2010 PERFORMANCE CONTRACTING INITIATIVE

Problem
The School District’s FY2010/11 and FY2011/12 budgets do not contain sufficient capital outlay funds to adequately maintain and renew the District’s extensive facilities infrastructure, particularly the HVAC and electrical systems. If these are not replaced in a timely manner, they will begin to consume additional energy as their efficiency decreases with age and will, ultimately, fail.

Solution
If sufficient funds are not available, use an Energy Service Company (ESCO) to finance, develop and install projects designed to reduce maintenance costs, renew/replace aging systems and improve energy efficiency for the District’s facilities over a five to twenty year time period. The ESCO will be the project developer for a wide range of tasks and assume the technical, performance and financial risks associated with each project. Typically, the ESCO will perform the following services:

- Identify financially feasible projects;
- Arrange financing for those projects;
- Design, install and maintain the energy efficient equipment;
- Measure, monitor, and verify the project's energy savings; and
- Assume the risk that the project will save a guaranteed amount of energy/money.

These services are bundled into the project's total cost and are repaid through the energy savings realized.

Performance Contracting History
During the past 10 years the Facilities Services Department has successfully used Performance Contracting as a means to maintain and improve the District’s physical plant equipment.

- July 2001 – The School Board approved Performance Contracts with Johnson Controls (JCI) and Honeywell Support Services in 1996 for Phase I & II facility energy upgrades at several schools. The Honeywell Support Services contract was terminated on 7/24/01 and the School Board approved a Phase III facility energy upgrade contract with JCI which combined all of the Phase I & II initiatives in a new seven (7) year contract that ended 6/30/09.


- April 2009 – The School Board authorized Facilities Services to enter into contract negotiations with Siemens and JCI teams for a Performance Contract.
July 2009 – It was determined that it was not in the best interest of the School District to proceed with either of the Performance Contracting proposals. Siemens and JCI were notified of a decision to terminate contract negotiations.

Proposed New Performance Contracting Initiative

Since the termination of the Siemens and JCI contract negotiations, the Facilities Planning and Project Management, Plant Operations and Maintenance, Resource Conservation and Purchasing Departments created a cross-functional performance contracting team. The team reviewed and discussed the successes of the initial Performance Contract with JCI and the lessons learned from the contract negotiations last year. At the end of the review and discussion period, the team agreed that the following points were critical to a successful Performance Contract:

- Use the Invitation To Negotiate procurement method to select the ESCO.
- Provide a list of projects important to the School District for consideration by the ESCO (see Performance Contracting Project Scope Matrix below).
- Select one ESCO (do not split the project between two or more ESCOs).
- Fund the project from the guaranteed savings to the Operating Budget.

Procurement Method Comparison

After much discussion by the team, it was decided that the use of an “Invitation to Negotiate” contract instrument was the most appropriate procurement method. See the procurement method selection table below.

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<th>PROCUREMENT METHOD</th>
<th>CONSIDERATION</th>
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| Invitation To Bid (ITB)                   | • Used when the agency knows exactly what is required.  
|                                           | • Price is the determining factor in the award.                                                                                               |
| Request For Proposal (RFP)                | • Used when the agency has a general idea of what is required.  
|                                           | • Services and price are evaluated.                                                                                                          |
| Invitation To Negotiate (ITN)             | • Used when:  
|                                           |   o The scope of work has not been accurately or completely defined.  
|                                           |   o Services can be provided in different ways; or,  
|                                           |   o Qualifications of provider and quality of work are more important than price.  
|                                           | • Works best when highly technical and/or complex services are being acquired.  
|                                           | • Price is negotiated based on agreed upon scope of work.  

ATTACHMENT 1
The use of the ITN procurement method is preferred for selection of an ESCO because:

- The exact scope of work will not be known until an Investment Grade Audit has been completed and the performance contractor submits their list of proposed projects;
- Each of the projects may require different types of services;
- The qualifications of the ESCO are very important to ensure a successful project;
- Many aspects of project design and construction can be highly technical in nature and;
- The total performance contracting negotiated price will be based upon the scope of work.

**Invitation To Negotiate Process (Attachment 1)**
Details of the Invitation To Negotiate process are provided for information.

**Performance Contracting Project Scope Matrix (Attachment 2)**
A Performance Contracting Project Scope Matrix was developed as a list of projects suggested (but not mandated) by the School District for consideration by the ESCOs in their proposals. Projects not on the Matrix may also be proposed by the ESCOs.

**Frequently Asked Questions (Attachment 3)**
Answers to Frequently Asked Questions about Performance Contracting are provided for information.