

NEVADA BOARD TO REVIEW CLAIMS
MEETING OF SEPTEMBER 10, 2015; AMENDED JUNE 12, 2025

Video-conferenced from Carson City and Las Vegas, Nevada
Summary of Amended Policy Resolution

SUBJECT: Amended Policy Resolution No. 2015-01 - Provides Clarification Regarding the Petroleum Fund Bid Process.

DISCUSSION: The subject resolution was initially adopted by the Board to Review Claims on September 10, 2015. The following amendment includes an update to the regulatory citations, an increase in bid values, and an update to the required forms and format of the bid packet. Petroleum Fund regulation NAC 445C.270.4(e) requires a storage tank owner/operator to obtain approval from the Nevada Division of Environmental Protection (NDEP) or secure not less than three competitive bids for a task included in a corrective action that costs more than \$8,000.00 (as of the date of this revision) if the corrective action required by the discharge from the tank is not an emergency. The intent of this regulation is to facilitate cost control and verify the cost control measures were applied when a reimbursement claim package is submitted.

Policy Resolution No. 2015-01 will further delineate the bid process to meet the intent of NAC445C.270.4(e), which stipulates how the Certified Environmental Manager, the owner/operator, and the bidding contractor or vendor must complete and submit three bids to NDEP prior to work being initiated or item being purchased if the required corrective action cost is greater than \$35,000.00.

RECOMMENDATION: Adoption of Amended Policy Resolution No. 2015-01, as proposed.

NEVADA BOARD TO REVIEW CLAIMS
RESOLUTION No. 2015-01, Amended June 12, 2025

Resolution to Provide Clarification Regarding the Petroleum Fund (Fund) Bid Process

Whereas, the Nevada Board to Review Claims (hereinafter referred to as the Board) Finds:

1. NAC 445C.270.4(e) states that a storage tank operator must obtain approval from the Division or secure not less than three competitive bids for a task included in a corrective action that costs more than \$6,000, an amount which may be adjusted annually by the Division and published on the website of the Division on or before March 1 of each year to reflect the change in the Consumer Price Index for All Urban Consumers published by the United States Department of Labor between December 2018 and December of the immediately preceding year and rounded to the nearest \$1,000 [\$8,000 as of the date of this revision] if: (1) The corrective action necessitated by a discharge from a storage tank is not an emergency action pursuant to paragraph (c) of subsection 1 of NAC 445C.210 or an initial abatement measure prescribed by 40 C.F.R. 280.62...”
2. NAC 445C.210.1(c) defines an emergency as an action that: (1) stops the release of petroleum, (2) identifies or mitigates existing or potential hazards from fire, explosion, vapor or other hazards associated with a release, or (3) prevents the migration of petroleum which poses a substantial imminent threat to the environment.
3. The intent of NAC 445C.270.4(e) is to facilitate cost control and maintain open competition.
4. To better manage cost control, but not impede corrective action progress, all bid packets for projects or purchases with the selected bid equal to or greater than \$35,000.00 must be provided to the Fund prior to the work being initiated by the contractor or item being purchased.
5. The request for bid sent to contractors/vendors must be structured so that all obtained bids will be compared to the same criteria. This will include the form in Attachment A for the vendors/contractors to provide with their submittal. This table must include requested units and be structured in such a way that it allows direct comparison to the other bid submittals.
6. Correspondence from a contractor or vendor stating they cannot or do not wish to provide a bid may not constitute receipt of a valid bid; therefore, additional bids should be requested.
7. For all bids, regardless of the bid amount, the contractor or vendor must sign a Contractor/Vendor Certification Form that contains certification statements regarding the process by which bids were obtained (Attachment B).
8. The complete bid packet will consist of the request for bid, the individual bids received (each paired with a signed Contractor/Vendor Certification Form), and the Bid Summary Table & Certification Statements Form. The CEM and owner/operator must sign the Bid Summary Table & Certification Statements Form (Attachment C).
9. NDEP will notify the person who submitted the bid packet, in writing, that the bid packet has been

received and a review will be completed no later than 10 business days after receipt. NDEP will notify the person who submitted the bid packet with the following direction:

- a. If NDEP approves the bid packet, the work may proceed, or the item may be purchased.
 - b. If NDEP rejects the bid packet, the issue must be resolved prior to initiating the work or purchase. If the owner chooses to proceed prior to resolving the issue, the costs for doing the work or purchasing the item may not be recommended for reimbursement.
 - c. If NDEP does not stipulate whether or not it has approved or rejected the bid packet after 10 business days from its receipt, the work may proceed, or the item may be purchased.
10. In the event an invoice submitted with a reimbursement claim is greater than the accepted bid amount, justification for the exceedance must be provided, and the approved bid rates/unit costs for contractor time and materials must be used for invoicing. Fund staff will not reimburse rates/unit costs greater than provided in the original bid. An exceedance that occurs for a bid where lump sum pricing was accepted may not be reimbursed by Fund staff if original bid rates/unit costs cannot be determined.
11. If invoiced costs exceed the bid value, a Bid Excess/Justification Form (Attachment D) must be approved by the regulatory case officer and provided with the bid packet upon submittal of the reimbursement claim.

THEREFORE, BE IT RESOLVED THAT:

1. The Request for Bids sent to contractors must be structured so all obtained bids will be compared to the same criteria (See Attachment A for Example Request for Bid form).
2. All bids, regardless of the bid amount, must be accompanied by a signed Contractor/Vendor Certification Form (Attachment B).
3. The Bid Summary Table and Certification Statements form (Attachment C) will ensure comparable bids and must be completed and signed by the operator and the CEM, prior to submittal to the Fund.
4. The complete bid packet will consist of the request for bid, the individual bids received (each paired with a signed Contractor/Vendor Certification form), and the Bid Summary Table & Certification Statements form. The CEM and owner/operator each must sign the Bid Summary Table & Certification Statements form. This process is required for all bids, regardless of the amount.
5. All bid packets for contractor work or purchases with the selected bid equal to or greater than \$35,000.00 must be provided to the regulatory case officer and Fund staff prior to the work being initiated by the contractor or item being purchased.
6. NDEP will notify the person who submitted the bid packet, in writing, that the bid packet has been received and a review will be completed no later than 10 business days after receipt. NDEP will notify the person who submitted the bid packet with the following direction:
 - a) If NDEP approves the bid packet, the issue must be the work may proceed or the item may be purchased.
 - b) If NDEP rejects the bid packet, the issue must be resolved prior to initiating the work or purchase. If the owner chooses to proceed prior to resolving the issue, the costs for doing the work or purchasing the item may not be recommended for reimbursement.

- c) If NDEP does not stipulate whether or not it has approved or rejected the bid packet after 10 business days from its receipt, the work may proceed, or the item may be purchased.
7. In the event an invoice submitted with a reimbursement claim is greater than the accepted bid amount, justification for the exceedance must be provided, and the approved bid rates/unit costs for contractor time and materials must be used for invoicing. Fund staff will not reimburse rates/unit costs greater than provided in the original bid. An exceedance that occurs for a bid where lump sum pricing was accepted may not be reimbursed by Fund staff if original bid rates/unit costs cannot be determined.
8. If invoiced costs exceed the bid value, a Bid Excess/Justification Form (Attachment D) must be approved by the cleanup case officer and provided with the bid packet upon submittal of the reimbursement claim.
9. The Petroleum Fund reimburses for select corrective action equipment and corrective action work performed, including reasonable and customary profit and overhead markup. The Fund does not reimburse costs attributed to risks associated with an owner/operator or other intangible costs not related to the work being performed or item(s) being purchased (Attachment E).

I, Maureen Tappan, Chair, do hereby certify that the foregoing is a full, true, and correct copy of Board Policy Resolution 2015-01, amended by the Nevada Board to Review Claims on June 12, 2025.



Maureen Tappan, Chair
Nevada Board to Review Claims