



Responsible: Office of Operations, Facilities Management Department

BOARD POLICY 7088
PERFORMANCE BASED CONTRACTING

PURPOSE

The Board of Trustees believes it is vital the District seek alternative methods for financing certain capital and facilities management projects. Performance based contracting is a financial alternative to augment the financing of certain capital projects. It is designed to utilize a qualified service company to provide design, financing, and installation of operating cost-savings projects related to energy, water, and the disposal of waste. The projects are typically funded by the guaranteed savings produced by the projects over a set period of time. NRS 332.360(6) requires that the District would enter into a contract with a third-party consultant to verify the cost savings that would be utilized in financing the projects. This policy shall set forth the process for evaluating whether work to be performed on a building will be performed pursuant to a performance based contract.

POLICY

1. A performance contract is a written contract between the District and a qualified service company for the evaluation, recommendation and implementation of one or more operating cost-savings measures, to include energy cost savings.
2. Prior to beginning the bidding process, any contract which fits the criteria as outlined within for a performance based contact will be presented to the Board of Trustees for approval.
3. The criteria for determining the work which will be evaluated includes, at the minimum:
 - a. Consists primarily of one or more operating cost savings measures;
 - b. Qualifies to be performed pursuant to a performance contract with a return on investment within five years or less and a minimum project value of one million dollars (\$1,000,000); and
 - c. Would be more reasonably included under an existing performance contract rather than a new performance contract; and
4. Should the District determine not to enter into a performance contract for projects that meet the criteria for evaluation, the reasons for that determination shall be documented.

5. Upon determination that a project is appropriate for a performance based contract, the District shall use the criteria established within Administrative Regulation 7088, Performance Based Contracting, and Nevada Revised Statutes (NRS) 332.353, to determine if an applicant is qualified to bid.
6. A person who wishes to be eligible as a qualified service company and submit a proposal for a performance contract must file an application with the District.

DEFINITIONS

1. "Qualified Service Company" means a person who is qualified to bid on a performance contract pursuant to NRS 332.351 to 332.353.
2. "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, multi-glazed 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.

DESIRED OUTCOMES

1. This policy, and the use of performance based contracting, will provide the District a financial alternative to augment the financing of certain capital projects. Such budgetary considerations are an initiative of the District's Strategic Plan.

IMPLEMENTATION GUIDELINES & ASSOCIATED DOCUMENTS

1. This policy reflects the goals of the District's Strategic Plan.
2. This policy aligns with the following WCSD governing documents:
 - a. Administrative Regulation 7088, Performance Based Contracting (to be adopted)
 - b. Board Policy 3321, Bids/Quotations and Contracts
 - c. Administrative Regulation 3321, Bids/Quotations and Contracts
3. This policy complies with Nevada Revised Statutes (NRS) Chapter 332, Purchasing: Local Governments, and specifically:
 - a. NRS 332.300 – 332.440, Performance Contracts for Operating Cost-Savings Measures

REVIEW AND REPORTING

1. This document shall be reviewed as part of the bi-annual review and reporting process, following each regular session of the Nevada Legislature. The Board of Trustees shall receive notification of any required changes to the policy as well as an audit of the accompanying governing documents.
2. The District shall report annually to the Nevada State Office of Energy the operating cost savings measures, if any, that:

- a. Were identified in an approved Performance Based Contracting project's financial-grade operational audit submitted to the Board of Trustees during the immediately preceding year (See NRS 332.360(5)); and
- b. Were not included in a performance contract during the immediately preceding year.

REVISION HISTORY

Date	Revision	Modification
10/14/2014	1.0	Adopted