

**ADOPTED REGULATION OF THE
STATE PUBLIC WORKS BOARD**

LCB File No. R134-06

Effective July 14, 2006

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §§1-14, NRS 333A.080.

A REGULATION relating to purchasing; prescribing the process for submission and review of applications for placement on the list of companies qualified to contract to perform operating cost-savings measures; and providing other matters properly relating thereto.

Section 1. Chapter 333A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 14, inclusive, of this regulation.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 9, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Applicant” means a contractor licensed pursuant to chapter 624 of NRS who files an application to become a qualified service company with the Board.*

Sec. 4. *“Board” means the State Public Works Board.*

Sec. 5. *“Manager” means the Manager of the Board appointed pursuant to NRS 341.100.*

Sec. 6. *“Performance contract” has the meaning ascribed to it in NRS 333A.050.*

Sec. 7. *“Qualified service company” has the meaning ascribed to it in NRS 333A.060.*

Sec. 8. *“Qualified service company list” means the list of qualified service companies compiled by the Board pursuant to NRS 333A.080 for use by the Purchasing Division of the*

Department of Administration and using agencies interested in entering into performance contracts.

Sec. 9. *“Using agency” has the meaning ascribed to it in NRS 333A.070.*

Sec. 10. *Each applicant who desires to be placed on the qualified service company list must:*

1. Be licensed as a contractor pursuant to chapter 624 of NRS and qualified as a bidder pursuant to NRS 338.1379; and

2. Submit an application to the Manager on a form prescribed by the Board.

Sec. 11. *Each applicant must indicate the dollar amount of the performance contracts for which the applicant desires to be placed on the qualified service company list in one or more of the following categories:*

1. Less than \$1,000,000;

2. One million dollars to \$5,000,000; and

3. More than \$5,000,000.

Sec. 12. *As set forth in NRS 333A.080, the Board will use the following criteria for evaluation in determining whether an applicant meets the requirements of a qualified service company:*

1. Design;

2. Engineering;

3. Installation;

4. Maintenance and repairs associated with performance contracts;

5. *Experience in conversions to different sources of energy or fuel and other services related to operating cost-savings measures provided that is done in association with a comprehensive energy, water or waste disposal cost-savings retrofit;*
6. *Monitoring projects after the projects are installed;*
7. *Data collection and reporting of savings;*
8. *Overall project experience and qualifications;*
9. *Management capability;*
10. *Ability to access long-term financing;*
11. *Experience with projects of similar size and scope; and*
12. *Such other factors determined by the Board to be relevant and appropriate to the ability of a company to perform the projects.*

Sec. 13. *1. In consultation with the staffs of the Office of Energy within the Office of the Governor, the Buildings and Grounds Division of the Department of Administration and the Purchasing Division of the Department of Administration, the Manager may use his discretion in determining how much weight each criterion set forth in section 12 of this regulation will be given in evaluating an application. The weight of each criterion must be determined before the Board issues a request for qualifications pursuant to NRS 333A.080.*

2. For each criterion set forth in section 12 of this regulation, an application will be evaluated based upon the experience of the company seeking placement on the qualified service company list or the combined experience of the employees of the company, whichever is greater.

Sec. 14. *If a request for qualifications is issued by the Board pursuant to NRS 333A.080, the request must include the process for notice, hearing and appeal if an application is denied.*

NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R134-06

The State Public Works Board adopted regulations assigned LCB File No. R134-06 which pertain to chapter 333A of the Nevada Administrative Code on July 7, 2006.

Notice date: June 2, 2006
Hearing date: July 7, 2006

Date of adoption by agency: July 7, 2006
Filing date: July 14, 2006

INFORMATIONAL STATEMENT

1. A description of how public comment was solicited, a summary of public response, and explanation how other interested persons may obtain a copy of the summary.

Notices were posted at the Nevada State Public Library and Archives, Legislative Building, Blasdel Administration Building, Court Clerk Office, Grant Sawyer Building State Public Works Board offices, and on the State Public Works Board Website. Notices were also sent to all county libraries in which an office of the agency is not maintained for inspection and copying by members of the public during business hours. Notices were also faxed to Clark County and Washoe County. There was no public response.

2. The number of persons who: (a) attended each hearing; (b) testified at each hearing; and (c) submitted to the agency written statement.

The Workshop and Adoption Hearing were held on July 7, 2006. (a) Three people attended the workshop and hearing. (b) There was no public testimony at the workshop or the hearing. (c) There was one written statement submitted to the agency.

3. A description of how comment was solicited from affected businesses, a summary of their response and an explanation how other interested persons may obtain a copy of the summary.

Notices were e-mailed to the following companies: Honeywell Building Solutions, Honeywell International, Inc., Honeywell San Francisco, Northern California Nevada Trane, Ameresco, E Cube Inc., APS Energy Services, Noreso, Chevron, Constellation Energy Projects, Vision Energy Group, Energy Systems Group, Southland Industries, Western Energy Systems LLC, Sempra Services, and Burns & McDonnell. Notices were mailed to Comprehensive Energy Solutions: TRANE, Chevron USA, Siemens Building Technologies, and Johnson Controls. Notices were faxed to AGC North and AGC South.

One written response was received from APS Energy Services, which suggested that firms can apply for “any or all of the following three categories.” In LCB’s review, that was addressed in section 11, and states “one or more of the following categories.” There was no public comment at the workshop or the adoption hearing. Interested parties may request a copy of the July 7, 2006 meeting minutes, once approved by the Board, by writing to the State Public Works Board, 515 E. Musser St., Suite 102, Carson City, NV 89701 or on our website: www.spwb.state.nv.us.

4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

This was a new regulation which the SPWB proposed to comply with the requirements of NRS 333A.080. The proposed regulation involves establishing criteria for performance contracting (i.e. energy retrofitting) with the State of Nevada.

5. **The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include:**
- (a) **Both adverse and beneficial effects;**
 - (b) **Both immediate and long-term effects;**

The proposed regulation should have a positive impact on small businesses by providing the opportunity to perform energy retrofit projects to the State of Nevada. The proposed regulation should benefit small businesses by ensuring that only qualified contractors engage in energy retrofit projects. Some state agencies have projects ready immediately, and plan to go out to bid, as soon as the regulation is adopted. State Public Works Board does not see any adverse effects of the adopted regulation.

The proposed regulation should have a positive impact on the public by providing the opportunity for energy retrofit projects which will cut energy costs in the State of Nevada facilities for a positive long-term effect. State Public Works Board does not see any adverse effects of the adopted regulation.

6. **The estimated cost to the agency for enforcement of the adopted regulation.**

The estimated cost to the SPWB will vary depending on the number of contractors seeking qualification through the State Public Works Board. At this juncture, the State Public Works Board believes that increased costs for administration and/or enforcement could amount to \$25,000 per year based upon the number of applicants.

7. **A description of any regulation of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

The proposed regulations do not overlap or duplicate the regulations of other state or local governmental agencies.

8. **If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.**

Federal law does not require the proposed regulation. The proposed regulations do not include provisions, which are more stringent than federal, state, or local standards regulating the same activity.

9. **If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

The proposed regulation does not provide a new fee and does not increase an existing fee.