

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 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

- 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

**Attachment A**

Example Request for Bid Form  
Form ID BPR2015-01.F1

## NEVADA PETROLEUM FUND REQUEST FOR BID FORM

Facility Name: \_\_\_\_\_

Facility Address: \_\_\_\_\_

Petroleum Fund Case Number: \_\_\_\_\_

Facility ID Number: \_\_\_\_\_

Task	Estimated Quantity	Unit	Unit Price	Cost
Task A				
Task B				
Task C				
			Total Cost:	<i>ENTER TOTAL COST HERE</i>

*This table should be modified to meet the scope of work requirements. Please ensure that for each project, all bids are submitted using the same uniform table.*

**Attachment B**

Contractor/Vendor Certification Form  
Form ID BPR2015-01.F2

## CONTRACTOR/VENDOR CERTIFICATION FORM

I hereby certify, to the best of my knowledge:

1. I am licensed to conduct the work contained in the above-described and attached bid.
2. I have arrived at the prices in the bid independently, without consultation, communication, or agreement with any party for the purpose of restricting competition, including price fixing, bid-rigging and collusion.
3. I understand the Petroleum Fund is not responsible for paying invoiced costs identified in the "Ineligible Contractor Costs" found at <https://ndep.nv.gov/environmental-cleanup/petroleum-fund/cost-guidelines-rates>.
4. Unless otherwise required by law, I have not and will not disclose the prices quoted in the bid to any party, directly or indirectly, prior to the opening of all bids by the party requesting the bid.
5. I did not attempt to induce any other party to submit, not submit or modify a bid for the purpose of restricting competition.
6. I will provide to the NDEP all necessary documentation to verify actual costs, , upon request. These may include but are not limited to: bid worksheets, timesheets, and subcontractor invoices. I understand that reimbursements approved by the Board to Review Claims are subject to audit by the NDEP or any representative thereof.
7. I understand that the submission of false or misleading information or credentials, or failure to comply with the applicable statutes or rules, may result in a denial of all claims as well as further penalties as provided under NRS 459.595 and NRS 197.160

Business Name: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Business License Number: \_\_\_\_\_

License Expiration Date: \_\_\_\_\_

Contractor's License Number: \_\_\_\_\_

License Expiration Date: \_\_\_\_\_

Facility Name: \_\_\_\_\_

Facility Location: \_\_\_\_\_

Petroleum Fund Case Number: \_\_\_\_\_

Facility ID Number: \_\_\_\_\_



**Attachment C**

Bid Summary Table and Certification Statements Form  
Form ID BPR2015-01.F3

## NEVADA PETROLEUM FUND BID SUMMARY TABLE & CERTIFICATION STATEMENTS

Facility Name: \_\_\_\_\_  
Facility Location: \_\_\_\_\_  
Petroleum Fund Case Number: \_\_\_\_\_  
Facility ID Number: \_\_\_\_\_  
Selected Bidder: \_\_\_\_\_

Description of Task/Work Activity	Quantity	Unit	Company Name # 1	Company Name # 2	Company Name # 3
			\$	\$	\$
			\$	\$	\$
			\$	\$	\$
		Total	\$	\$	\$

NOTE: Bids must be reported in like units

### Bid Packet Requirements:

1. Ensure the Request for Bid Table provided to the contractors/vendors has tasks in identical order as the Bid Summary Table provided to NDEP. If the Quantity is not uniform for all bids, please indicate each quantity. The units should be uniform for all bids.
2. Provide justification along with a written bid waiver from the regulatory case officer if less than three bids were obtained OR lowest bid was not selected.
3. Ensure all contractor/vendor bids are complete, including a signed Vendor/Contractor Certification form.
4. Ensure both the CEM and owner/operator have signed the Certification Statements form.
5. If the selected bid is \$35,000 or greater, the bid packet must be submitted to the regulatory case officer and Fund staff prior to conducting work or purchasing item.
6. If NDEP does not approve or reject the submitted bid packet after 10 business days of receipt, the contracted work may begin or the item may be purchased.

## Certification Statements

I hereby certify, to the best of my knowledge:

1. I have confirmed the bids were obtained only from parties licensed to perform the work.
2. The bids are based upon the same scope of work and I have included the Request for Bid.
3. I have not independently consulted, communicated, or otherwise influenced any bidding party for the purpose of restricting competition.
4. Unless otherwise required by law, I have not and will not disclose the prices quoted in the bids to any party, directly or indirectly, prior to the opening of all bids by the party requesting the bid.
5. I did not attempt to induce any other party to submit, not submit, or modify a bid for the purpose of restricting competition.
6. I have submitted to NDEP a true and correct copy of each bid I received.
7. I will provide to the NDEP all necessary documentation to verify actual costs, if requested.
8. I understand that reimbursements approved by the Board to Review Claims are subject to audit by the NDEP or any representative thereof. I will reimburse the Fund for any costs disallowed pursuant to such an audit.
9. I understand that the submission of false or misleading information or credentials, or failure to comply with the applicable statutes or rules, may result in a denial of all claims as well as further penalties as provided under NRS 459.595 and NRS 197.160.
10. If I am bidding on a client's project, my bid and all related competitor bids will be provided directly to the NDEP case officer and the Petroleum Fund staff.

Project Name: \_\_\_\_\_

Project Location: \_\_\_\_\_

Petroleum Fund Case Number: \_\_\_\_\_

Facility ID Number: \_\_\_\_\_

### Storage Tank Owner/Operator

Company \_\_\_\_\_

Printed Name \_\_\_\_\_

Signature \_\_\_\_\_

Phone Number \_\_\_\_\_

Date \_\_\_\_\_

### Certified Environmental Manager

Company \_\_\_\_\_

Printed Name \_\_\_\_\_

CEM Number \_\_\_\_\_

Signature \_\_\_\_\_

Phone Number \_\_\_\_\_

Date \_\_\_\_\_

Attachments:    Copy of Request for Bid  
                     Copies of all bids received, paired with Contractor/Vendor Certification Forms

#### REGULATORY AGENCY USE ONLY

I DO \_\_\_ DO NOT \_\_\_ concur with the proposed bid packet and selected contractor/vendor \_\_\_\_\_  
NDEP Case Officer      Date

**Attachment D**

Bid Excess Justification/Concurrence Form  
Form ID BPR2015-01.F4

**Nevada Petroleum Fund  
Bid Excess Justification/Concurrence**

TASK No.	DESCRIPTION OF TASK / WORK ACTIVITY	Bid Excess		
		Original Bid Amount	Amount Invoiced	Excess Amount
		\$	\$	\$
		\$	\$	\$
		\$	\$	\$

**Justification for costs in excess of bid amount:**

---

---

---

---

---

---

---

---

**Storage Tank Owner/Operator Information**

Name/Company \_\_\_\_\_  
Facility Name \_\_\_\_\_  
Facility ID # \_\_\_\_\_  
Signature \_\_\_\_\_  
Phone Number \_\_\_\_\_  
Date \_\_\_\_\_

**Certified Environmental Manager**

Company \_\_\_\_\_  
Printed Name \_\_\_\_\_  
CEM Number \_\_\_\_\_  
Signature \_\_\_\_\_  
Phone Number \_\_\_\_\_  
Date \_\_\_\_\_

**If the above bid exceedance(s) occurred as a result of significant changes to the original scope of work, written case officer concurrence must be submitted with this form or the case officer must indicate his/her approval (below) for the above exceedances due to a change in scope of work. Refer to the CEM Cost Guidelines, Section 2.3.3 (September 2017 version).**

**REGULATORY AGENCY USE ONLY**

I DO \_\_\_ / DO NOT \_\_\_ concur with the bid exceedance(s) addressed by the CEM above \_\_\_\_\_  
Regulatory Case Officer

## **Attachment E**

### **Ineligible Contractor Costs**

### **Ineligible Contractor Costs**

Please be aware the Petroleum Fund is not responsible for reimbursing the following itemized costs. If NDEP determines these costs have been included in a claim, NDEP will recommend to the Board to Review Claims to not reimburse the ineligible amount(s).

- Excessive markup over customary and usual rates. Customary and usual rates are rates required for a service or purchase that include reasonable markup for profit and overhead and do not include intangible costs not associated with effective completion of a project.
- Costs attributed to risks associated with an owner/operator or other intangible costs not related to the effective completion of a project.
- Costs for damage due to contractor or subcontractor error.
- Change order costs associated with an awarded bid that was submitted intentionally low, failing to be representative of the costs for the project, in an effort to increase the likelihood of winning the bid.
- Costs for equipment that was not used for the job.
- Costs outside the scope of the approved project.
- Costs for additional, unforeseen work approved by NDEP that is billed at a greater rate than the original bid rates, unless approved by the regulatory case officer.
- Purchase of maintenance equipment, such as hand tools.
- Activities, equipment, or materials that are solely for the convenience of the claimant. Examples: rush lab turn around fees not required by oversight agency, replacement of wells due to site improvements, and site improvements unrelated to required corrective actions.