

# PROPOSED REGULATION OF THE STATE PUBLIC WORKS BOARD

## LCB File No. R106-11

### GENERAL PROVISIONS

NAC 341.001 **Definitions.** (NRS 341.110) As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 341.004 to 341.012, inclusive, have the meanings ascribed to them in those sections.

**NAC 341.004 “Board” defined.** (NRS 341.110) “Board” has the meaning ascribed to it in NRS 341.013.

**NAC 341.006 “Chair” defined.** (NRS 341.110) “Chair” means the Chair of the Board.

**NAC 341.007 “Construction manager” defined.** (NRS 341.110) “Construction manager” means a contractor licensed pursuant to chapter 624 of NRS who is retained by the Board pursuant to NRS 341.161 and who assists in a project that is performed by this State or a local government itself in accordance with NRS 338.1386 and 338.13864.

**NAC 341.008 “Construction manager at risk” defined.** (NRS 341.110) “Construction manager at risk” means a contractor licensed pursuant to chapter 624 of NRS who is retained by the ~~[Board]~~ *Division* for a project of capital improvement pursuant to *NRS 338.169 through 338.1699 and* NRS 341.161 and who guarantees that the final price for the project will not be exceeded.

**NAC 341.009 “~~[Manager]~~ “Administrator” defined.** (NRS 341.110) “~~[Manager]~~ “Administrator” has the meaning ascribed to it in NRS 341.015.

**NAC 341.012 “Vice Chair” defined.** (NRS 341.110) “Vice Chair” means the Vice Chair of the Board.

### ADMINISTRATION

**NAC 341.015 Matters requiring action by Board.** (NRS 341.110, 341.145) Unless the authority to take action is delegated by the Board to the *Administrator* ~~[Manager]~~, an action by the Board is required for:

1. The designation of projects, budgets and priorities to be included in the recommended program for capital improvements.

2. *Adopting regulations.*

3. *Presiding over appeals for;*

*a. the qualification of contractors;*

*b. the qualification of subcontractors;*

*c. the qualification of subcontractors by a CMAR; and*

*d. disputes regarding contracts.*

- ~~[2. The selection of architects, engineers and professional consultants and the designation of the sequence of negotiations for contracts for professional services in an amount of \$250,000 or more.~~
- ~~—3. The termination of a contract of \$1,000,000 or more.~~
- ~~—4. Making the biennial recommendations for the operating budget.~~
- ~~—5. The delegation of the authority of the Board to another state agency in accordance with NRS 341.119 for projects of \$500,000 or more.]~~

**NAC 341.020 Officers: Terms; vacancies; powers and duties.** (NRS 341.070, 341.110)

1. The officers of the Board consist of a Chair, Vice Chair and Secretary.
2. The term of office of the Chair and the Vice Chair is 2 years. The Secretary shall notify the Chair and the Vice Chair of the date on which their respective terms end at least 60 days before the end of such terms.
3. If a vacancy occurs in the Office of:
  - (a) Chair, the Vice Chair shall assume the duties of the Chair for the unexpired term.
  - (b) Vice Chair, the Board will, at its next meeting, elect from among its members a Vice Chair to fill the vacancy for the unexpired term.
4. The ~~[Manager]~~ *Administrator* serves as Secretary of the Board.
5. The Chair, or if the Chair is unable to act, the Vice Chair, may:
  - (a) Call meetings of the Board and preside at the meetings.
  - (b) Appoint the members of the Board's committees.
  - (c) Execute documents on behalf of the Board.
  - (d) Represent the Board.
6. The Secretary shall:
  - (a) Schedule and arrange all meetings of the Board;
  - (b) Post and mail copies of notices of the meetings;
  - (c) Maintain:
    - (1) Written minutes of the meetings;
    - (2) Records of the policies and procedures of the Board; and
    - (3) Other official records of the Board; and
  - (d) Provide such information to members of the Board as they may request or the Secretary considers to be appropriate.

**NAC 341.025 Board of Appeals.** (NRS 341.070, 341.110) The Board may appoint three of its members to function as a Board of Appeals in order to attempt to resolve all disputes concerning contracts before the ~~[Board]~~ *Division* will initiate procedures for *mediation*, arbitration, *and/or litigation*.

**NAC 341.030 Employees; authority of ~~[Manager]~~ Administrator.** (NRS 341.100, 341.110)

1. In addition to the ~~[Manager]~~ *Administrator* and the Deputy ~~[Manager]~~ *Administrator* for Professional Services, each employee who is classified as an architect or an engineer must maintain a license to practice architecture or engineering in the State of Nevada.
2. The ~~[Manager]~~ *Administrator* may:
  - (a) Administer the ~~[Board's]~~ *Division's* programs.
  - (b) Approve claims and partial payments.
  - (c) Negotiate and execute contracts and other documents. ~~[authorized by the Board.]~~
  - (d) Approve authorized change orders and endorsements to authorized contracts.

(e) Select and commission professional or technical firms or other persons for checking plans, testing, surveying and providing necessary consulting or professional services.

(f) Use the criteria adopted by the Board pursuant to NRS 338.1375 to determine the qualification of bidders on contracts for public works of this State.

(g) Award a contract for a public work of this State to responsive and responsible contractors.

(h) Except as otherwise provided in NRS 341.100, administer the ~~[Board's]~~ *Division's* employees, including hiring and firing.

(i) Perform such other functions as may be required for the efficient administration of the ~~[Board's]~~ *Division's* programs ~~[or as directed by the Board]~~.

(j) Approve the architecture of all buildings, plans, designs, types of construction, major repairs and designs of landscaping.

(k) Adopt A-E selection procedures, design standards, general provisions for contracts, contract forms and other standards that are needed to ensure the construction and maintenance of facilities at a reasonable cost.

(l) Select architects, engineers and other professional consultants for contracts for professional services ~~[that are less than \$250,000]~~.

(m) ~~[Make recommendations]~~ *Report* to the Board ~~for~~ the selection of architects, engineers and other professional consultants for contracts for professional services ~~[that are \$250,000 or more]~~.

(n) Solicit bids for the construction of a project.

(o) Execute the forms necessary for the final acceptance of work that is completed for a project.

(p) Terminate for good cause a contract ~~[of less than \$1,000,000]~~.

(q) Accept money and establish funds for projects not previously included in the program for capital improvements, *and if required seek legislative approval.*

(r) Amend the scope or budget of a project and seek legislative approval for those amendments, if necessary.

(s) Delegate the authority of the Board to other state agencies in accordance with NRS 341.119 ~~[for projects of less than \$500,000]~~.

(t) Review and render final decisions on a protest filed pursuant to NRS 338.142 and determine whether a person filing such a protest must post a bond or other security.

(u) Request that a contractor or consultant engage in mediation regardless of whether mediation is required pursuant to the contract with the contractor or consultant.

3. The ~~[Manager]~~ *Administrator* may delegate his or her authority to take any action pursuant to subsection 2 to a deputy ~~[manager]~~ *administrator* or the Chief of Design.

4. No employee may have any personal interest in any project under the jurisdiction of the ~~[Board]~~ *Division* or engage in any activity that is in conflict with policies and procedures of the ~~[Board]~~ *Division*.

#### **NAC 341.036 Duties of Deputy ~~[Manager]~~ *Administrator* for Compliance and Code Enforcement.** (NRS 341.100, 341.110)

1. The Deputy ~~[Manager]~~ *Administrator* for Compliance and Code Enforcement appointed pursuant to NRS 341.100 shall:

(a) Check the plans for buildings and structures on property of the State or held in trust for any division of the State Government for compliance with the codes adopted pursuant to NAC 341.045;

(b) Inspect the construction of buildings and structures on property of the State or held in trust for any division of the State Government for compliance with the codes adopted pursuant to NAC 341.045; and

(c) Issue temporary and final certificates of occupancy for buildings and structures on property of the State or held in trust for any division of the State Government.

2. The Deputy ~~[Manager]~~ *Administrator* for Compliance and Code Enforcement shall not delegate his or her authority as the building official for buildings and structures on property of the State or held in trust for any division of the State Government pursuant to subsection 9 of NRS 341.100.

**NAC 341.040 Meetings.** (NRS 341.070, 341.110)

1. The Board will obtain the concurrence of the Attorney General or a Deputy Attorney General before closing a meeting for one of the purposes described in NRS 241.030.

2. The Board will conduct its meetings with Robert's Rules of Order. Those rules, as they exist on November 1, 1982, are incorporated by reference and can be obtained from Flemming H. Revel Company, 184 Central Avenue, Old Pappan, New Jersey 07675, at a price of \$3.95.

3. A majority of the members of the Board constitutes a quorum for the transaction of business. All action by the Board must be approved by a majority of the members of the Board who have not been disqualified to vote on an issue, except that a majority of the members of the Board of Appeals established in accordance with NAC 341.025 may act on behalf of the Board with regard to a dispute being reviewed.

**NAC 341.043 Qualifications of insurers and sureties.** (NRS 341.110)

1. Except as otherwise provided in this section, an insurer or surety providing the insurance or bond required by the Board for:

(a) With respect to contracts of more than \$5,000,000, a contractor must have received a rating of "A-" or better and be classified in a financial category of "VII" or better as determined by A.M. Best Company of Oldwick, New Jersey, and be included on the list of approved sureties in Circular 570 of the Department of the Treasury.

(b) With respect to contracts of \$5,000,000 or less, a contractor must have received a rating of "A-" or better as determined by A.M. Best Company of Oldwick, New Jersey, and be included on the list of approved sureties in Circular 570 of the Department of the Treasury.

(c) A subcontractor must have received a rating of "A-" or better as determined by A.M. Best Company of Oldwick, New Jersey, and be included on the list of approved sureties in Circular 570 of the Department of the Treasury.

2. The requirements of subsection 1 do not apply to Lloyd's of London.

3. The ~~[Manager]~~ *Administrator* may specify a lesser rating or financial category for an insurer or surety after giving consideration to the size and complexity of the project for which the insurance or bond is required.

**NAC 341.045 Standards for design; structural standards for geographic location.** (NRS 341.110, 341.143, 341.144)

1. The Board hereby adopts by reference the following publications and establishes the standards contained therein as minimum standards for the design of state buildings, other than those excepted in NRS 341.141:

(a) The 2006 International Building Code published by the International Code Council with the following exceptions:

(1) References to the International Plumbing Code are replaced with references to the Uniform Plumbing Code;

(2) References to the International Electrical Code are replaced with references to the National Electrical Code;

(3) References to the International Mechanical Code are replaced with references to the Uniform Mechanical Code;

(4) Section 105.1.1 is revised to read as follows:

“1. In lieu of an individual permit for each alteration to an already approved electrical, gas, mechanical or plumbing installation, the building official is authorized to issue an annual permit upon application therefor to any state agency, person, firm or corporation regularly employing one or more qualified tradepersons in the building or structure or on the premises owned or operated by the applicant for the permit.

2. In lieu of any individual permits that would otherwise be required, the building official is authorized to issue an annual permit upon application therefor to any state agency, person, firm or corporation regularly employing one or more qualified tradepersons and one or more qualified design professionals in the building or structure or on the premises owned or operated by the applicant for the permit. The permit may authorize its holder to:

(a) Perform light construction, including, without limitation, a remodel or alteration, to an already approved building or structure; or

(b) Construct a building or structure with a gross area of 1,000 square feet or less for which the building official has already checked the plans and which is to be constructed at a site other than the site shown in the plans or at a location on the site other than the location shown in the plans.

3. An annual permit issued pursuant to this section to perform light construction to an already approved building or structure does not authorize the holder of the permit to perform any construction that:

(a) Changes the occupancy classification of the building or structure;

(b) Increases the occupant load of the building or structure;

(c) Modifies a structural element of the building or structure;

(d) Changes an egress path in or from the building or structure;

(e) Modifies a fire-rated assembly within the building or structure unless the modification is limited to the installation of a listed through penetration for piping or conduit; or

(f) Modifies a fire alarm system or fire sprinkler system within the building or structure.

4. As used in this section:

(a) “Journeyman” means a person who:

(1) Has successfully completed a program of apprenticeship in a building or construction trade that has been approved by the State Apprenticeship Council or an equivalent program accepted by the State Contractors’ Board; or

(2) Holds a journeyman’s card in a building or construction trade issued by a labor organization.

(b) “Qualified design professional” means a person who holds:

(1) A professional license or certificate issued pursuant to chapter 623, 623A or 625 of NRS that is appropriate for the work to be performed; or

(2) A license issued pursuant to chapter 624 of NRS in a classification or subclassification that is appropriate for the work to be performed.

(c) “Qualified tradeperson” means:

(1) A journeyman in the relevant field of work;

(2) A person who holds a certificate issued by the International Code Council as an inspector in the relevant field of work and who has at least 2 years of work experience in that field;

(3) A person who holds a license issued pursuant to chapter 624 of NRS in a classification or subclassification that is appropriate for the work to be performed; or

(4) An employee of the State or an agency thereof acting within the scope of his or her employment.”

(5) In section 403.1, replace the phrase “more than 75 feet” with “more than 55 feet”;

(6) To section 403.6, add: “Loudspeakers or horns for a fire alarm must achieve at least 80 decibels of sound in all areas within the protected property”;

(7) To section 403.8, add the following provisions:

“(1) All fire equipment and equipment for the safety of life, including, without limitation, a fire alarm system, smoke management system, status indicator and controls for an air-handling system and an indicator of the status of an emergency generator, contained within the fire command center must be tested as frequently as required by the codes and standards adopted by the State Fire Marshal pursuant to NAC 477.281, but in any case, not less than annually. The test must be performed by a person who holds a license or certification recognized by the authority having jurisdiction as appropriate for the performance of the test. Systems and equipment within the fire command center must be tested in accordance with the procedures set forth in the codes and standards adopted by the State Fire Marshal pursuant to NAC 477.281 and any special procedures prescribed by the designer or manufacturer of the system or equipment. All fire equipment and equipment for the safety of life, after having been tested, must be restored to service and tagged by the person who performed the test. The tag must conform to requirements for recording the maintenance of a fire alarm system set forth in NAC 477.370. If the person performing the test is unable to restore the equipment to service or determines that the equipment is disabled or in an impaired condition, he or she shall promptly notify the appropriate local fire department and the State Fire Marshal. A log of the tests required by this section must be maintained on the premises and available for inspection by the appropriate local fire department.

(2) The fire command center must be housed in a room separated from the building in which it is located by noncombustible construction rated at a minimum of 2 hours. The room used for that command center must be provided an exterior door”;

(8) To section 403.12, at the end of the last sentence, add “or the activation of any fire alarm system or a power failure”;

(9) In section 907.2.1.12, replace the phrase “75 feet” with “55 feet”;

(10) Section 907.9.1 is revised by adding the following exceptions:

“(3) Electrical rooms and mechanical rooms that are not normally occupied and are less than 400 square feet.

(4) Janitor closets.

(5) Storage rooms that are less than 400 square feet.

(6) Elevator cabs.

(7) Individual work areas or offices and private toilets serving individual work areas or offices.

(8) Individual inmate sleeping accommodations and patient sleeping rooms except as required by section 907.2.10.1.3”;

(11) In section 907.9.2, replace the phrase:

(I) “70 dBA” with “80 dBA”; and

(II) “60 dBA” with “80 dBA”;

(12) In section 1008.1.8.7, exception 3 is revised to read as follows: “In stairways serving buildings other than high-rise buildings, doors are permitted to be locked on the side opposite the egress side, provided that the doors can be opened from the egress side. Except for exit discharge doors, the doors must be automatically unlocked upon the activation of a fire alarm system or fire sprinkler alarm and for a power failure”; and

(13) In section 1020.1.7, replace the phrase “75 feet” with “55 feet.”

↪ This code may be obtained from the International Code Council, 11711 West 85th Street, Lenexa, Kansas 66214, or at the Internet address <http://www.iccsafe.org/>, at a price of \$90 for members and \$120 for nonmembers.

(b) The 2006 International Existing Building Code published by the International Code Council with the following exceptions:

(1) References to the International Plumbing Code are replaced with references to the Uniform Plumbing Code;

(2) References to the International Electrical Code are replaced with references to the National Electrical Code; and

(3) References to the International Mechanical Code are replaced with references to the Uniform Mechanical Code.

↪ This code may be obtained from the International Code Council, 11711 West 85th Street, Lenexa, Kansas 66214, or at the Internet address <http://www.iccsafe.org/>, at a price of \$43.50 for members and \$58 for nonmembers.

(c) The 2006 International Residential Code published by the International Code Council with the following exceptions:

(1) References to the International Plumbing Code are replaced with references to the Uniform Plumbing Code;

(2) References to the International Electrical Code are replaced with references to the National Electrical Code; and

(3) References to the International Mechanical Code are replaced with references to the Uniform Mechanical Code.

↪ This code may be obtained from the International Code Council, 11711 West 85th Street, Lenexa, Kansas 66214, or at the Internet address <http://www.iccsafe.org/>, at a price of \$64 for members and \$85.50 for nonmembers.

(d) The 2005 National Electrical Code published by the National Fire Protection Association. This code may be obtained from the National Fire Protection Association, 11 Tracy Drive, Avon,

Massachusetts 02322, or at the Internet address <http://www.nfpa.org/>, at a price of \$76.50 for members and \$85 for nonmembers.

(e) The 2006 Uniform Plumbing Code published by the International Association of Plumbing and Mechanical Officials, except, in section 412.0, “Table 4-1, Minimum Plumbing Facilities,” specifying a minimum number of required fixtures, is replaced by “Table 2902.1, Minimum Number of Required Plumbing Fixtures” of the 2006 International Building Code. The 2006 Uniform Plumbing Code may be obtained from the International Association of Plumbing and Mechanical Officials, 5001 East Philadelphia Street, Ontario, California 91761-2816, or at the Internet address <http://www.iapmo.org/>, at a price of \$78.40 for members and \$98 for nonmembers.

(f) The 2006 Uniform Mechanical Code published by the International Association of Plumbing and Mechanical Officials. This code may be obtained from the International Association of Plumbing and Mechanical Officials, 5001 East Philadelphia Street, Ontario, California 91761-2816, or at the Internet address <http://www.iapmo.org/>, at a price of \$82 for members and \$103 for nonmembers.

(g) The Americans with Disabilities Act published by the United States Department of Justice. This publication may be obtained from the Office of Americans with Disabilities Act, Civil Rights Division, United States Department of Justice, 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530, or at the Internet address <http://www.ada.gov>, free of charge.

(h) The 2009 International Energy Conservation Code published by the International Code Council. This code may be obtained from the International Code Council, 11711 West 85th Street, Lenexa, Kansas 66214, or at the Internet address <http://www.iccsafe.org/>, at a price of \$26 for members and \$34.50 for nonmembers.

(i) The “Guidelines for Evaluating Potential Surface Fault Rupture/Land Subsidence Hazards in Nevada” and the “Guidelines for Evaluating Liquefaction Hazards in Nevada” published by the Nevada Earthquake Safety Council. These guidelines may be obtained from the Nevada Earthquake Safety Council, c/o Nevada Bureau of Mines and Geology, University of Nevada, Reno, Mail Stop 178, Reno, Nevada 89557-0178, or at the Internet address <http://www.nbmgu.unr.edu/nesc/>, free of charge.

(j) ANSI/ASHRAE Standard 90.1-2007, Energy Standard for Buildings Except Low-Rise Residential Buildings, published by the American Society of Heating, Refrigerating and Air-Conditioning Engineers. This standard may be obtained from the American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc., 1791 Tullie Circle, N.E., Atlanta, Georgia 30329, or at the Internet address <http://www.ashrae.org/>, at a price of \$99 for members and \$119 for nonmembers.

2. In addition to the standards contained in the 2006 International Building Code adopted pursuant to subsection 1, all buildings and structures of the State and any parts thereof must be designed using the structural standards for seismic zones, basic wind speed, wind exposure, frost line and the live loads and snow loads for roofs adopted by the political subdivision in which the building or structure is being constructed. In the absence of such structural standards adopted by the political subdivision, the Deputy ~~[Manager]~~ *Administrator* for Compliance and Code Enforcement may use structural standards that the Deputy ~~[Manager]~~ *Administrator* for Compliance and Code Enforcement determines are appropriate for the geographic location at which the building or structure is being constructed.

**NAC 341.060 Variances from code requirements as alternative method of design or construction.** (NRS 341.100, 341.110) Upon request, the Deputy ~~[Manager]~~ *Administrator* for



Compliance and Code Enforcement may grant a variance from code requirements as an alternative method of design or construction in accordance with the edition of the International Building Code which is adopted by reference pursuant to NAC 341.045.

**NAC 341.065 Contract documents; insurance.** (NRS 341.110)

1. Before bidding takes place, the contract documents must be approved by each agency whose approval is required by law.

2. The final contract documents must be independently checked to ensure conformity with the requirements of this chapter before bidding.

3. Contract documents must contain provisions which require the contractor and subcontractors to obtain and maintain during the period of construction the following insurance, in addition to industrial insurance for all employees as required by chapter 616 of NRS:

(a) Casualty insurance.

(b) Property insurance.

(c) Insurance covering builders' risks, with endorsements for extended coverage and insurance against vandalism and malicious mischief.

4. The **[Manager] Administrator** shall determine the amount of coverage. Proof of the insurance is required before the **[Board] Division** will issue the notice to proceed. The **[Manager] Administrator** may waive insurance covering builders' risks on remodeling contracts if the project is insured by the State's policy.

**NAC 341.075 Invitations to bid; issuance of plans and specifications for bidding.** (NRS 341.110, 341.145, 341.148)

1. The **[Manager] Administrator** shall publish an invitation to bid in a newspaper in the locale of the work for each project with an estimated construction cost of \$100,000 or more. To indicate the approximate size of the project, the **[Manager] Administrator** must include the estimated cost of the construction in the invitation.

2. The **[Manager] Administrator** shall provide adequate quantities of plans and specifications for bidding on the following basis:

(a) To licensed general contractors and, when necessary, to major subcontractors. A deposit is required in an amount to be established by the **[Manager] Administrator** based on the cost of reproduction, binding and handling, and rounded upward to the nearest \$10. The **[Manager] Administrator** shall refund deposits upon the return of contract documents in a satisfactory condition. The **[Manager] Administrator** shall deposit money so received with the State Treasurer for credit to the account for the project or, if there is no such account, with the State Treasurer to hold for a possible refund.

(b) To other subcontractors upon the nonrefundable payment of the actual cost of reproduction and binding. The **[Manager] Administrator** shall deposit money so received with the State Treasurer in the account for the project.

(c) To selected building exchanges at no cost.

3. In the issuance of plans and specifications on the basis specified in subsection 2, the **[Manager] Administrator** shall give preference to licensed general contractors desiring to bid on the project. The **[Manager] Administrator** may limit the number of sets provided to any one person or organization.

**NAC 341.077 General requirements for bids.** (NRS 341.110, 341.145)

1. All bids in excess of \$100,000 must be accompanied by a bond securing the bid and a certified check or cash in an amount which is at least 5 percent of the total of the base bid and all alternative bids. The bond must be in a form approved by the Attorney General.

2. A bidder must guarantee that the bid submitted will remain open for 35 calendar days after the date of the opening of the bids unless otherwise provided in the contract documents or this period is extended by written agreement between the **[Manager] Administrator** and the contractor.

3. A general contractor must list on the form for proposing bids the subcontractors whom he or she intends to engage for the project for those areas of work identified on the form used to list subcontractors. Subcontractors may not be subsequently substituted by the contractor without the approval of the **[Manager] Administrator**.

4. The **[Board] Division** will not consider a bid unless it meets all the following conditions:

(a) The bid is less than the appropriation made by the Legislature for the building project and does not exceed the relevant budget item for that building project as established by the **[Board] Division** by more than 10 percent.

(b) The bid must be in the best interests of the State of Nevada.

(c) The bid must be submitted by a person who is licensed as a contractor in Nevada.

**NAC 341.079 Licensing of bidders; opening and rejection of bids.** (NRS 341.110, 341.145)

1. Before the bids are opened, all contractors and subcontractors submitting bids must be properly licensed by the State Contractors' Board to perform the work.

2. The opening of bids must be open to the public.

3. Any bid received after the scheduled time for opening bids will be rejected.

**NAC 341.081 Notice to architects and engineers concerning budget.** (NRS 341.110, 341.145) The **[Manager] Administrator** shall inform the architects and engineers who prepare contract documents of the budget available for the construction. The **[Manager] Administrator** shall require them to prepare those documents so that an acceptable bid within the amount of the budget can be obtained or to redesign the work at no cost to the State so that such a bid can be obtained.

**NAC 341.083 Procedure when bids received; negotiation; award.** (NRS 341.110, 341.145)

1. If the lowest bid is less than the appropriation made by the Legislature for the building project and does not exceed the relevant budget item for that building project as established by the Board by more than 10 percent, the **[Manager] Administrator** may exercise **[the Board's] his or her** power to negotiate with the person who submitted the bid to obtain a revised bid.

2. If the lowest bid that meets the requirements of subsection 1 cannot be satisfactorily negotiated or if the lowest bid is more than the appropriation made by the Legislature for the building project or exceeds the relevant budget item for that building project as established by the **[Board] Division** by more than 10 percent, all bids will be rejected.

3. The **[Board] Division** will award a contract to the lowest responsible bidder unless such an award would not be in the best interest of the State. The determination of the lowest bid will include a consideration of the base bid and any alternative bids which are accepted.

**NAC 341.084 Irregularity in lowest bid.** (NRS 341.110, 341.145) If the lowest bid contains an irregularity, the **[Manager] Administrator** may refer the bid to the Attorney General.

**NAC 341.086 Alternative bids.** (NRS 341.110, 341.145) The **[Board] Division** will consider alternative bids and award contracts upon them in the order in which they are listed on the form for proposing bids.

**NAC 341.090 Contract administration.** (NRS 341.110)

1. Within 48 hours after a contractor receives a written notice of the **[Board's] Division's** intent to award him or her a contract, the contractor shall submit to the **[Board] Division** in writing, a complete listing of all the subcontractors whom he or she will engage on the contract, the license numbers issued to each such subcontractor by the State Contractors' Board and a description of the work that each such subcontractor will perform.

2. All contracts must be approved by the Attorney General.

3. The **Division [Board]** will record a copy of the fully executed agreement between the contractor and the **[Board] Division** or other contracting agency in the county in which the work is located and will distribute copies to the contractor, the architect or engineer, the agency which will occupy or control the building, the Secretary of State and the **[Board's] Division's** inspector of the construction.

**NAC 341.100 Progress payments.** (NRS 341.110)

1. The **[Manager] Administrator** shall expedite payment of approved and certified claims by the contractor.

2. The contractor must warrant that he or she has good title to all materials and supplies for which the contractor accepts payment.

3. The **[Manager] Administrator** shall pay the retained portion of the money due under a contract on the date when the notice of completion is filed if the contractor releases all claims against the **[Board] Administrator** and provides all guarantees and instructions required by the contract. The **[Manager] Administrator** may release a portion of the retained money before the notice of completion is filed if he or she determines that the project is functionally complete.

4. The **[Manager] Administrator** may make payment for materials if they are:

- (a) Stored and protected on-site or in a bonded and insured warehouse; and
- (b) Otherwise protected from other claims.

5. Unless a contractor has the **[Board's] Administrator's** written consent to do so, the contractor shall not assign any part of the money that is due or is to become due to him or her under the contract. If a contractor has the **[Board's] Administrator's** written consent for such an assignment, the instrument of assignment must contain a clause providing that the right of the assignee to any money due or to become due to the contractor is subject to any prior rights or liens.

**NAC 341.105 Contract modifications.** (NRS 341.110, 341.145)

1. Any change in the time, price or material set forth in a contract must be authorized in a written change order.

2. A request by a contractor for an extension of time must be submitted in writing to the **[Manager] Administrator** within 7 calendar days after the first occurrence of the incident causing

the delay. The **[Manager] Administrator** shall give a written acknowledgment of the receipt of such a request to the contractor.

3. Except as otherwise provided in this subsection, if a change order which increases the price of a contract is the result of an error or omission in the plans or specifications, the architect or engineer who prepared the plans and specifications must pay the **[Board] Division** the estimated difference in cost between what the work would have cost in the absence of the error or omission and the actual cost. If the **[Manager] Administrator** determines that an error or omission in the plans or specifications is minor in the context of the scope of the work, the **[Manager] Administrator** may waive such a payment.

**NAC 341.127 Review of proposals regarding local adoption of Uniform Plumbing Code.**  
(NRS 341.100, 341.110, 444.420)

1. The Deputy **[Manager] Administrator** for Compliance and Code Enforcement shall:

(a) Notify all cities and counties of the requirement in NRS 444.420 for the Board to review any proposals for local adoption of the Uniform Plumbing Code or changes to that code. Any such proposal must be submitted to the Board in writing.

(b) Within 60 days after the Board's receipt of such a proposal, advise the local government in writing whether or not any proposed changes are warranted by geographic, topographic or climatic conditions.

2. If the Deputy **[Manager] Administrator** for Compliance and Code Enforcement has advised any local government that any proposed changes are not warranted, the local government may file a written request for an appeal in the manner set forth in NAC 341.161.

3. The Deputy **[Manager] Administrator** for Compliance and Code Enforcement shall send copies of all proposals received by the Board pursuant to subsection 1 and the response of the Deputy **[Manager] Administrator** for Compliance and Code Enforcement or, if applicable, the Board's recommendation to the Health Division of the Department of Health and Human Services.

**NAC 341.136 Selection of professional consultant for project: Procedure for selection with assistance of committees.** (NRS 341.100, 341.110, 341.161, 341.166)

1. The **[Manager] Administrator** shall appoint a committee to:

(a) Review applications received by the **[Board] Division** for retention by the **[Board] Division** in a position on a project of the Board as an architect, engineer, ~~construction manager at risk,~~ construction manager or other professional consultant who will assist in a project with an estimated cost for those services of over \$250,000; and

(b) Create a list of not more than five applicants for each position of architect, engineer, ~~construction manager at risk,~~ construction manager or other professional consultant who will assist in a project with an estimated cost for those services of over \$250,000 that the **[Board] Administrator** wishes to retain.

2. The committee appointed pursuant to subsection 1 must consist of two members who are employed by the **[Board] Division** and one member who is employed by the agency for which the project is to be designed or constructed.

3. After a committee appointed pursuant to subsection 1 creates a list of applicants, the **[Manager] Administrator** shall appoint another committee to interview the applicants included on the list and to recommend to the **[Manager] Administrator** an applicant for selection. The committee appointed pursuant to this subsection must:

(a) Consist of three members who are employed by the ~~[Board]~~ *Division* and two members who are employed by the agency for which the project is to be designed or constructed.

(b) Not consist of any members of the committee appointed pursuant to subsection 1.

4. The committees appointed pursuant to subsections 1 and 3 shall consider the ~~[Board's]~~ *Division's* experience with the architect, engineer, ~~[construction manager at risk,]~~ construction manager or other professional consultant on previous projects of the *Division* ~~[Board]~~ when creating a list of applicants and making a recommendation to the *Division* ~~[Manager]~~.

5. After reviewing the findings of the committees appointed pursuant to subsections 1 and 3, the ~~[Manager]~~ *Administrator* shall make a final ~~[recommendation to the Board for the]~~ selection of the applicant

**NAC 341.141 Selection of professional consultant for project: Considerations for selection without assistance of committees.** (NRS 341.100, 341.110, 341.161, 341.166) In determining whether to select an architect, engineer, ~~[construction manager at risk,]~~ construction manager or other professional consultant for a project without complying with the provisions of NAC 341.136, ~~[the Board and]~~ the ~~[Manager]~~ *Administrator* may consider whether the person possesses:

1. Experience with the same or a similar project;
2. Specialized technical knowledge or experience relevant to the project;
3. The copyright to a certain design or prototype relevant to the project;
4. Such experience or expertise as is necessary to complete the project in a timelier manner than other professionals;
5. A history of work experience and performance on other projects of the *Division* ~~[Board]~~ that is acceptable to the *Division* ~~[Board]~~ and the ~~[Manager]~~ *Administrator*; or
6. Any other factor that the ~~[Board]~~ determines is relevant to the health, safety or welfare of the public.

**NAC 341.151 Awarding of certain contracts by Manager to meet emergency.** (NRS 338.011, 341.100, 341.110) If the Chair determines that an emergency which results from a natural or man-made disaster and which threatens the health, safety or welfare of the public exists, the ~~[Manager]~~ *Administrator* may, ~~[without the prior approval of the Board,]~~ award a contract to meet the emergency to:

1. An architect, engineer, ~~[construction manager at risk,]~~ construction manager or other professional consultant without complying with the provisions of NAC 341.136.
2. A contractor who is licensed pursuant to chapter 624 of NRS without complying with the provisions of this chapter, chapter 338 of NAC and chapters 338 and 341 of NRS governing the selection of contractors.

**NAC 341.161 Appeal of decision by Deputy ~~[Manager]~~ *Administrator* for Compliance and Code Enforcement acting as building official: Board of appeals; procedure.** (NRS 341.070, 341.100, 341.110)

1. The Chair shall appoint at least one person to serve as an expert in each of the following fields:

- (a) Architecture;
- (b) Construction;
- (c) Engineering; and

(d) Issues relating to the accommodation of persons with disabilities in public facilities,  
↳ to serve as a potential member of a board of appeals pursuant to this section and the provisions relating to appeals as set forth in the edition of the International Building Code which is adopted by reference pursuant to NAC 341.045. The term of a person appointed to serve as an expert pursuant to this subsection is 2 years. The Chair may reappoint such a person at his or her discretion.

2. A person who is aggrieved by a decision made by the Deputy ~~[Manager]~~ *Administrator* for Compliance and Code Enforcement acting in his or her capacity as the building official pursuant to subsection 9 of NRS 341.100 may, within 30 days after the Deputy ~~[Manager]~~ *Administrator* for Compliance and Code Enforcement issues the decision in writing, file a written request for an appeal of that decision with the Deputy ~~[Manager]~~ *Administrator* for Compliance and Code Enforcement.

3. Upon receipt of a request for an appeal pursuant to subsection 2, the Deputy ~~[Manager]~~ *Administrator* for Compliance and Code Enforcement shall immediately forward the request to the Chair. The Chair shall appoint a board of appeals to hear the appeal.

4. A board of appeals appointed pursuant to subsection 3 must consist of:

(a) One member who is an expert in the field of architecture appointed pursuant to subsection 1;

(b) One member who is an expert in the field of construction appointed pursuant to subsection 1;

(c) One member who is an expert in the field of engineering appointed pursuant to subsection 1;

(d) One member who is a member of the general public and who is not licensed or registered as an architect, contractor or engineer and who is not employed in the design or contracting industry; and

(e) If, in the opinion of the Chair, the appeal:

(1) Concerns any issues relating to the accommodation of persons with disabilities, one member who is an expert in issues concerning the accommodation of persons with disabilities in public facilities appointed pursuant to subsection 1; or

(2) Does not concern any issues relating to the accommodation of persons with disabilities, one additional member who is an expert in the field of architecture, construction or engineering.

5. Any person appointed to a board of appeals pursuant to this section must not be an employee of the State of Nevada.

6. The Chair shall appoint a member of a board of appeals appointed pursuant to this section to act as chair of the board of appeals.

7. A board of appeals appointed pursuant to this section shall:

(a) Conduct a hearing within 30 days after the notice of appeal is received by the Deputy ~~[Manager]~~ *Administrator* for Compliance and Code Enforcement; and

(b) Provide notice of the time and place of the hearing to the person who requested the appeal.

8. The chair of a board of appeals appointed pursuant to subsection 6 may:

(a) Compel the parties to the appeal to enter into negotiations for a settlement;

(b) Mediate between the parties to the appeal; and

(c) Order the parties to the appeal to provide discovery.

9. Each party to the appeal shall, within 5 business days before the hearing, provide to the board of appeals and each opposing party a prehearing statement. The statement must:

(a) Set forth the facts and legal issues concerning the case.

(b) Include a list of any witnesses the party intends to call during the hearing. The list must include the name, address and telephone number of each witness, if known, and a brief statement concerning the proposed testimony of the witness.

(c) Except as otherwise provided in this paragraph, include a copy of any documents intended to be introduced into evidence at the hearing. The statement provided to the board of appeals must include five copies of the documents.

10. Upon commencement of the hearing by the board of appeals, the person who requested the appeal must be the first to present evidence. The person who requested the appeal has the burden to prove his or her case by substantial evidence.

11. In conducting the hearing, the board of appeals is not bound by any technical rules of evidence.

12. If a party fails to appear at a hearing conducted pursuant to this section and was not granted a continuance or did not enter into a stipulation for a continuance, the board of appeals may hear evidence from those parties present at the hearing and may make a decision based upon the available record.

13. A board of appeals shall, by majority vote, determine whether evidence is admissible during a hearing conducted pursuant to this section.

14. A board of appeals shall conclude the hearing of an appeal pursuant to this section after it hears evidence and oral arguments.

15. A board of appeals shall issue its decision concerning a hearing conducted pursuant to this section at a public meeting. The board of appeals shall send, by certified mail, its written decision to the parties to the appeal within 20 days after the conclusion of the meeting.

**NAC 341.171 Imposition and submission of fees for certain projects. (NRS 341.110)**

1. Except as otherwise provided in subsection 3, any plans and specifications for a project that is not part of the approved program for capital improvement which are submitted to the Board for review and approval must be accompanied by the following fees:

(a) A basic fee for inspection services based on the proposed cost of construction of the project in accordance with the following schedule:

| Total Construction Cost    | Fee  |
|----------------------------|--|
| \$1 to \$500.....          | \$23.50  |
| \$501 to \$2,000.....      | \$23.50 for the first \$500 plus \$3.05 for each additional \$100 or fraction thereof, to and including \$2,000.         |
| \$2,001 to \$25,000.....   | \$69.25 for the first \$2,000 plus \$14 for each additional \$1,000 or fraction thereof, to and including \$25,000.      |
| \$25,001 to \$50,000.....  | \$391.25 for the first \$50,000 plus \$10.10 for each additional \$1,000 or fraction thereof, to and including \$50,000. |
| \$50,001 to \$100,000..... | \$643.75 for the first \$50,000 plus \$7 for each additional \$1,000 or fraction thereof, to and including \$100,000.    |

|                               |   |
|-------------------------------|---|
| \$100,001 to \$500,000.....   | \$993.75 for the first \$100,000 plus \$5.60 for each additional \$1,000 or fraction thereof, to and including \$500,000. |
| \$500,001 to \$1,000,000..... | \$3,233.75 for the first \$500,000 plus \$4.75 for each \$1,000 or fraction thereof, to and including \$1,000,000.        |
| \$1,000,001 and up.....       | \$5,608.75 for the first \$1,000,000 plus \$3.15 for each \$1,000 or fraction thereof.                                    |

(b) Except as otherwise provided in this paragraph, an additional fee for inspection services for each mechanical, electrical and plumbing system of the project in an amount equal to 15 percent of the basic fee for inspection services for each such system. If an application involves only one such system, no additional fee for inspection services is due pursuant to this paragraph.

(c) A fee for the review of the plans and specifications for the project in an amount equal to 65 percent of the total amount of the basic fee for inspection services calculated pursuant to paragraph (a) and any additional fees for inspection services calculated pursuant to paragraph (b).

2. In addition to the fees calculated for a project pursuant to subsection 1, the Board:

(a) May charge a fee for the following services on an hourly basis at a rate equal to the hourly cost of the Board for:

- (1) Inspections outside of normal business hours.
- (2) Reinspections.
- (3) Inspections for which no fee is specifically indicated.
- (4) Additional reviews of plans or specifications required by changes, additions or alterations to the plans or specifications.

(5) Reviews of requests to use alternate materials, designs, methods of construction or equipment.

(b) Will charge a fee for the use of outside consultants by the Board for inspections of the project in an amount equal to the actual cost to the Board for the outside consultants plus the hourly cost of the Board for obtaining the services of, and overseeing the work of, the outside consultants.

↳ The Board will calculate its hourly costs based on the average amount the Board pays for the position of employment which is applicable to the service being provided, including, without limitation, inspectors, project managers and plan checkers. The hourly costs of the Board will be maintained on file at the Board’s offices in Carson City and Las Vegas and will be posted on the Board’s website at <http://www.spwb.state.nv.us/>.

3. The Deputy ~~[Manager]~~ *Administrator* for Compliance and Code Enforcement shall determine, based on the actual costs to the Board, the amount of the fee that must accompany:

(a) The plans and specifications for a project which will be completed in phases or on an expedited schedule or which has unique or unusual requirements.

(b) An application for an annual permit pursuant to section 105.1.1 of the 2006 International Building Code, as adopted by reference in NAC 341.045.

**ENFORCEMENT OF ORDERS TO COMPEL CESSATION OF WORK**

**NAC 341.210 “Person” defined.** (NRS 341.105, 341.110) As used in NAC 341.210 to 341.230, inclusive, “person” means a natural person, any form of business or social organization



and any other legal entity, including, without limitation, a corporation, partnership, association, trust, unincorporated organization, government, governmental agency or political subdivision of a government.

**NAC 341.215 Imposition of administrative penalties.** (NRS 341.105, 341.110) In addition to any other penalty provided by law, the Deputy **[Manager] Administrator** for Compliance and Code Enforcement may impose against a person who knowingly refuses to comply, or a person who willfully encourages another person to refuse to comply, with an order issued pursuant to subsection 1 of NRS 341.105:

1. For a first offense, an administrative penalty of not more than \$250 for each day that the person violates the order.

2. For a second offense occurring within 7 years after a first offense, an administrative penalty of not more than \$750 for each day that the person violates the order.

3. For a third offense occurring within 7 years after a second offense, an administrative penalty of not more than \$1,000 for each day that the person violates the order.

**NAC 341.220 Notice of intent to impose administrative penalty and of right to hearing.** (NRS 341.105, 341.110) If the Deputy **[Manager] Administrator** for Compliance and Code Enforcement determines, by substantial evidence, that a person has knowingly refused to comply, or has willfully encouraged another person to refuse to comply, with an order issued pursuant to subsection 1 of NRS 341.105, the Deputy **[Manager] Administrator** for Compliance and Code Enforcement shall send to that person by certified mail a notice stating that:

1. The Deputy **[Manager] Administrator** for Compliance and Code Enforcement intends to impose against the person an administrative penalty pursuant to NAC 341.215; and

2. The person has the right to request a hearing.

**NAC 341.225 Appeal of determination to impose administrative penalty: Appointment, duties and authority of subcommittee of Board; procedure.** (NRS 341.070, 341.105, 341.110)

1. The Board will appoint a subcommittee consisting of three members of the Board to hear appeals from a determination by the Deputy **[Manager] Administrator** for Compliance and Code Enforcement to impose administrative penalties pursuant to NAC 341.215.

2. Within 10 days after a person receives a notice sent pursuant to NAC 341.220, the person may file with the Board a written notice of appeal. The written notice must set forth the basis for the appeal and may be accompanied by copies of any supporting documents.

3. The subcommittee appointed pursuant to subsection 1 shall:

(a) Conduct a hearing within 45 days after the notice of appeal is received by the Board;

(b) Provide notice of the time and place of the hearing to the person who requested the appeal; and

(c) Select from among its members a chair.

4. The chair of the subcommittee appointed pursuant to subsection 1 may:

(a) Compel the parties to the appeal to enter into negotiations for a settlement;

(b) Mediate between the parties to the appeal; and

(c) Order the parties to the appeal to provide discovery.

5. Each party to the appeal shall, within 5 business days before the hearing, provide to the subcommittee appointed pursuant to subsection 1 and each opposing party a prehearing statement. The statement must:

(a) Set forth the facts and legal issues concerning the case.

(b) Include a list of any witnesses the party intends to call during the hearing. The list must include the name, address and telephone number of each witness, if known, and a brief statement concerning the proposed testimony of the witness.

(c) Except as otherwise provided in this paragraph, include a copy of any documents intended to be introduced into evidence at the hearing. The statement provided to the subcommittee must include five copies of the documents.

6. Upon commencement of the hearing by the subcommittee, the person who requested the appeal must be the first to present evidence. The person who requested the appeal has the burden to prove his or her case by substantial evidence.

7. In conducting the hearing, the subcommittee is not bound by any technical rules of evidence.

8. If a party fails to appear at a hearing conducted pursuant to this section and was not granted a continuance or did not enter into a stipulation for a continuance, the subcommittee may hear evidence from those parties present at the hearing and may make a decision based upon the available record.

9. The subcommittee shall, by majority vote, determine whether evidence is admissible during a hearing conducted pursuant to this section.

10. The subcommittee shall issue its decision concerning a hearing conducted pursuant to this section at a public meeting. The subcommittee shall send, by certified mail, its written decision to the parties to the appeal within 20 days after the conclusion of the meeting.

**NAC 341.230 Collection of administrative penalty.** (NRS 341.105, 341.110) If a person does not request an appeal pursuant to NAC 341.225, a decision by the Deputy ~~Manager~~ *Administrator* for Compliance and Code Enforcement to impose an administrative penalty pursuant to NAC 341.215 is final and the ~~Manager~~ *Deputy Administrator for Compliance and Code Enforcement* may collect the administrative penalty pursuant to the collection procedures set forth in chapter 353C of NRS or as otherwise authorized by law.

## **INCORPORATION OF GREEN BUILDING DESIGN MEASURES IN PROJECTS FOR THE CONSTRUCTION OR REMODELING OF LARGER STATE BUILDINGS**

### **REVISER'S NOTE.**

The regulation of the State Public Works Board filed on October 15, 2010 (LCB File No. R207-09), the source of these sections, contains the following provision not included in NAC:

"1. The Manager of the State Public Works Board may exempt from any provision of this regulation [NAC 341.301 to 341.376, inclusive] a project for which the design process was commenced before October 15, 2010, if the Manager determines that the design process for the project has progressed beyond the stage in the design process to which the provision applies.

2. As used in this section:

(a) "Project" means a capital improvement project of the State for the construction or remodeling of a building with a gross floor area greater than 20,000 square feet.

(b) "Remodeling" includes, without limitation, the construction of an addition to, or the renovation or retrofit of, an existing building."

**NAC 341.301 Definitions.** (NRS 341.110, 341.144) As used in NAC 341.301 to 341.376, inclusive, unless the context otherwise requires, the words and terms defined in NAC 341.306 to 341.341, inclusive, have the meanings ascribed to them in those sections.

**NAC 341.306 “Design consultant” defined.** (NRS 341.110, 341.144) “Design consultant” means a natural person, partnership, corporation, limited-liability company or other business organization or association that engages in the practice of architecture pursuant to chapter 623 of NRS and that has entered into an agreement with the Board to provide design services for a project.

**NAC 341.311 “Design services” defined.** (NRS 341.110, 341.144) “Design services” includes, without limitation:

1. Preliminary planning;
2. Designing;
3. Estimating of costs; and
4. Preparation of detailed plans and specifications.

**NAC 341.316 “Green building design measure” defined.** (NRS 341.110, 341.144) “Green building design measure” means a design feature, material, site location, construction technique, principle, practice, device or other natural process or technological system that is designed or intended to contribute to the efficient use of energy or water in a project. The term includes the use of a source of renewable energy.

**NAC 341.321 “Project” defined.** (NRS 341.110, 341.144) “Project” means a capital improvement project of the State for the construction or remodeling of a building with a gross floor area greater than 20,000 square feet.

**NAC 341.326 “Project manager” defined.** (NRS 341.110, 341.144) “Project manager” means a person who holds a certificate of registration to engage in the practice of architecture pursuant to chapter 623 of NRS and who is employed by the ~~Board~~ *Division* to provide design services for a project.

**NAC 341.331 “Remodeling” defined.** (NRS 341.110, 341.144) “Remodeling” includes, without limitation, the construction of an addition to, or the renovation or retrofit of, an existing building.

**NAC 341.336 “Renewable energy” defined.** (NRS 341.110, 341.144) “Renewable energy” has the meaning ascribed to it in NRS 341.144.

**NAC 341.341 “Simple payback period” defined.** (NRS 341.110, 341.144) “Simple payback period” means the time required for the cumulative dollar value of savings in energy or water that are attributable to a green building design measure to equal the initial cost of the measure excluding the time value of money.

**NAC 341.346 Review by ~~Manager~~ Administrator of preliminary plans, designs and detailed plans and specifications of project to ensure achievement of certain efficiencies in use of energy and water.** (NRS 341.100, 341.110, 341.144)

1. The ~~Manager~~ *Administrator* shall review the preliminary plans, designs and detailed plans and specifications of a project to ensure that the project will achieve:

(a) Efficiency in the use of energy that meets or exceeds the standards for the efficient use of energy established by:

(1) ANSI/ASHRAE Standard 90.1-2007, Energy Standard for Buildings Except Low-Rise Residential Buildings, as adopted by reference pursuant to NAC 341.045; and

(2) The United States Environmental Protection Agency pursuant to the Energy Star Program; and

(b) Efficiency in the use of water for plumbing fixtures and landscape irrigation that is at least 10 percent more efficient than the standards for the efficient use of water established by the United States Environmental Protection Agency pursuant to the WaterSense program.

2. If the project is the remodeling of a building, the requirements of subsection 1 apply only to the use of energy or water in the remodeled portion of the building.

**NAC 341.351 Contents of report concerning measures to accompany preliminary plans of project.** (NRS 341.110, 341.144)

1. The preliminary plans of a project submitted to the ~~[Manager]~~ *Administrator* by a design consultant or project manager must be accompanied by a report that identifies each green building design measure that could reasonably be incorporated into the designs of the project to ensure that the project will achieve the efficiencies in the use of energy and water set forth in NAC 341.346. For each such measure, the report must include, without limitation:

(a) A brief description of how the green building design measure is intended to contribute to the efficient use of energy or water in the project.

(b) The estimated dollar value of the savings in energy or water that is attributable to the green building design measure during its estimated useful life. The estimates must be supported by appropriate documentation.

(c) A life cycle cost analysis of the green building design measure. The life cycle cost analysis must be performed in a manner prescribed by the ~~[Manager]~~ *Administrator* and include, without limitation, the calculation of the simple payback period of the green building design measure.

2. The report must include a study evaluating the feasibility of including a source of renewable energy in the project.

**NAC 341.356 Determination of measures to be incorporated into project.** (NRS 341.100, 341.110, 341.144) The ~~[Manager]~~ *Administrator* shall review the preliminary plans of a project and the accompanying reports submitted pursuant to NAC 341.351 and determine the green building design measures that must be incorporated into the designs of the project to ensure that the project will achieve the efficiencies in the use of energy and water set forth in NAC 341.346. In reaching this determination, the ~~[Manager]~~ *Administrator* shall consider, in addition to the information provided by the design consultant or project manager pursuant to NAC 341.351:

1. The initial cost of the green building design measure in relation to the budget for the project set forth in the State's capital improvement program.

2. The simple payback period of the green building design measure. The simple payback period must not be longer than 10 years, unless the ~~[Manager]~~ *Administrator* determines that the use of a longer period is in the best interests of the State.

3. Any other information that the ~~[Manager]~~ *Administrator* considers to be relevant to the determination.

**NAC 341.361 Incorporation of measures into designs of project; preparation of summary report on incorporated measures.** (NRS 341.110, 341.144)

1. The design consultant or project manager of a project shall incorporate into the designs of a project each green building design measure that the **[Manager] Administrator** has determined must be incorporated into those designs pursuant to NAC 341.356.

2. The designs of a project submitted to the **[Manager] Administrator** by a design consultant or project manager must be accompanied by a summary report that identifies each green building design measure that has been incorporated into the designs of the project and includes the information concerning the green building design measure required pursuant to NAC 341.351.

**NAC 341.366 Retention or employment of persons to review designs of projects.** (NRS 341.100, 341.110, 341.144)

1. Before approving the designs of a project submitted by a design consultant or project manager, the **[Manager] Administrator** shall retain or employ a person with competence and expertise equal to that of the design consultant or project manager to conduct a review of those designs.

2. A person who conducts the review of the designs of a project pursuant to subsection 1 shall:

(a) Express his or her professional opinion regarding whether the designs of the project ensure that the project will achieve the efficiencies in the use of energy and water set forth in NAC 341.346.

(b) Submit his or her opinion directly to the **Administrator [Manager]**.

**NAC 341.371 Confirmation that project will achieve certain efficiencies in use of energy and water required before approval of final payment for preparation of detailed plans and specifications of project.** (NRS 341.100, 341.110, 341.144) Before approving the final payment to a design consultant or project manager for the preparation of the detailed plans and specifications of a project, the **Administrator [Manager]** shall confirm that the detailed plans and specifications of the project ensure that the project will achieve the efficiencies in the use of energy and water set forth in NAC 341.346.

**NAC 341.376 Duties of contractor awarded contract for project: Recycling; submission of waste management plan and report.** (NRS 341.110, 341.144)

1. A contractor who is awarded a contract for the construction of a project shall:

(a) Recycle or cause to be recycled not less than 50 percent by weight of the total amount of solid waste generated by the construction of the project, including, without limitation, any associated demolition.

(b) Submit to the **[Manager] Administrator** a waste management plan for complying with the requirements of paragraph (a). The waste management plan must be in a form prescribed by the **[Manager] Administrator** and include, without limitation, provisions concerning the storage, collection, recycling and disposal of all solid waste generated by the construction of the project, including, without limitation, any associated demolition.

(c) Submit to the **[Manager] Administrator** with each progress bill or retainage bill a waste management report documenting the contractor's adherence to the waste management plan and measuring the contractor's progress toward compliance with the requirements of paragraph (a).

2. The provisions of subsection 1 must be included in:

(a) The plans and specifications of the project submitted by a design consultant or project manager to the **[Manager] Administrator** for approval;

- (b) The plans and specifications of a project approved by the ~~[Manager]~~ *Administrator* and made available to bidders on the contract for the project pursuant to NRS 338.1385; and
  - (c) The contract between the *Division* ~~[Board]~~ and the contractor for the project.
3. As used in this section:
- (a) “Progress bill” has the meaning ascribed to it in NRS 338.415.
  - (b) “Retainage bill” has the meaning ascribed to it in NRS 338.430.