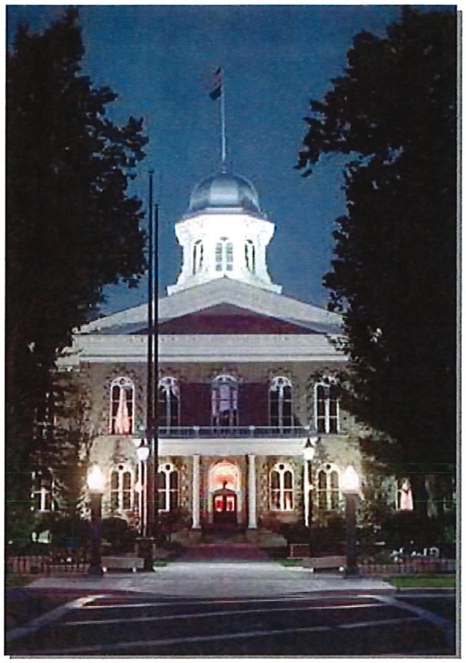


State of Nevada
Governor's Finance Office
Division of Internal Audits

Audit Report

Purchasing Division
Foreign Vendor Management

DIA Report No. 20-07
February 26, 2020

EXECUTIVE SUMMARY
Purchasing Division
Foreign Vendor Management

Introduction .... page 1

Objective: Increase State Contracts Awarded to Nevada Vendors

Improve Outreach Efforts to Nevada Vendors and Establish a Mechanism to Track and Measure the Program's Effectiveness .... page 4

Improving outreach efforts to Nevada vendors and establishing a mechanism to track and measure the program's effectiveness will increase vendor participation in the division's procurement process and ensure Nevada tax dollars stay in Nevada to create jobs and diversify the economy. Establishing a mechanism to track and measure the effectiveness of outreach efforts will help the division identify where deficiencies exist. Increased economic activity from tax dollars staying in Nevada leads to more wages, sales, and profits that generate tax revenues for the various levels of government. Improved outreach to Nevada vendors would contribute to an identified potential benefit to the state of approximately $6.6 million.

In fiscal year 2019, foreign vendors were awarded almost 50% of the division's contracts. Nevada vendors only responded to 34% of the bid solicitations which may contain multiple contracts. Due to a lack of outreach efforts, some vendors do not know how to effectively respond to bid solicitations to compete for state contracts. Improved outreach efforts will help Nevada vendors understand and effectively navigate the division's procurement process and win more state contracts.

The division has not established a mechanism to track and measure the effectiveness of the outreach program. Other outreach programs, such as the Governor's Office of Economic Development's Procurement Technical Assistance Center and the Clark County's Small Business Opportunity Program, track and measure their programs' effectiveness. These programs can be used as models by the division to evaluate the success of its outreach efforts and identify where deficiencies exist.

Seek a BDR to Reinstate the Inverse Preference Law .... page 10

Reinstating the inverse preference law will help increase contracts awarded to Nevada-based businesses by giving an additional preference in the bid process over foreign competitors. Reinstatement of this law will, in effect, help level the field for Nevada businesses. Increased economic activity from tax dollars staying in Nevada will lead to more wages, sales, profits, and tax revenues for the various levels of government. A reinstated inverse preference law would contribute to an identified potential benefit to the state of approximately $6.6 million.

The passage of the Nevada-based business preference of 5% in 2017 helped Nevada businesses compete against foreign businesses in Nevada but penalized Nevada businesses when competing for business in those states with inverse preference laws. In states with inverse preference laws, Nevada bids are either increased by 5% or their scores are lowered by 5% because of the 5% Nevada-based business preference.

Since the repeal of Nevada's inverse preference law in 2009, Nevada businesses have had a competitive disadvantage, especially against four neighboring states with inverse preferences. As part of the repeal of the inverse preference, a disabled veteran-owned business preference was passed. The legislature created, in effect, two disadvantages for Nevada businesses: Nevada businesses are penalized when competing in states with inverse preference statutes; businesses are penalized by the 5% disabled veteran-owned business preference.

Establish a Statewide Suspended/Debarred Vendor List .... page 13

Establishing a statewide suspended/debarred vendor list will help ensure that the state only contracts with reputable vendors. The division has no statewide list of suspended/debarred vendors. Consequently, there is no method for state agencies to ensure they are doing business with reputable vendors, nor is there data to track noncompliant vendors, which could result in state agencies contracting with these vendors unwittingly. The lack of a suspended/debarred vendor list increases the risk for agencies and the state because noncompliant vendors may continue to do business with state agencies.

Approximately 37 states have suspended/debarred vendor lists. The Nevada Labor Commissioner is the only state agency that maintains a list of contractors suspended by the State Contractors Board. A statewide suspended/debarred vendor list accessible to all agencies will help protect the state's interests by reducing the potential risks and costs to the state of noncompliant vendors.

Appendix A .... page 17
Scope and Methodology, Background, Acknowledgments

Appendix B .... page 19
Response and Implementation Plan

Appendix C .... page 20
Timetable for Implementing Audit Recommendations

Appendix D .... page 21
Preference Laws by Sate

INTRODUCTION

At the request of the Office of the Governor and State Controller, the Division of Internal Audits conducted an audit of the role of foreign vendors in state contracting. Our audit focused on ways to increase state contracts awarded to Nevada vendors. The audit's scope and methodology, background, and acknowledgements are included in Appendix A.

Our audit objective was to develop recommendations to:

✓ Increase state contracts awarded to Nevada vendors.

Purchasing Division's Response and Implementation Plan

We provided draft copies of this report to the Purchasing Division for review and comment. The division's comments have been considered in the preparation of this report and are included in Appendix B. In its response, the division accepted our recommendations. Appendix C includes a timetable to implement our recommendations.

NRS 353A.090 requires within six months after the final report is issued to the Executive Branch Audit Committee, the Administrator of the Division of Internal Audits shall evaluate the steps the division has taken to implement the recommendations and shall determine whether the steps are achieving the desired results. The administrator shall report the six-month follow-up results to the committee and the division.

The following report (DIA Report No. 20-07) contains our *findings, conclusions,* and *recommendations*.

Respectfully,

Warren Lowman
Administrator

Increase State Contracts Awarded to Nevada Vendors

The Purchasing Division can increase state contracts awarded to Nevada vendors by:

- Improving outreach efforts to Nevada vendors and establishing a mechanism to track and measure the program's effectiveness;
- Seeking a BDR to reinstate the inverse preference law; and
- Establishing a statewide suspended/debarred vendor list.

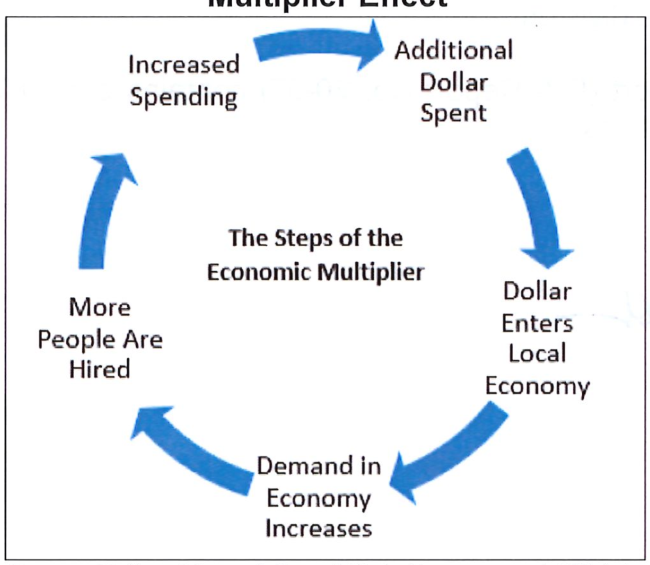
Increasing state contracts awarded to Nevada vendors will benefit the state by keeping Nevada tax dollars in Nevada to generate jobs, diversify the economy, and provide an estimated $6.6 million annually in increased economic activity by shifting 1% of foreign (out-of-country, out-of-state) vendor contract awards to Nevada-based vendors. The increase in economic activity as a result of tax dollars staying in the state and being spent by local businesses is known as the *Multiplier Effect*. In addition, establishing a statewide suspended/debarred vendor list will ensure the state is doing business with reputable vendors.

Multiplier Effect

The increased economic activity that leads to wages, sales, and profits that generate tax revenues for the various levels of government is the multiplier effect. It occurs as spending by Nevada businesses recirculates throughout the state's economy. Exhibit I illustrates the multiplier effect on the state's economy.

Exhibit I

Multiplier Effect



Source: National Association of State Procurement Officials.

According to the National Association of State Procurement Officials (NASPO), the multiplier effect of one dollar reinvested into the local economy will generate a benefit between $1.20 and $1.50. The Nevada Department of Taxation, State Demographer estimates an economic multiplier of $1.78 for every dollar shift in spending from foreign businesses to Nevada-based businesses. A 1% shift in spending from foreign out of country, out-of-state vendors and foreign vendors with an in-state presence to Nevada-based businesses in fiscal year 2019 could have generated an estimated $6.6 million in additional economic activity, as noted in Exhibit II.

Exhibit II

Economic Multiplier Effect

FY19 Awards to Foreign Vendors:	$338,734,182 [c]	
1% Shift in Spending from Foreign Vendors to Nevada-based Vendors:	$3,387,342	
Economic Multiplier:	1.78 [a]	
Estimated Multiplier Effect:	**$6,029,469**	Economic Activity Generated by 1% Shift in Spending to Nevada-based Vendors.
FY19 Awards to Foreign Vendors with In-State Presence:	$198,433,807 [c]	
1% Shift in Spending from Foreign Vendors with In-State Presence to Nevada-based Vendors	$1,984,338	
Average General and Administrative Exp. (25%):	$496,085 [d]	
Economic Multiplier:	1.20 [b]	
Estimated Multiplier Effect:	**$595,302**	Economic Activity Generated by 1% Shift in Spending to Nevada-based Vendors.
Combined Estimated Multiplier Effect:	**$6,624,771**	

Notes:

[a] Source: Nevada Department of Taxation, State Demographer.

[b] Source: National Association of State Procurement Officials.

[c] Source: Purchasing Division.

[d] We estimate that most of the 25% of General and Administrative Expenses (G&A) will be spent outside Nevada for those foreign vendors with in-state presence. The G&A rate of approximately 25% is the estimated median percentage of such expenses for all industry sectors. Source: Schonfeld & Associates, Inc.

Economic Diversification

Economic diversification is the process of shifting an economy away from a dominant income source toward multiple sources from a growing range of sectors and markets. Public policy initiatives, such as procurement preferences that favor Nevada vendors over foreign vendors, increase demand in the local economy for goods and services and can encourage economic growth and greater diversity in the state's economy. Improved outreach efforts to Nevada vendors will help grow those vendors providing the goods and services Nevada must currently look elsewhere to obtain. While some foreign vendor contracts are necessary, others can be provided by Nevada-based vendors. Diversifying Nevada's economy, however incrementally, is a public policy priority that state agencies can support.

Improve Outreach Efforts to Nevada Vendors and Establish a Mechanism to Track and Measure Program Effectiveness

The division should improve outreach efforts to Nevada vendors and establish a mechanism to track and measure program effectiveness. This effort will help Nevada vendors participate in the division's procurement process and ensure Nevada tax dollars stay in Nevada to generate jobs and diversify the economy.

Foreign Vendors Awarded Half of Division's Contract Dollars

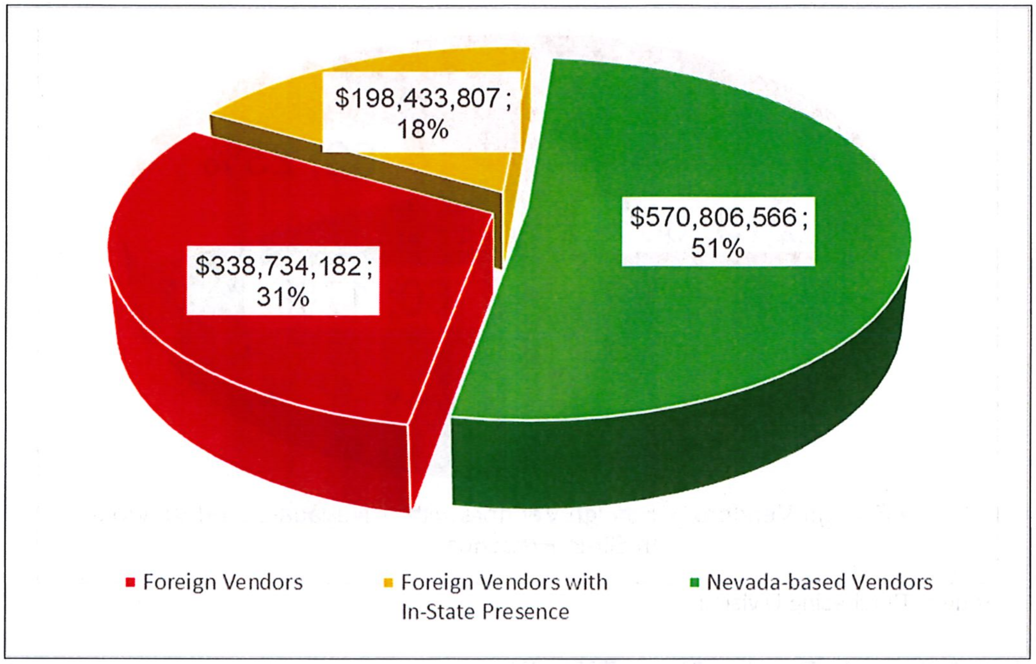
For the purposes of our analysis, vendors are divided into three separate categories: Nevada-based vendors, foreign vendors, and foreign vendors with an in-state presence.[1] Foreign vendors with an in-state presence spend contract dollars within the state which benefits the local economy; however, a portion of the contract dollars leave the state to the vendor's home location.

The division awarded approximately $1.1 billion in contracts during fiscal year 2019. Foreign vendors accounted for approximately $537 million (49%) while Nevada vendors were awarded $571 million (51%) as shown in Exhibit III.

[1] Foreign vendors with an "in-state presence" have a physical address and employees working in Nevada but are not certified as a Nevada-based business. NRS 333.3352 requires businesses to have their principal place of business in Nevada or produce a majority of goods provided for in a state purchasing contract in Nevada to be classified as Nevada-based.

Exhibit III

Value of Contracts Awarded in Fiscal Year 2019



Source: Purchasing Division.

Bid Participation Low Among Nevada Vendors

During fiscal year 2019, Nevada vendors responded to only 34% of the division's bid solicitations.[2] We surveyed state agencies with contracts facilitated through the division to determine the reason that contracts were awarded to foreign vendors. These agencies stated Nevada vendors either did not participate in the bid solicitation process, failed to meet deadlines, or could not provide the required goods and services. Discussions with division staff disclosed that due to the lack of effective outreach to Nevada vendors on the state procurement process, some vendors do not know how to effectively respond to bid solicitations to compete for state contracts.

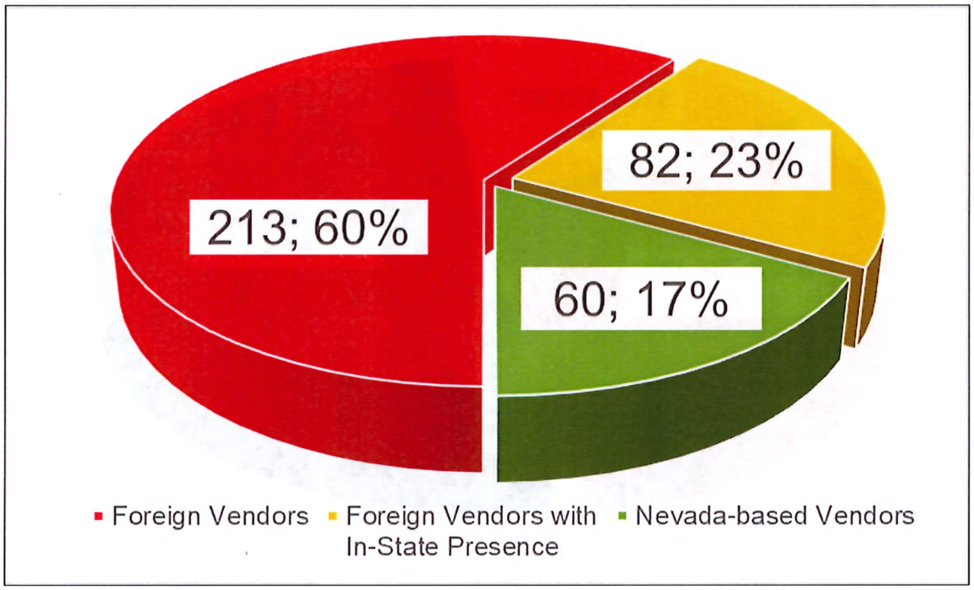
Majority of Bid Solicitations Awarded to Foreign Vendors

A majority of the bid solicitations awarded by the state during fiscal year 2019 were to foreign vendors. Of the 355 bids awarded during fiscal year 2019, 213 (60%) were awarded to foreign vendors. Increasing Nevada vendor participation in the bid process would increase the number and value of contracts awarded to these vendors. Exhibit IV shows the number of bid solicitations awarded by the division during fiscal year 2019.

[2] One bid solicitation can result in multiple contracts awarded.

Exhibit IV

Number of Bid Solicitations Awarded in Fiscal Year 2019



Source: Purchasing Division.

Vendor Outreach Can Be More Effective

The division's vendor outreach can be more effective as evidenced by the low bid participation by Nevada vendors. While the division has a position designated for vendor outreach, there is no program with performance measures in place nor is there data to determine the effectiveness of outreach efforts. In addition, there is no training program for Nevada vendors on how to do business with the state. The division reports that it lacks the resources to offer a training program to Nevada vendors on the state's procurement process.

Vendor Manual Needed

In lieu of a training program, the division could develop a vendor manual and publish the manual on the division's website. The manual could include instructions on how to effectively participate in the state's bidding process, frequently asked questions, important purchasing deadlines, and existing vendor resources, such as bid submission instructions on the Nevada E-Procurement system website (EPro). A vendor manual would help increase Nevada vendor participation in the bid process.

Division Does Not Track or Measure Vendor Outreach

In 2018, the division received authorization for a Program Officer position to coordinate vendor outreach efforts. The division reports this position assists vendors that request help with registration in EPro or navigating the state procurement process. However, the division has not established performance measures to evaluate the success of its vendor outreach efforts. Establishing performance measures and developing a method to track and report the success of the vendor outreach program will help the division evaluate the effectiveness of the outreach efforts and identify where deficiencies exist.

Other vendor outreach programs in Nevada have established performance measures for vendor outreach. These measures include the number of new vendors registered, amount of time spent counseling vendors, and number of training classes provided.

Vendor Outreach
Program Models Exist

Our survey of other agencies revealed that effective vendor outreach programs exist in Nevada and can be used as a model for the division to improve its outreach efforts. Two of these models are the Governor's Office of Economic Development's (GOED) Procurement Technical Assistance Center (PTAC) program and the Clark County Purchasing Division's Small Business Opportunity Program (SBOP).

GOED's PTAC Program

GOED's PTAC administers a Procurement Outreach Program to Nevada businesses seeking local, state, and federal government contracting opportunities. The program is funded by the state and the federal government on a roughly 50/50 basis. The federal funding is provided by the Defense Logistics Agency. The program has four goals:

- Increase the number of Nevada companies capable of doing business with the government;
- Help Nevada businesses improve marketing skills for prime contract and subcontract opportunities;
- Reduce the cost of acquisitions for government agencies through increased competition; and
- Generate and retain employment and diversify Nevada's statewide economy.

The program is focused on established businesses that have the necessary infrastructure to provide goods and services to local, state, and federal agencies. A new business without the required infrastructure is referred to PTAC partners such as the Small Business Administration, Small Business Development Corporation, and local Chambers of Commerce.

The program provides one-on-one consultation between the business and PTAC staff, including: helping a business pursue certifications; putting together a business resume to highlight the products and services offered; and helping businesses improve their networking abilities by organizing mixers and tradeshows.

PTAC tracks the program's effectiveness through performance measures such as:

- Number of new client contacts;
- Number of one-on-one counseling hours spent helping businesses; and
- Number of events PTAC sponsors or participates in.

Clark County Small Business
Opportunity Program

Clark County's SBOP is designed to help small business owners increase their capacity to compete for government and other contracts. The SBOP is a 12-week program (two hours per week) for small businesses that have been in operation for at least one year. The program is held twice a year in February and August and enrolls, on average, 25 individuals from small businesses. The program is a combination of classroom training, mentoring, coaching, and relationship-building activities.

Improved Outreach Will Benefit
Nevada Vendors

Improved vendor outreach efforts modeled after successful outreach programs such as Clark County's SBOP or PTAC's program will benefit Nevada businesses by helping them understand and navigate the division's procurement process and win more state contracts. Effective vendor outreach efforts result in a larger supplier base that increases competition in the marketplace for government awards, lowers the cost of acquisitions, diversifies the vendor pool, and ultimately creates more employment opportunities for Nevadans.

Conclusion

The low participation percentage by Nevada vendors in the purchasing bid process indicates the division's vendor outreach efforts can be more effective. The division can increase vendor participation in the state procurement process by improving outreach efforts to Nevada vendors. The division does not track or measure the effectiveness of vendor outreach efforts and has not established performance measures to evaluate vendor outreach. Improving outreach efforts will help Nevada vendors participate in the division's procurement process and ensure Nevada tax dollars stay in Nevada to generate jobs and diversify the economy.

Recommendation

1. Improve outreach efforts to Nevada vendors and establish a mechanism to track and measure program effectiveness.

Seek a BDR to Reinstate the Inverse Preference Law

The Purchasing Division should seek a BDR to reinstate the inverse preference law. Reinstating the inverse preference law will increase contracts awarded to Nevada-based businesses by giving these businesses a preference in the bid process over their foreign competitors.

Inverse Preference Law Enacted

An inverse preference is a purchasing preference under which a purchasing entity gives a preference to its in-state bidders equivalent to what another state would give to its in-state bidders against a bidder from another state.

Senate Bill 280 (SB 280) was enacted during the 2003 legislative session and amended the State Purchasing Act to include an inverse preference statute. According to legislative testimony, SB 280 was proposed as a result of large state contracts being awarded to out-of-state businesses. For example, the Nevada Department of Transportation had awarded a $1 million public relations contract to a California business, despite competitive bids submitted by in-state advertising agencies.

In 2003, 34 other states had inverse preference laws, and 22 states had local preference laws, such as a 5% bidder preference for in-state vendors. The preference laws in these states put Nevada businesses at a disadvantage when competing for contracts in those states. Prior to 2003, Nevada had no laws to give Nevada businesses a preference when competing against foreign businesses for the division's state contracts. The solution to the inequity created by other states' local preference laws was the introduction and passage of SB 280 (NRS 333.336), which created an inverse preference law.

Under the inverse preference law, Nevada imposed an inverse preference against a bidder or contractor who submitted a bid or proposal on a state purchasing contract if that bidder or contractor was a resident of a state that gives a preference to its bidders. For example, Idaho grants Idaho-based vendors a 10% preference over out-of-state vendors for state contracts involving printing, engraving, and binding services. Under inverse preference, Idaho-based businesses competing for a Nevada printing contract would be penalized by increasing their bid amount by 10% (or reducing their score by 10% on a proposal), thereby giving the Nevada-based business an advantage over the Idaho-based business. Businesses based in states that do not have local purchasing preference laws (Arizona) would not be penalized when competing against a Nevada-based business for a Nevada contract.

Inverse Preference Law Repealed

In 2009, Assembly Bill 223 (AB 223) was introduced to provide a 5% local preference to service-disabled veteran businesses in bidding on public works and state contracts. In addition, this bill repealed the inverse preference law. An issue not addressed during the repeal of Nevada's inverse preference law was the competitive advantage that Nevada-based businesses would lose when competing for Nevada state contracts against foreign vendors.

Creation of Local Preference

In 2017, the Legislature passed Assembly Bill 280 (AB 280) that granted a 5% local preference to Nevada-based businesses. To qualify for this preference, a business must certify that:

- Its principal place of business is in Nevada; or
- Majority of the goods provided for in a state purchasing contract are produced in Nevada.

This preference law establishes that: (1) a bid which qualifies for the preference will be deemed to be 5% lower than the bid actually submitted; and (2) a proposal which qualifies for the preference will be deemed to have a score which is 5% higher than the score actually awarded. This law also prohibits granting the preference for the award of any contract that uses federal money (unless such a preference is authorized by federal law) or any contract which has been procured on a multistate basis such as NASPO contracts.

Nevada's Businesses at a Disadvantage In Neighboring States

Passage of the 5% local preference law was a win for Nevada-based businesses competing for Nevada state contracts against foreign businesses because of the 5% advantage given to the Nevada-based businesses. However, due to the inverse preference laws in other states, specifically four of Nevada's five neighboring states, Nevada-based businesses are now at a disadvantage when competing for other states' contracts because these states impose a 5% inverse preference against Nevada-based businesses.[3] For example, when a Nevada-based business competes against a Utah-based business for a Utah state contract, Utah will increase the Nevada-based business' bid by 5% (the amount of Nevada's 5% local preference).

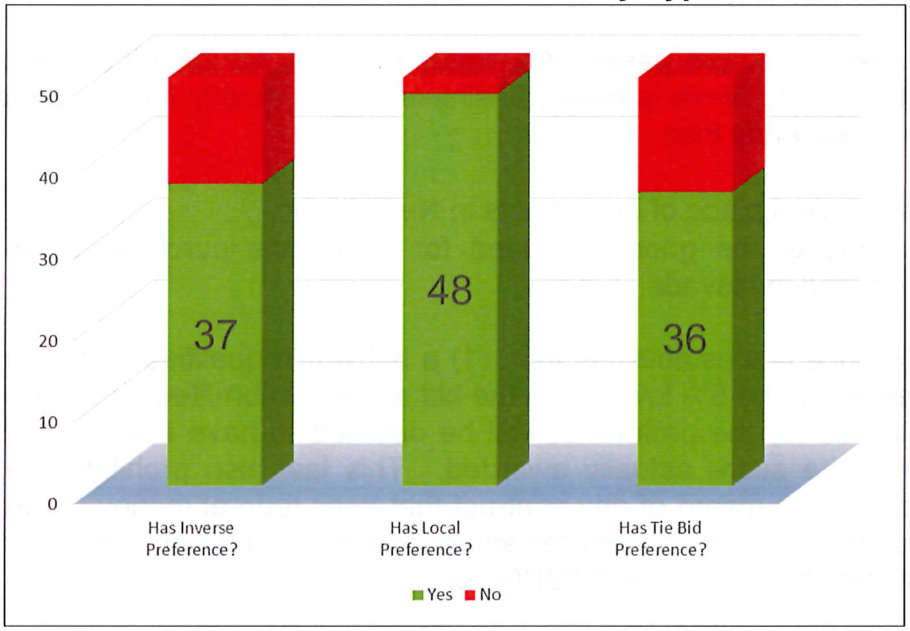
Since Nevada's local preference law was established and the inverse preference law was repealed, many foreign businesses have had an advantage over Nevada-based businesses because these businesses get the advantage of having both a

[3] California, Idaho, Oregon, and Utah have inverse preference laws. Arizona does not. The 5% inverse preference imposed against the Nevada-based business is equivalent to Nevada's 5% local preference.

local preference and an inverse preference when competing against the Nevada-based business in their home state. However, when these foreign businesses compete against a Nevada-based business for a Nevada state contract, the Nevada-based business only has the benefit of the 5% local preference (not a 5% local preference plus an additional inverse preference imposed against the foreign business). Exhibit V shows the number of states with procurement preference laws by type of preference.[4]

Exhibit V

Number of States with Preference Laws, by Type of Preference



Source: National Association of State Procurement Officials

Conclusion

The repeal of the inverse preference law took away an advantage that Nevada-based businesses had when competing against foreign businesses for state contracts. More contracts awarded to Nevada-based businesses will result in more tax dollars being spent in Nevada to generate more economic activity that benefits Nevadans. Reinstating the inverse preference law will give Nevada-based businesses a competitive advantage over foreign businesses and will result in more state contracts awarded to Nevada-based businesses.

Recommendation

2. Seek a BDR to reinstate the inverse preference law.

[4] See Appendix D for a list of purchasing preference laws by state.

Establish a Statewide Suspended/Debarred Vendor List

The Purchasing Division should establish a statewide suspended/debarred vendor list. Establishing a statewide suspended/debarred vendor list will help ensure that the state only contracts with reputable vendors.

No Statewide Suspended/Debarred Vendor List

Nevada is one of only 14 states that does not maintain a statewide list of vendors that have been suspended or debarred from conducting business with state agencies. Some Nevada state agencies rely solely on the federal debarred vendor list when vetting a potential vendor. The division has no method for state agencies to ensure they are doing business with reputable vendors. A suspended/debarred vendor list accessible to state agencies will help protect the state's interests when dealing with vendors.

A suspended/debarred vendor list posted on the division's website would ensure state agencies have visibility in order to avoid vendors that have previously underperformed on contract requirements, made false statements when submitting an RFP or RFQ, or have otherwise been suspended or debarred by the state or the federal government (noncompliant vendors). A consolidated, statewide listing of noncompliant vendors would help reduce the risk of agencies doing business with these vendors.

<u>Data Not Available to
Track Noncompliant Vendors</u>

The state does not maintain data to track noncompliant vendors. Due to the absence of data on noncompliant vendors, state agencies may unwittingly contract with a noncompliant vendor. The lack of vendor data increases risk for agencies and the state as a whole because noncompliant vendors may continue to do business with other agencies. Maintaining a suspended/debarred vendor list accessible to all agencies will reduce risk as well as potential costs to the state of noncompliance.

Federally Debarred Vendors Prohibited from Contracting with the State

The federal government maintains a list of vendors that have been suspended or debarred from doing business with the federal government.[5] These vendors are prohibited from participating in any contract involving federal funds. A vendor that has never done business with the federal government will never appear on this list.

---

[5] Federally suspended/debarred vendors appear on the System for Award Management's Excluded Parties List System pursuant 2 CFR 200, Appendix II (I).

Pursuant to the State Administrative Manual section 0338, the state reserves the right to reject any proposal or terminate any contract upon notification of abuse of any government contract. The division could help ensure that agencies are not doing business with non-compliant vendors by requiring agencies to consult the consolidated statewide suspended/debarred vendor list maintained by the division.

Nevada Benefits from Establishing Statewide Suspended/Debarred Vendor List

The division needs a suspended/debarred vendor list similar to the lists maintained by other states and the Nevada Labor Commissioner to track noncompliant vendors that contract with state agencies for goods and services. The list could be prominently displayed on the division's website for agencies to review prior to contracting for goods or services. Such a list would provide better vendor visibility and ensure agencies are conducting business with reputable vendors.

A statewide suspended/debarred vendor list could be used to supplement the division's vendor vetting efforts. The division could add a question on the EPro vendor registration form asking if the vendor is on a federal or state suspended/debarred vendor list. If the vendor provides false information, that would be a valid reason to add the vendor to the statewide suspended/debarred vendor list.

<u>Nevada Labor Commissioner Maintains List of Disqualified Contractors</u>

The Office of the Labor Commissioner maintains a list of disqualified contractors for public works contracts. NRS 338.017 provides for the temporary or permanent disqualification of a contractor from being awarded a public works contract or subcontract as a result of having committed an offense. The disqualification applies to the contractor and any corporate officers of the contractor. The Office of the Labor Commissioner makes this list a public document on their website and distributes the list to the State Contractors' Board.

<u>Other States Maintain Debarred Vendor Lists</u>

We surveyed other states to determine the use of statewide debarred vendor lists. Thirty-six states maintain statewide debarred vendor lists. For the states that maintain debarred vendor lists, the reasons for debarment are varied and include: violations of the prevailing wage and industrial insurance laws, failure to fulfill contract requirements, unethical behavior, and the inability of the vendor to reliably deliver on contract obligations. Exhibit VI shows an example of a statewide suspended/debarred vendor list and potential reasons for suspension or debarment.

Exhibit VI

Example of Suspended/Debarred Vendor List

Vendor	Address	Date of Violation	Effective Date	Effective Through	Cause Code*
A-1 Supplier	123 Main Street Carson City, NV 89701	1/15/2020	2/1/2020	1/31/2022	6

* Cause Codes
1. Failing to maintain active, good-standing status with the Secretary of State.
2. Delivering items that do not comply with the specifications of the vendor's contract with the state.
3. Failing to make delivery within the time specified in the contract or purchase order.
4. Failing to keep an offer firm for the length of time specified by the vendor in the solicitation or the vendor's bid or proposal.
5. Failing to provide a performance bond when required by a solicitation.
6. Colluding with other vendors to restrain competitive bidding.
7. Engaging in unauthorized communications or seeking to obtain unauthorized information about an open solicitation.
8. Giving information in an application for inclusion on a bidders list that is later found to be false or materially misleading.
9. Substituting of an article, even if it is the same quality, without first securing the written consent of the purchasing agency.
10. Declaring bankruptcy or other evidence of insolvency of the vendor.
11. Any other facts causing substantial doubt as to whether the vendor will continue to be a responsible bidder or offeror.
12. Violating the laws of the state that would make it inadvisable for the state to deal with the vendor.

Conclusion

The division lacks a mechanism to ensure that state agencies do not contract with noncompliant vendors. The division does not maintain data to track noncompliant vendors, which could result in state agencies contracting with noncompliant vendors unwittingly. The lack of vendor data increases risk for agencies and the state because noncompliant vendors may continue to do business with other agencies. Establishing a statewide suspended/debarred vendor list accessible to all agencies will help protect the state's interests when dealing with vendors by reducing the risks, and potential costs to the state, of noncompliant vendors.

Recommendation

3. Establish a statewide suspended/debarred vendor list.

Exhibit VII

Summary of Audit Benefits

	Recommendation	Benefit
1	Improve outreach efforts to Nevada vendors and establishing a mechanism to track and measure the program's effectiveness.	Nevada tax dollars stay in Nevada to generate jobs and diversify the economy.
2	Seek a BDR to reinstate the inverse preference law.	Nevada-based businesses will have a competitive advantage in the bid process.
3	Establish a statewide suspended/debarred vendor list.	Ensures that the state only contracts with reputable vendors.
	Total estimated benefit:	$6.6 million.

Appendix A

Scope and Methodology, Background, Acknowledgements

Scope and Methodology

We began the audit in July 2019. In the course of our work, we interviewed management and staff and discussed processes inherent to the Purchasing Division (division). We reviewed vendor payment records and contracts for fiscal years 2017 through 2019 and applicable Nevada Revised Statutes, Nevada Administrative Code, and the State Administrative Manual. We also surveyed Nevada's state agencies, other states' agencies, and the federal agency that maintains the System for Award Management.

We conducted our audit in conformance with the *International Standards for the Professional Practice of Internal Auditing.*

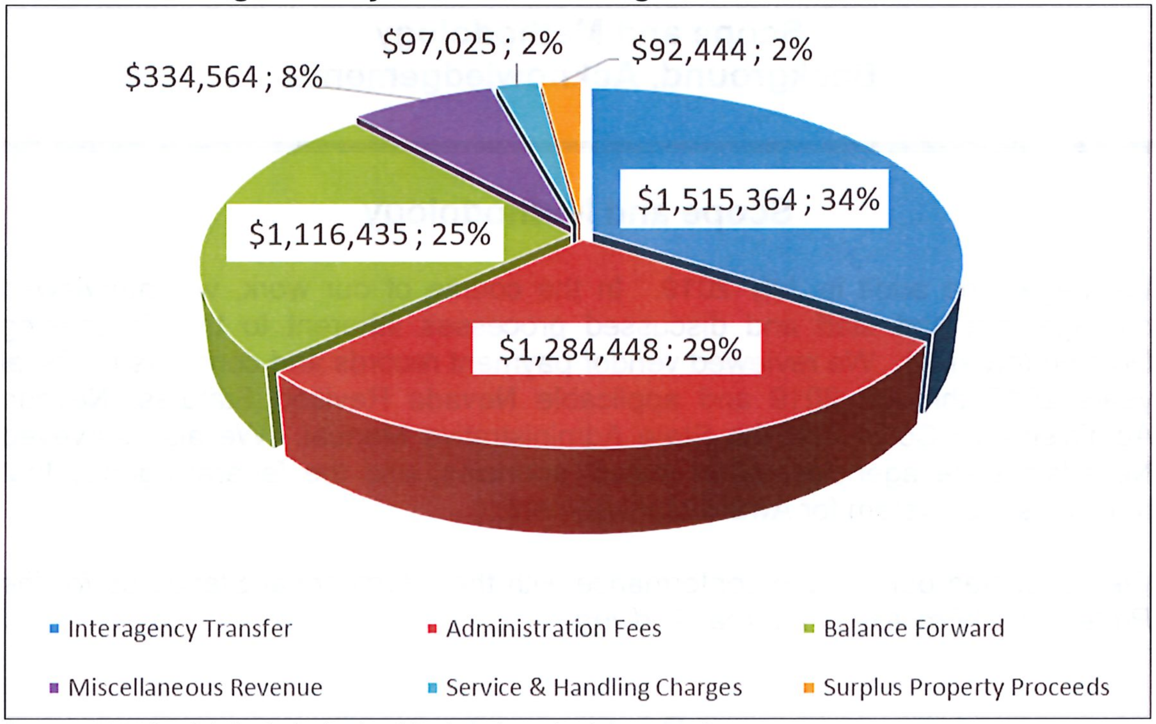
Background

The division is one of 11 divisions organized under the Department of Administration that give internal support to state agencies and employees, provide business opportunities for vendors and contractors, and offer services for citizens. The division is charged to perform all functions related to service procurement and the purchasing, renting, or leasing of supplies, materials, and equipment needed by state agencies. The division maintains warehouses in Reno and Las Vegas, handles the reallocation and disposal of excess state property, maintains an inventory of state fixed assets, administers the Federal Surplus Property Program, and operates the Preferred Purchase Program.

The fiscal year 2020 legislatively authorized budget for the division is approximately $4.4 million, with 25 authorized full-time equivalent positions. See Exhibit VIII for the fiscal year 2020 legislatively authorized budget.

Exhibit VIII

Legislatively Authorized Budget – Fiscal Year 2020



Source: 2020 Legislatively Authorized Budget (openbudget.nv.gov).

Acknowledgments

We express appreciation to the State Controller's Office, the Department of Administration, Purchasing Division, and the Governor's Finance Office, Budget Division staff for their cooperation and assistance throughout the audit.

Contributors to this report included:

Vita Ozoude, CMA, CGMA, CPA, MBA
Audit Manager

Craig Stevenson, MBA
Executive Branch Auditor

Appendix B

Purchasing Division's
Response and Implementation Plan

Steve Sisolak
Governor

Laura E. Freed
Director

STATE OF NEVADA
DEPARTMENT OF ADMINISTRATION
Purchasing Division
515 East Musser Street, Suite 300 | Carson City, Nevada 89701
Phone: 775-684-0170 | Fax: 775-684-0188

Kevin D. Doty
Administrator

February 5, 2020

Warren Lowman
Administrator, Internal Audit
209 E. Musser Street, Room 302
Carson City, Nevada 89701

Re: State Purchasing's Response to DIA Report No. 20-07

Dear Mr. Lowman,

As you requested, I am providing State Purchasing's responses to the recommendations made in Internal Audit's audit regarding foreign vendors.

Response to Recommendation #1 State Purchasing wants to increase outreach to Nevada-based vendors without duplicating GOED's efforts. This can best be accomplished through training programs designed specifically to help Nevada vendors draft better responses to RFPs. Unfortunately, severe budget constraints currently make it impossible for State Purchasing to provide this type of training. If funded for the next biennium, State Purchasing estimates implementation beginning in July 2021.

Response to Recommendation #2 State Purchasing will seek a BDR for the next legislative session that includes a reinstatement of the inverse preference law. State Purchasing will also plan on budgeting for the extra resources needed to apply an inverse preference law. If enacted, the inverse preference law should take effect on July 1, 2021.

Response to Recommendation #3 As part of the BDR mentioned above, State Purchasing will request statutory language creating a debarred vendor list. If enacted, the law allowing State Purchasing to create a debarred vendor list should take effect on July 1, 2021.

As always, it has been a pleasure working with you on this audit. Please let me know if you have any questions.

Sincerely,

Kevin D. Doty

Kevin D. Doty

Appendix C

Timetable for Implementing Audit Recommendations

In consultation with the Purchasing Division, the Division of Internal Audits categorized the three recommendations contained within this report into one of two separate implementation time frames (i.e., *Category 1* – less than six months; *Category 2* – more than six months). The Purchasing Division should begin taking steps to implement all recommendations as soon as possible. The target completion dates are incorporated from Appendix B.

Category 2: Recommendations with an anticipated implementation period more than six months.

Recommendations	Time Frame
1. Improve outreach efforts to Nevada vendors and establish a mechanism to track and measure the program's effectiveness. (page 4)	Jul 2021
2. Seek a BDR to reinstate the inverse preference law. (page 10)	Jul 2021
3. Establish a statewide suspended/debarred vendor list. (page 13)	Jul 2021

The Division of Internal Audits shall evaluate the action taken by the Purchasing Division concerning the report recommendations within six months from the issuance of this report. The Division of Internal Audits must report the results of its evaluation to the Executive Branch Audit Committee and the Purchasing Division.

Appendix D

Preference Laws by State

State	Has Inverse Preference Law?	Has Local Preference Law?	Has Tie Bid Preference Law?
Alabama	No	Yes	No
Alaska	No	Yes	No
Arizona	No	No	Yes
Arkansas	No	Yes	No
California	Yes	Yes	Yes
Colorado	Yes	Yes	Yes
Connecticut	Yes	Yes	Yes
Delaware	No	Yes	No
Florida	Yes	Yes	Yes
Georgia	Yes	Yes	Yes
Hawaii	Yes	Yes	Yes
Idaho	Yes	Yes	Yes
Illinois	Yes	Yes	Yes
Indiana	Yes	Yes	No
Iowa	Yes	Yes	Yes
Kansas	Yes	Yes	Yes
Kentucky	Yes	Yes	Yes
Louisiana	Yes	Yes	Yes
Maine	Yes	Yes	Yes
Maryland	Yes	Yes	Yes
Massachusetts	No	Yes	Yes
Michigan	Yes	Yes	Yes
Minnesota	Yes	Yes	Yes
Mississippi	Yes	Yes	Yes
Missouri	Yes	Yes	Yes
Montana	Yes	Yes	Yes
Nebraska	Yes	Yes	Yes
Nevada	No	Yes	Yes
New Hampshire	No	Yes	Yes
New Jersey	Yes	Yes	No
New Mexico	No	Yes	No
New York	Yes	Yes	No
North Carolina	Yes	Yes	Yes
North Dakota	Yes	Yes	Yes
Ohio	Yes	Yes	No
Oklahoma	Yes	Yes	Yes
Oregon	Yes	Yes	Yes
Pennsylvania	Yes	Yes	Yes
Rhode Island	No	Yes	No
South Carolina	No	Yes	Yes
South Dakota	Yes	Yes	Yes
Tennessee	Yes	Yes	Yes
Texas	Yes	Yes	Yes
Utah	Yes	Yes	Yes
Vermont	No	No	Yes
Virginia	Yes	Yes	Yes
Washington	Yes	Yes	No
West Virginia	Yes	Yes	No
Wisconsin	Yes	Yes	No
Wyoming	No	Yes	No

Source: National Association of State Procurement Officials.