

POLICY MANUAL

Date Adopted: January 10, 1995

Date Last Amended: April 22, 2009

Classification: CONTRACT ADMINISTRATION

Subject: Performance Compliance and Enforcement

Approved By:

Bob Van Wyk

1. It is the Policy of the Board of Directors to insure that the services contracted for by the District through private service and material suppliers are provided precisely in accordance with the contract specifications, and that the services provided by the contractor continue to achieve the levels and timeliness of performance specified by such contracts.
2. It is also the policy of the District to provide for regular monitoring of the performance of service and material contractors through routine inspection and reporting, and where necessary to insure contractor compliance and enforcement through such contract administration procedures and enforcement remedies as may be necessary.
3. For the purposes of this policy, the Board of Directors has determined that the following procedures will be followed in those cases of a failure of the contractor to achieve the minimum acceptable performance standards:
 - (a) District staff shall initiate at the first indication of performance failure a verbal notification of the contractor.
 - (b) Upon failure of the contractor to respond to the verbal notification and immediately remedy the reported deficiency, District staff shall issue a written notice of deficiency defining the required remediation and compliances for the contractor. Staff shall report to the Board of Directors on all instances involving writing deficiency notices.
 - (c) Upon failure of the contractor to respond to the written notification and immediately remedy the reported deficiency, the District shall impose such penalties and liquidated damages as may be provided under the provisions of the contract.
 - (d) Upon failure of the contractor to respond to the notification of penalties and damage with the immediate remedy of the noticed deficiency, the District shall initiate procedures to terminate the contract under the breach provisions provided therein.

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4. Because the services of the District to the general public represent direct property protection and protection of the health and safety of the District's citizens, inconsistent performance or repeated failures and deficiencies under the District's contracts for services and materials cannot be tolerated. Therefore, it is the Board's policy to enact the following procedures relative to inconsistent performance or repeated instances of failures or deficiencies in performance:
 - (a) On the first instance involving a written notice of deficiency citing a failure to perform or a deficiency in performance, the District staff will indicate to the contractor that the notice of deficiency incorporates a notice of first occurrence and a warning; that a second occurrence will result in an automatic financial penalty and/or liquidated damages provided by the contract; and, that a third instance will result in termination of the contract under the breach provisions.
 - (b) Upon a second occurrence involving a written notice of deficiency, the District shall impose the maximum penalties and liquidated damages permitted under the provisions of the contract.
 - (c) Upon a third occurrence involving a written notice of deficiency, the District shall initiate immediate termination of the contract under the breach procedures and will pursue all available remedies for restitution of the District relative to the contract performance and payments made under that contract.
5. Construction contracts are not subject to this Policy and will be administered through the procedures outlined in the Standard Plans and Specifications. Should a contractor demonstrate sufficient incompetence so as to be removed from a project or proposed to be denied future work as a "non-qualified" contractor, such determinations shall be reported to the Board.