

RESOLUTION NO. 14 - 34

**RESOLUTION ADOPTING TRUST POLICY AND PROCEDURE NO. 1.20
“MANAGING CONTRACT SPENDING CAPS”**

WHEREAS, the New Jersey Environmental Infrastructure Trust (the “Trust”) has the authority to enact and amend Policies and Procedures pursuant to Section IX of its By-Laws; and

WHEREAS, periodically, the board limits establishes a limit in the amount of funds to be expended with regard to particular contracts for goods or services (Spending Caps); and

WHEREAS, compliance with Board Spending Caps will be improved through the implementation of a policy establishing various internal controls (i) applied during the procurement process, (ii) incorporated in Trust contracts, and (iii) applied during contract administration.

NOW THEREFORE BE IT RESOLVED, the Trust hereby adopts Policy and Procedure No. 1.20 “Managing Contract Spending Caps.”

Adopted Date: June 12, 2014

Motion Made By: Mr. Kennedy

Motion Seconded By: Mr. Requa

Ayes: 5

Nays: 0

Abstentions: 0

NEW JERSEY ENVIRONMENTAL INFRASTRUCTURE TRUST

POLICY AND PROCEDURE

NO. 1.20 “**Managing Contract Spending Caps**”

SUBJECT: Operating Fund Disbursements

PURPOSE: Business Operations

POLICY: Operating Fund Disbursements

I. INTRODUCTION:

Periodically, the maximum amount of funds to be expended for a given contract (Spending Cap) are established by the Trust Board in its contract award resolution (Board Resolution) for that specific procurement. Trust Policy and Procedure No. 1.19 adopted by the Board on February 10, 2011, establishes financial controls for the Trust’s operating budget account. This Policy and Procedure complements Policy and Procedure No. 1.19 by establishing business process controls to be followed to minimize risk of non-compliance with any such Spending Cap.

II. Controls through future Contract/RFP Process Modifications

In developing the procurement of any contract which may be subject to a Spending Cap, the Trust’s Chief Budget Officer (CBO) shall include provisions in the Request-For-Proposals (RFP), Request-For-Quote (RFQ), or Invitation-For-Bid, requiring the successful vendor to

1. periodically submit to the Trust work summaries inclusive of cumulative costs incurred to-date¹ (typically monthly or quarterly as well as when aggregate contract expenses reach 75% of the Spending Cap);
2. Immediately notify the CBO in writing when services reach 75% of the Spending Cap; and
3. Bill the Trust no later than 30 days after costs are incurred as a condition of contract performance;

The Trust shall reference the Spending Cap and other limitations in its “Authorization to Proceed” as well as other relevant documentation sent to a contractor whose contract is subject to a Spending Cap (hereafter “Vendor”);

¹ The summaries shall include: the amount of work completed, the costs incurred to-date, the amount paid to-date, the hours and cost estimates of the remaining work to be completed, and any other pertinent information regarding either the contract or the job deemed necessary by the CBO.

III. Controls through Contract Administration

The approval of payments shall be in compliance with NJEIT by-laws (New Jersey Environmental Infrastructure Trust, revised by-laws (February 17, 2011), Chapter VII) incorporated by reference herein and as further detailed herein, and Policy and Procedure No. 1.19 (Financial Controls for Trust Operating Budget Account).

The CBO shall maintain a schedule of all current NJEIT contracts identifying the name of the contractor, the contract term, date of contract commencement and expiration, and name of Responsible Manager (Procurement Contract Schedule).

Upon adoption of the Board Resolution, the CBO shall

- Update the Procurement Contract Schedule;
- Advise the Trust manager who is responsible for oversight of such contract, typically the manager having oversight responsibility of a particular budgeted line item (“Responsible Manager”), of the above stated requirements; and
- Issue the “Authorization to Proceed” to the Vendor, and include therein the Spending Cap and other limitations as well as other relevant documentation;

The CBO will ensure the Vendor’s timely submission of invoices and periodic work summaries including the amount of work completed, the costs incurred to-date, the amount paid to-date, the hours and cost estimates of the remaining work to be completed, and any other pertinent information regarding either the contract or the job deemed necessary by the CBO;

Upon receipt of billing invoices for costs incurred, the CBO shall forward same to the Responsible Manager together with a Verification of Completed Work Form (CW Form) to be completed by the Responsible Manager. The CW Form shall include the following:

- Name of the Responsible Manager,
- Invoice number,
- Verification that the work was performed and within the Spending Cap,
- Identification when costs reach 75% of the Spending Cap,
- Signature or initials of the Responsible Manager, and
- Date of signature or initials;
- The Responsible Manager shall review and approve in writing all expense invoices generated by the Vendor, forward the formal approval to the CBO and monitor the Spending Cap;

The Responsible Manager shall return the invoices and CW Form to the CBO upon the manager’s timely review and approval of same. The CBO shall maintain the CW Forms within each contract file;

In preparing a payment to a Vendor for the Executive Director’s signature, the CBO shall provide detailed information including the billing invoice, a reference to the Board authorized Spending Cap(s) (annual or aggregate), whether payment is subject to the Spending Cap, dollars spent to-date, contract term, and remaining Spending Cap balances;

Upon receipt of written notification from a Vendor or the Responsible Manager that costs have reached 75% of the Spending Cap, the CBO shall notify the Trust's Executive Director and Chief Financial Officer (CFO) in writing of the following:

- Amount of work completed;
- Costs incurred to-date;
- Amount paid to-date;
- Hours / cost estimate (provided by the Vendor) of the remaining work to be completed; and
- Any other pertinent information regarding either the contract or the job.

If a determination is made that the Spending Cap must be exceeded, any spending action taken by Trust staff must adhere to the terms as set forth in the Board Resolution which approved the award of such contract. Such terms typically consist of provisions authorizing the ability to exceed a Spending Cap in the event of business necessity, which must be approved by the Chairman, Vice-Chairman and/or Treasurer in an amount or format to be set forth in the Board Resolution, and subsequently ratified by the Board. Absent such provisions or an Emergency as defined in Policy and Procedure 4.00 (Procurement of Goods and Services), prior Board approval is required to exceed a Spending Cap.

IV. Consolidated Record Information Reporting

The CBO shall maintain consolidated records of all outstanding contracts including the following for each such contract:

- Budgeted amount;
- Contract amount;
- Start and end dates;
- Annual Spending Cap (if applicable);
- Total Spending Cap (if applicable);
- Dollars spent to-date (per year if annual Spending Cap, and cumulative if total Spending Cap);
- Percentage of contract completion (see attached draft report).

The CBO shall submit the consolidated record information as listed above, for all outstanding contracts in the form of a report to be delivered to the Executive Director and the Audit Committee on or about the first business day in March and September.