franchise agreement. A nonprofit corporation that provides ambulance services pursuant to a franchise agreement with a local government may obtain supplies, materials and equipment on a voluntary basis through the facilities of the local government.

(Added to NRS by [1995, 1731](#))

NRS 332.225 Requirements of chapter unaffected by approval by governing body of application for federal grant. Approval by a governing body of an application for a federal categorical grant does not dispense with the requirements of this chapter for approval by the governing body of the letting of any contract.

(Added to NRS by [1975, 1540](#))

PERFORMANCE CONTRACTS FOR OPERATING COST-SAVINGS MEASURES

NRS 332.300 Definitions. As used in [NRS 332.300](#) to [332.440](#), inclusive, unless the context otherwise requires, the words and terms defined in [NRS 332.310](#) to [332.350](#), inclusive, have the meanings ascribed to them in those sections.

(Added to NRS by [2003, 3049](#); [A 2009, 965](#); [2013, 2119](#))

NRS 332.310 “Building” defined. “Building” means any existing structure, building or facility, including any equipment, furnishings or appliances within the existing structure, building or facility, that is owned or operated by a local government. The term includes, without limitation, occupied and unoccupied existing structures, buildings and facilities, and any other existing improvements owned or operated by a local government that incur operating costs.

(Added to NRS by [2003, 3049](#); A [2009, 965](#))

NRS 332.320 “Operating cost savings” defined. “Operating cost savings” means any expenses that are eliminated or avoided on a long-term basis as a result of the installation or modification of equipment, or services performed by a qualified service company. The term does not include any savings that are realized solely because of a shift in the cost of personnel or other similar short-term cost savings.

(Added to NRS by [2003, 3049](#))

NRS 332.330 “Operating cost-savings measure” defined. “Operating cost-savings measure”:

1. Means any improvement, repair or alteration to a building, or any equipment, fixture or furnishing to be added or used in a building that is designed to reduce operating costs, including, without limitation, those costs related to electrical energy and demand, thermal energy, water consumption, waste disposal and contract-labor costs, and increase the operating efficiency of the building for the appointed functions that are cost-effective.

2. Includes, without limitation:

(a) Operational or maintenance labor savings resulting from reduced costs for maintenance contracts as provided through reduction of required maintenance or operating tasks, including, without limitation, replacement of filters and lighting products, and equipment failures.

(b) Investment in equipment, products and materials, and strategies for building operation, or any combination thereof, designed to reduce energy and other utility expenses, including, without limitation:

(1) Costs for materials and labor required to replace old equipment with new, more efficient equipment.

(2) Storm windows or doors, caulking or weather stripping, multiglazed windows or doors, heat-absorbing or heat-reflective glazed or coated windows or doors, reductions in glass area, and other modifications to windows and doors that will reduce energy consumption.

(3) Automated or computerized energy control systems.

(4) Replacement of, or modifications to, heating, ventilation or air-conditioning systems.

(5) Replacement of, or modifications to, lighting fixtures.

(6) Improvements to the indoor air quality of a building that conform to all requirements of an applicable building code.

(7) Energy recovery systems.

(8) Systems for combined cooling, heating and power that produce steam or other forms of energy, for use primarily within the building or a complex of buildings.

(9) Installation of, or modifications to, existing systems for daylighting, including lighting control systems.

(10) Installation of, or modification to, technologies that use renewable or alternative energy sources.

(11) Programs relating to building operation that reduce operating costs, including, without limitation, computerized programs, training and other similar activities.

(12) Programs for improvement of steam traps to reduce operating costs.

(13) Devices that reduce water consumption in buildings, for lawns and for other irrigation applications.

(14) Any additional improvements to building infrastructures that produce energy and operating cost savings, significantly reduce energy consumption or increase the operating efficiency of the buildings for their appointed functions, provided that such improvements comply with applicable building codes.

(15) Trash compaction and waste minimization.

(16) Ground source systems for heating and cooling.

(c) Investment in educational programs relating to the operation and maintenance of any equipment installed to reduce operating costs.

3. Does not include the construction of a new building or any addition to a building that increases the square footage of the building.

(Added to NRS by [2003, 3049](#); A [2009, 965](#))

NRS 332.340 “Performance contract” defined. “Performance contract” means a written contract between a local government and a qualified service company for the evaluation, recommendation and implementation of one or more operating cost-savings measures.

(Added to NRS by [2003, 3050](#); A [2009, 966](#))

NRS 332.350 “Qualified service company” defined. “Qualified service company” means a person who is qualified to bid on a performance contract pursuant to [NRS 332.351](#) or [332.353](#).

(Added to NRS by [2003, 3050](#); A [2009, 966](#))

NRS 332.351 Qualification as qualified service company; investigation and determination by local governments; confidentiality of certain information.

1. Except as otherwise provided in [NRS 332.353](#), a person who wishes to qualify as a qualified service company and submit a proposal for a performance contract with a local government must file an application with the local government.

2. Upon receipt of an application pursuant to subsection 1, the local government shall:

(a) Investigate the applicant to determine whether the applicant is qualified to bid on a performance contract; and

(b) After conducting the investigation, determine whether the applicant is qualified to bid on a performance contract.

3. The local government shall notify each applicant in writing of its determination.
4. The local government may determine an applicant is qualified to bid:
 - (a) On a specific project; or
 - (b) On more than one project over a period of time to be determined by the local government.
5. Except as otherwise provided in [NRS 332.353](#), the local government shall use only the criteria described in [NRS 332.352](#) in determining whether to approve or deny an application.
6. Except as otherwise provided in [NRS 239.0115](#), financial information and other data pertaining to the net worth of an applicant which is gathered by or provided to a local government to determine the financial ability of an applicant to perform a contract is confidential and not open to public inspection.
(Added to NRS by [2009, 962](#))

NRS 332.352 Criteria for qualification as qualified service company.

1. Except as otherwise provided in [NRS 332.353](#), a local government shall use the following criteria for determining whether a person satisfies the requirements to be a qualified service company pursuant to [NRS 332.360](#):
 - (a) The financial ability of the applicant to perform the work required by the local government;
 - (b) Whether the applicant possesses a state business license issued pursuant to [chapter 76](#) of NRS;
 - (c) Whether the applicant possesses a valid contractor's license issued pursuant to [chapter 624](#) of NRS of a class corresponding to the work required by the local government and, if engineering work is required, whether the applicant possesses a valid license as a professional engineer issued pursuant to [chapter 625](#) of NRS;
 - (d) Whether the applicant has the ability to obtain the necessary bonding for the work required by the local government;
 - (e) Whether the applicant has successfully completed an appropriate number of projects as determined by the local government, but not to exceed five projects, during the 5 years immediately preceding the date of application of similar size, scope or type as the work required by the local government;
 - (f) Whether the principal personnel employed by the applicant have the necessary professional qualifications and experience for the work required by the local government;
 - (g) Whether the applicant has breached any contracts with a public agency or person in this State or any other state during the 5 years immediately preceding the date of application;
 - (h) Whether the applicant has been disqualified from being awarded a contract by any governing body in the State of Nevada;
 - (i) Whether the applicant has been convicted of a violation for discrimination in employment during the 2 years immediately preceding the date of application;
 - (j) Whether the applicant has the ability to obtain and maintain insurance coverage for public liability and property damage within limits sufficient to protect the applicant and all the subcontractors of the applicant from claims for personal injury, accidental death and damage to property that may arise in connection with the work required by the local government;
 - (k) Whether the applicant has established a safety program that complies with the requirements of [chapter 618](#) of NRS;
 - (l) Whether the applicant 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 applicant to perform the work required by the local government;
 - (m) Whether, during the 5 years immediately preceding the date of application, the applicant has filed as a debtor under the provisions of the United States Bankruptcy Code;
 - (n) Whether the application is truthful and complete; and
 - (o) Whether, during the 5 years immediately preceding the date of the application, the applicant has, as a result of causes within the control of the applicant or a subcontractor or supplier of the applicant, failed to perform any contract:
 - (1) In the manner specified by the contract and any change orders initiated or approved by the person or governmental entity that awarded the contract or its authorized representative;
 - (2) Within the time specified by the contract unless extended by the person or governmental entity that awarded the contract or its authorized representative; or
 - (3) For the amount of money specified in the contract or as modified by any change orders initiated or approved by the person or governmental entity that awarded the contract or its authorized representative.
- ↪ Evidence of the failures described in this subsection may include, without limitation, the assessment of liquidated damages against the applicant, the forfeiture of any bonds posted by the applicant, an arbitration award granted against the applicant or a decision by a court of law against the applicant.
2. Except as otherwise provided in [NRS 332.353](#), in addition to the criteria described in subsection 1, the local government may use any other relevant criteria that are necessary to determine whether a person satisfies the requirements to be a qualified service company pursuant to [NRS 332.360](#).
(Added to NRS by [2009, 963](#))

NRS 332.353 Additional circumstance in which person may be deemed qualified service company.

Notwithstanding the provisions of [NRS 332.352](#), a governing body may deem a person a qualified service company if the person has been determined by:

1. The State Public Works Division of the Department of Administration or a local government pursuant to [NRS 338.1379](#) to be qualified to bid on a public work; or
2. Another local government pursuant to [NRS 332.351](#) to be qualified as a qualified service company.
(Added to NRS by [2009, 964](#))

NRS 332.357 Duty of Office of Energy to provide information and educational resources; authority of Office of Energy to provide support to local government; fees; administration of account for fees; application for and receipt of other money for account; regulations.

1. The Office of Energy shall:
 - (a) Provide to local governments information and educational resources relating to operating cost-savings measures and performance contracts.
 - (b) Include on the Internet website maintained by the Office, if any, information and educational resources relating to operating cost-savings measures and performance contracts.
2. The Office of Energy may, upon receiving a request from a local government for support relating to operating cost-savings measures:
 - (a) Provide to the local government support relating to operating cost-savings measures; and
 - (b) Charge and collect a fee from the local government for the provision of any support described in paragraph (a).
3. All fees charged and collected by the Office of Energy pursuant to subsection 2 must be accounted for separately in the State General Fund. The Director of the Office of Energy shall administer the account. Money in the account must be used only to pay the costs incurred by the Office of Energy to provide support to local governments pursuant to subsection 2 and is hereby authorized for expenditure as a continuing appropriation for this purpose.
4. The Director of the Office of Energy may apply for and accept any gift, donation, bequest, grant or other source of money for deposit in the account. The interest and income earned on money in the account, after deducting any applicable charges, must be credited to the account. Money that remains in the account at the end of the fiscal year does not revert to the State General Fund, and the balance in the account must be carried forward to the next fiscal year.
5. A local government may include in a performance contract the amount of any fee charged by the Office of Energy pursuant to subsection 2.
6. The Director of the Office of Energy may adopt regulations to carry out the provisions of this section, including, without limitation, regulations which establish the amount of the fees to be charged and collected by the Office of Energy pursuant to subsection 2.

(Added to NRS by [2013, 2119](#))

NRS 332.360 Authority of local government to enter into performance contract; purpose of performance contract; operational audits; third-party consultants.

1. Notwithstanding any provision of this chapter and [chapter 338](#) of NRS to the contrary, a local government may enter into a performance contract with a qualified service company for the purchase and installation of an operating cost-savings measure to reduce costs related to energy, water and the disposal of waste, and related labor costs. Such a performance contract may be in the form of an installment payment contract or a lease-purchase contract. Any operating cost-savings measures put into place as a result of a performance contract must comply with all applicable building codes.
2. If a local government is interested in entering into a performance contract, the local government shall notify each appropriate qualified service company and coordinate an opportunity for each such qualified service company to:
 - (a) Perform a preliminary and comprehensive audit and assessment of all potential operating cost-savings measures that might be implemented within the buildings of the local government, including any operating cost-savings measures specifically requested by the local government; and
 - (b) Submit a proposal and make a related presentation to the local government for all such operating cost-savings measures that the qualified service company determines would be practicable to implement.
3. The local government shall:
 - (a) Evaluate the proposals and presentations made pursuant to subsection 2; and
 - (b) Select a qualified service company,

↪ pursuant to the provisions of [NRS 332.300](#) to [332.440](#), inclusive.
4. The local government may enter into a contract with the Office of Energy or retain the professional services of a third-party consultant with the requisite technical expertise to assist the local government in evaluating the proposals and presentations pursuant to subsection 3. If the local government retains the professional services of a third-party consultant, the third-party consultant must possess a state business license issued pursuant to [chapter 76](#) of NRS and any other applicable licenses issued by a licensing board in this State in the same discipline in which the consultant will be advising the local government.
5. The qualified service company selected by the local government pursuant to subsection 3 shall prepare a financial-grade operational audit. Except as otherwise provided in this subsection, the audit prepared by the qualified service company becomes, upon acceptance, a part of the final performance contract and the costs incurred by the qualified service company in preparing the audit shall be deemed to be part of the performance contract. If, after the audit is prepared, the local government decides not to execute the performance contract, the local government shall pay the qualified service company that prepared the audit the costs incurred by the qualified service company in preparing the audit if the local government has specifically appropriated money for that purpose.
6. The local government shall enter into a contract with the Office of Energy or retain the professional services of a third-party consultant with the requisite technical expertise to assist the local government in reviewing the operating cost-savings measures proposed by the qualified service company and may procure sufficient funding from the qualified service company, through negotiation, to pay for the costs incurred by the Office of Energy or the third-party consultant. If the local government retains the professional services of a third-party consultant, the third-party consultant must be licensed pursuant to [chapter 625](#) of NRS and certified by the Association of Energy Engineers as a "Certified Energy Manager" or hold similar credentials from a comparable nationally recognized organization. The Office of Energy or a third-party consultant retained pursuant to this subsection shall work on behalf and for the benefit of the local government in coordination with the qualified service company.

(Added to NRS by [2003, 3051](#); [A 2009, 967](#); [2013, 2120](#))

NRS 332.362 Duty of board of trustees of school district to adopt policy concerning performance contracts; requirements for policy; annual report.

1. The board of trustees of a school district shall adopt a policy setting forth the process for evaluating whether work to be performed on a building will be performed pursuant to a performance contract. The policy must include, without limitation:

- (a) The criteria for determining the work which will be evaluated pursuant to the policy;
- (b) The requirement that the board of trustees or its designee evaluate whether the work to be performed:
 - (1) Consists primarily of one or more operating cost-savings measures;
 - (2) Qualifies to be performed pursuant to a performance contract with a return on investment that the board of trustees determines would make entering into a performance contract in the best interest of the school district; and
 - (3) Would be more reasonably included under an existing performance contract rather than a new performance contract; and
- (c) The requirement that the board of trustees or its designee, if it determines not to enter into a performance contract, document the reasons for that determination.

2. The board of trustees of a school district shall cause to be prepared an annual report which sets forth the operating cost-savings measures, if any, that:

- (a) Were identified in a financial-grade operational audit submitted to the board of trustees pursuant to subsection 5 of [NRS 332.360](#) during the immediately preceding year; and
- (b) Were not included in a performance contract during the immediately preceding year.

3. As used in this section, "operating cost-savings measure" means an investment in equipment, products and materials, and strategies for building operation, or any combination thereof, designed to reduce energy and other utility expenses, including, without limitation:

- (a) Costs for materials and labor required to replace old equipment with new, more efficient equipment.
 - (b) Storm windows or doors, caulking or weather stripping, multiglazed windows or doors, heat-absorbing or heat-reflective glazed or coated windows or doors, reductions in glass area, and other modifications to windows and doors that will reduce energy consumption.
 - (c) Automated or computerized energy control systems.
 - (d) Replacement of, or modifications to, heating, ventilation or air-conditioning systems.
 - (e) Replacement of, or modifications to, lighting fixtures.
 - (f) Improvements to the indoor air quality of a building that conform to all requirements of an applicable building code.
 - (g) Energy recovery systems.
 - (h) Systems for combined cooling, heating and power that produce steam or other forms of energy, for use primarily within the building or a complex of buildings.
 - (i) Installation of, or modifications to, existing systems for daylighting, including lighting control systems.
 - (j) Installation of, or modification to, technologies that use renewable or alternative energy sources.
 - (k) Programs relating to building operation that reduce operating costs, including, without limitation, computerized programs, training and other similar activities.
 - (l) Programs for improvement of steam traps to reduce operating costs.
 - (m) Devices that reduce water consumption in buildings, for lawns and for other irrigation applications.
 - (n) Trash compaction and waste minimization.
 - (o) Ground source systems for heating and cooling.
- (Added to NRS by [2013, 2118](#))

NRS 332.370 Financing and structure of performance contract.

1. A performance contract may be financed through a person other than the qualified service company.

2. A performance contract must be structured to guarantee operating cost savings, which includes, without limitation, the design and installation of equipment, the operation and maintenance, if applicable, of any of the operating cost-savings measures and the guaranteed annual savings which must meet or exceed the total annual contract payments to be made by the local government, including any financing charges to be incurred by the local government over the life of the performance contract. The local government may require that these savings be verified annually or over a sufficient period that demonstrates savings.

(Added to NRS by [2003, 3052](#); A [2009, 968](#))

NRS 332.371 Requirements for performance contract that guarantees operating cost savings. A performance contract that guarantees operating cost savings must identify the specific dollar amount and units or percentages of consumption that the qualified service company anticipates will be eliminated or avoided on a long-term basis as a result of the operating cost-savings measures that the local government is implementing.

(Added to NRS by [2009, 965](#))

NRS 332.380 Period over which payments become due.

1. A performance contract must provide that all payments, other than any obligations that become due if the contract is terminated before the contract expires, must be made over time.

2. Except as otherwise provided in this subsection, a performance contract, and the payments provided thereunder, may extend beyond the fiscal year in which the performance contract becomes effective for costs incurred in future fiscal years. The performance contract may extend for a term not to exceed 25 years. The length of a performance contract may reflect the useful life of the operating cost-savings measure being installed or purchased under the performance contract.

3. The period over which payments are made on a performance contract must equal the period over which the operating cost savings are amortized. Payments on a performance contract must not commence until the operating cost-savings measures have been installed by the qualified service company.

(Added to NRS by [2003, 3053](#); A [2015, 1917](#))

NRS 332.390 Prevailing wage requirement; duty of qualified service company to furnish bonds before entering into certain performance contracts.

1. If a performance contract entered into pursuant to [NRS 332.300](#) to [332.440](#), inclusive, requires the employment of skilled mechanics, skilled workers, semiskilled mechanics, semiskilled workers or unskilled labor to perform the performance contract, the performance contract must include a provision relating to the prevailing wage as required pursuant to [NRS 338.013](#) to [338.090](#), inclusive. The local government, the qualified service company, any contractor who is awarded a contract or enters into an agreement to perform the work for the performance contract, and any subcontractor who performs any portion of that work shall comply with the provisions of [NRS 338.013](#) to [338.090](#), inclusive, in the same manner as if the local government had undertaken the work or had awarded the contract.

2. Before a qualified service company enters into a performance contract pursuant to [NRS 332.300](#) to [332.440](#), inclusive, that exceeds \$100,000, the qualified service company must furnish to the contracting body any bonds required pursuant to [NRS 339.025](#). The provisions of [chapter 339](#) of NRS apply to any performance contract described in this subsection.

(Added to NRS by [2003, 3053](#); A [2009, 969](#); [2019, 712](#))

NRS 332.400 Rights of local government and qualified service company if insufficient money appropriated by local government to make payments. Notwithstanding any provision of [NRS 332.300](#) to [332.440](#), inclusive, to the contrary, a performance contract entered into pursuant to [NRS 332.300](#) to [332.440](#), inclusive, must include a clause that sets out the rights of the local government and the qualified service company if the local government does not appropriate sufficient money for payments to be continued under the performance contract.

(Added to NRS by [2003, 3053](#))

NRS 332.410 Reinvestment of savings realized under contract. A local government may reinvest any savings realized under a performance contract whenever practical into other operating cost-savings measures provided the local government:

1. Is satisfying all its other obligations under the performance contract; and

2. Complies with the requirements of [NRS 332.300](#) to [332.440](#), inclusive, when reinvesting the savings into other operating cost-savings measures.

(Added to NRS by [2003, 3053](#); A [2009, 969](#))

NRS 332.420 Monitoring of cost savings attributable to operating cost-savings measures.

1. During the term of a performance contract, the qualified service company shall monitor the reductions in energy or water consumption and other operating cost savings attributable to the operating cost-savings measure purchased or installed under the performance contract, and shall, at least once a year or at such other intervals specified in the performance contract, prepare and provide a report to the local government documenting the performance of the operating cost-savings measures.

2. A performance contract must identify the methodology that the local government will use to validate the cost savings identified by the qualified service company.

3. A qualified service company and the local government may agree to make modifications in the calculation of savings based on:

(a) Subsequent material changes to the baseline consumption of energy or water identified at the beginning of the term of the performance contract.

(b) A change in utility rates.

(c) A change in the number of days in the billing cycle of a utility.

(d) A change in the total square footage of the building.

(e) A change in the operational schedule, and any corresponding change in the occupancy and indoor temperature, of the building.

(f) A material change in the weather.

(g) A material change in the amount of equipment or lighting used at the building.

(h) Any other change which reasonably would be expected to modify the use of energy or the cost of energy.

(Added to NRS by [2003, 3053](#))

NRS 332.430 Qualified service company to provide information concerning performance contract to Office of Energy. A qualified service company shall provide to the Office of Energy information concerning each performance contract which the qualified service company enters into pursuant to [NRS 332.300](#) to [332.440](#), inclusive, including, without limitation, the name of the project, the local government for which the project is being carried out and the expected operating cost savings. The Office of Energy may report any energy savings realized as a result of such performance contracts to the United States Department of Energy pursuant to 42 U.S.C. § 13385.

(Added to NRS by [2003, 3054](#); A [2009, 1405](#); [2011, 2078](#))

NRS 332.431 Duty of local governments to report to Legislature.

1. Each local government that enters into a performance contract pursuant to [NRS 332.300](#) to [332.440](#), inclusive, shall, on or before February 1 of each year, prepare and submit a report to the Director of the Legislative Counsel Bureau

for transmittal to the Legislature if the Legislature is in session, or to the Interim Finance Committee if the Legislature is not in session.

2. The report required pursuant to subsection 1 must include, without limitation:

(a) The status of the construction and financing of the operating cost-savings measures described in the performance contract.

(b) The cumulative amount of operating cost-savings that have resulted from the operating cost-savings measures.

(c) The amount of operating cost-savings that are projected for the future.

(d) Any other information required by the Legislature or Interim Finance Committee.

(Added to NRS by [2009, 965](#))

NRS 332.440 Financial mechanisms to guarantee operational cost savings are realized. A performance contract must include appropriate financial mechanisms determined to be necessary by the city or county treasurer, as appropriate, to guarantee that operating cost savings are realized by the local government if the actual cost savings do not meet the predicted cost savings.

(Added to NRS by [2003, 3054](#))

PROHIBITIONS AND PENALTIES

NRS 332.800 Interest of member of governing body or evaluator in contract prohibited; exception; penalty.

1. Except as otherwise provided in [NRS 281.230](#) and [281A.430](#), a member of the governing body may not be interested, directly or indirectly, in any contract entered into by the governing body, but the governing body may purchase supplies, not to exceed \$1,500 in the aggregate in any 1 calendar month, from a member of such governing body when not to do so would be of great inconvenience due to a lack of any other local source.

2. An evaluator may not be interested, directly or indirectly, in any contract awarded by such governing body or its authorized representative.

3. A member of a governing body who furnishes supplies in the manner permitted by subsection 1 may not vote on the allowance of the claim for such supplies.

4. A person who violates this section is guilty of a misdemeanor and, in the case of a member of a governing body, a violation is cause for removal from office.

(Added to NRS by [1975, 1539](#); A [2001, 1318](#); [2003, 891](#); [2013, 3786](#))

NRS 332.810 Prohibited acts by responding offerors before award of contract; penalty.

1. Before a contract is awarded, a responding offeror or an officer, employee, representative, agent or consultant of such a person shall not:

(a) Make an offer or promise of future employment or business opportunity to, or engage in a discussion of future employment or business opportunity with, an evaluator or member of the governing body offering the contract;

(b) Offer, give or promise to offer or give money, a gratuity or any other thing of value to an evaluator or member of the governing body offering the contract; or

(c) Solicit or obtain from an officer, employee or member of the governing body offering the contract:

(1) Any proprietary information regarding the contract; or

(2) Any information regarding a response to a solicitation submitted by another person, unless such information is available to the general public.

2. A person who violates any of the provisions of subsection 1 is guilty of a gross misdemeanor and shall be punished by imprisonment in the county jail for not more than 364 days, or by a fine of not less than \$2,000 nor more than \$50,000, or by both fine and imprisonment.

(Added to NRS by [1995, 1731](#); A [2001, 1318](#); [2007, 2468](#); [2013, 982](#); [2019, 778](#))

NRS 332.820 Effect of collusion among responding offerors or advance disclosures of information.

1. Any agreement or collusion among responding offerors or prospective responding offerors in restraint of freedom of competition by agreement to respond with a fixed price, or otherwise, shall render the responses of such responding offerors void.

2. Advance disclosures of proprietary information or any other information to any particular responding offeror which would give that particular responding offeror any advantage over any other interested responding offeror in advance of the opening of responses, whether in response to advertising or an informal solicitation, made or permitted by a member of the governing body or an employee or representative thereof, shall operate to void all responses received in response to that particular solicitation.

(Added to NRS by [1975, 1539](#); A [2001, 1319](#); [2005, 2556](#); [2019, 779](#))

NRS 332.830 Purchase of information system or system of communication for use by response agency prohibited unless complies with state plan.

1. On and after October 1, 2005, a governing body or its authorized representative shall not purchase an information system or system of communication for use by a response agency unless the system complies with the plan established pursuant to subsection 6 of [NRS 239C.160](#).

2. On and after October 1, 2005, any grant or other money received by a local government from the Federal Government for the purchase of an information system or system of communication for use by a response agency must not be used to purchase such a system unless the system complies with the plan established pursuant to subsection 6 of [NRS 239C.160](#).

3. As used in this section:

- (a) “Information system” has the meaning ascribed to it in [NRS 239C.060](#).
 - (b) “Response agency” has the meaning ascribed to it in [NRS 239C.080](#).
 - (c) “System of communication” has the meaning ascribed to it in [NRS 239C.100](#).
- (Added to NRS by [2003, 2463](#); A [2005, 932](#); [2011, 2886](#))