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32.01.01 - RULES OF THE PUBLIC WORKS CONTRACTORS LICENSES BOARD

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IDAPA 32
TITLE 01
Chapter 01

IDAPA 32 - PUBLIC WORKS CONTRACTORS STATE LICENSES BOARD
32.01.01 - RULES OF THE PUBLIC WORKS CONTRACTORS LICENSES BOARD

000. LEGAL AUTHORITY.

The authority of the Board to adopt rules of practice and procedure is provided in Section 54-1907, Idaho Code, as amended. (7-1-93)

001. PURPOSE.

The purpose of these rules is to implement the administration and enforcement of the License Act. (7-1-93)

002. INTENT.

The Board believes the legislature in providing the License Act and subsequent amendments thereto, intended to afford some protection to officials of units of government at all levels in their dealing with persons, firms or corporations engaging in the construction, reconstruction or repair of Public Works. The licensing of a person, firm or corporation as a "Public Works Contractor" shall give to the investing public body some assurance of the contractor's reputation, ability, qualifications, experience and financial responsibility. (7-1-93)

003. DEFINITIONS.

As used in these rules. (7-1-93)

01. Applicant. Shall mean any person who has filed an application with the Board. (7-1-93)
02. Licensee. Shall mean any individual proprietor, copartnership, corporation, joint venture or other business organization who holds a current, unrevoked license. (7-1-93)
03. Petitioner. Shall mean: (7-1-93)
 - a. Any licensee who has filed with the Board a written request for the change or addition to the types of construction for which he is licensed; (7-1-93)
 - b. Any applicant or licensee requesting a rehearing in any proceeding; (7-1-93)
 - c. Any interested person requesting the promulgation, amendment or repeal of a rule, or; (7-1-93)
 - d. Any interested person requesting a declaratory ruling on the applicability of the License Act or of any rule or order of the Board. (7-1-93)
04. Staff. Shall mean Registrar or other members of the staff as appropriate who may appear and participate in any proceedings before the Board. (7-1-93)
05. Hearing Officer. Shall mean that person designated by the Chairman of the Board to conduct or assist in any proceeding before the Board. (7-1-93)
06. Legal Counsel. For the Board shall be as designated by the office of the Attorney General, state of Idaho. (7-1-93)

004. -- 099. (RESERVED).

100. PLACE OF BUSINESS.

The principal place of business of the Board shall be 1109 Main Street, Suite 480, Statehouse Mail, Boise, ID 83720-7000. (7-1-93)

101. MEETINGS.

01. Regular Meetings. The Board shall hold not less than four (4) regular meetings each year on a day not later than the fifteenth day of the month in each of the months of January, April, July and October. Meetings are held on the first Monday of each month unless it is a holiday. (7-1-93)

02. Special Meetings. Special meetings or regular meetings in other months may be held at such times as the Board may determine, subject to the call of two (2) members of the Board. (7-1-93)

03. Quorum. Quorum at any meetings shall be constituted by three (3) members of the Board. (7-1-93)

04. Notice of Special Meetings. The Registrar shall give due notice of any regular or special meeting to each member of the Board. (7-1-93)

102. COMMUNICATION.

All written communications, forms and documents concerning any matter covered by the Act or these rules shall be addressed to the Registrar of the Board (not to members of the Board or staff). All communications are deemed officially received only when delivered to the principal office of the Board. (7-1-93)

103. -- 199. (RESERVED).

200. CLASSES.

01. Class. "Class" of any license shall be as designated and defined in Section 54-1904, Idaho Code as amended. (7-1-93)

02. Limit of One (1) License. A licensee will be permitted to hold only one (1) class of license at any given time. (7-1-93)

03. Filing Original Application. A licensee in one class who desires a license of another class shall prepare and file an original application and pay the fee for such other class. (7-1-93)

04. Voiding Old License. When a licensee of one class has been issued a license of another class, the previous license shall be null and void. (7-1-93)

201. FEES.

01. Fees. Fees for each class of license shall be as designated and defined in Section 54-1904, Idaho Code. (7-1-93)

02. Payment of Fees. Fees shall be payable to "Treasurer, State of Idaho." (7-1-93)

03. Application Filed with Payment. Fees shall accompany the application for a license. An application filed without the proper fees shall be deemed incomplete. (7-1-93)

04. Nonrefundable Fees. Fees accompanying ORIGINAL applications and fees accompanying RENEWAL applications are for the administration and enforcement of the Act and shall not be refunded to the applicant pursuant to Section 54-1911 and 54-1912, Idaho Code respectively. (7-1-93)

202. GUIDELINES.

The financial guidelines for obtaining and maintaining a license under this Act shall be as follows: (7-1-93)

01. Heavy, Highway, Building Construction Class AAA License. An applicant requesting a Class AAA license in Heavy, Highway or Building Construction shall have a net worth of approximately three hundred thousand dollars (\$300,000) with sixty thousand dollars (\$60,000) liquidity. (7-1-93)

02. Specialty Construction Class AAA License. An applicant requesting a Class AAA license in Specialty Construction only, shall have a net worth of approximately one hundred fifty thousand dollars (\$150,000) with thirty thousand dollars (\$30,000) liquidity. (7-1-93)

03. Heavy, Highway, Building Construction Class AA License. An applicant requesting a Class AA license in Heavy, Highway or Building Construction shall have a net worth of approximately two hundred thousand dollars (\$200,000) with forty thousand dollars (\$40,000) liquidity. (7-1-93)

04. Specialty Construction Class AA License. An applicant requesting a Class AA license in Specialty Construction only, shall have a net worth of approximately one hundred thousand dollars (\$100,000) with twenty thousand dollars (\$20,000) liquidity. (7-1-93)

05. Heavy, Highway, Building Construction Class A License. An applicant requesting a Class A license in Heavy, Highway or Building Construction shall have a net worth of approximately one hundred fifty thousand dollars (\$150,000) with thirty thousand dollars (\$30,000) liquidity. (7-1-93)

06. Specialty Construction Class A License. An applicant requesting a Class A Specialty Construction only, shall have a net worth of approximately seventy five thousand dollars (\$75,000) with fifteen thousand dollars (\$15,000) liquidity. (7-1-93)

07. Heavy, Highway, Building Construction Class B License. An applicant requesting a Class B license in Heavy, Highway or Building Construction shall have a net worth of approximately one hundred thousand dollars (\$100,000) with twenty thousand dollars (\$20,000) liquidity. (7-1-93)

08. Specialty Construction Class B License. An applicant requesting a Class B license in Specialty Construction only, shall have a net worth of approximately fifty thousand dollars (\$50,000) with ten thousand dollars (\$10,000) liquidity. (7-1-93)

09. Heavy, Highway, Building Construction Class C License. An applicant requesting a Class C license in Heavy, Highway or Building Construction shall have a net worth of approximately fifty thousand dollars (\$50,000) with ten thousand dollars (\$10,000) liquidity. (7-1-93)

10. Specialty Construction Class C License. An applicant requesting a Class C license in Specialty Construction only, shall have a net worth of approximately twenty five thousand dollars (\$25,000) with five thousand dollars (\$5,000) liquidity. (7-1-93)

11. Heavy, Highway, Building Construction Class D License. An applicant requesting a Class D license in Heavy, Highway or Building Construction shall have a net worth of approximately twenty thousand dollars (\$20,000) with four thousand dollars (\$4,000) liquidity. (7-1-93)

12. Specialty Construction Class D License. An applicant requesting a Class D license in Specialty Construction only, shall have a net worth of approximately ten thousand dollars (\$10,000) with two thousand dollars (\$2,000) liquidity. (7-1-93)

203. RIGHTS GRANTED UNDER LICENSES.

01. Rights. Rights granted to licensees shall be as designated and defined in Section 54-1904, Idaho Code, and as provided in these rules. (7-1-93)

02. Estimated Cost. The estimated cost and bid limit for each class of license shall be as defined in Section 54-1904, Idaho Code. (7-1-93)

03. Total Bid Cost. The total of any single bid on a given public works project, or the aggregate total of any split bids, or the aggregate total of any base bid and any alternate bid items, or the aggregate total of any separate bid by a licensee of any class, except Class AAA, shall not exceed the estimated cost or bid limit of the class of license held by the licensee. (7-1-93)

04. Two (2) or More Licensees. Two (2) or more licensees of the same class or of different classes shall not be permitted to combine the estimated cost or bid limit of their licenses to submit a bid in excess of the license held by either licensee. (7-1-93)

204. TYPES OF CONSTRUCTION.

The types of construction for which licenses are issued shall be as defined and designated in Section 54-1901, Idaho Code, and as provided in these rules. (7-1-93)

01. Public Works Construction. A license of any class may be issued for one (1) or more types of public works construction. (7-1-93)

02. Type 4. A license for Type 4, Specialty Construction, shall list one (1) or more specialty CATEGORIES to which the licensee is restricted. These categories include, but shall not be limited to, the following: Acoustical-Drywall, Air Conditioning & Warm-Air Heating, Blasting, Bridges & Structures, Building Cleaning & Maintenance, Chimney Repair, Clearing, Communications & Alarm Systems, Concrete, Craning & Erection, Crushing, Demolition, Drilling, Electrical State Lic. No., Elevators/Lifts/Hoists, Excavation & Grading, Fencing, Fire Sprinkler Systems, Flooring, Floor Coverings/Carpeting, Glass & Glazing, Hauling, Institutional Equipment, Insulation, Landscaping/Seeding/Mulching, Lath & Plaster, Masonry, Guard Rails & Safety Barriers, Millwork & Fixtures, Ornamental Metals, Painting & Decorating, Paving, Plumbing State Lic. No., Refrigeration, Roofing & Siding, Sand Blasting, Sheet Metal, Signing, Sprinklers/ Irrigation Systems, Steel Fabrication/Erection/Installation, Tile/Terrazzo, Traffic Marking & Striping, Utilities, Waterproofing/Caulking, Well Drilling, Boiler, Hot-Water Heating & Steam Fitting, Other. (7-1-93)

03. Scope and Coverage. The Board will determine the scope and coverage of each type and category based on what is commonly accepted and practiced by reasonable men engaged in the construction industry. (7-1-93)

04. Type 4 License Holder. The holder of a license for Type 4, Specialty Construction shall be entitled to bid a public works project as a prime contractor or as a subcontractor, if more than fifty percent (50%) of the work to be performed by him on such project is covered by a category or categories listed on the license held by the licensee. (7-1-93)

05. Written Petition. A licensee who desires to extend the scope of the types or categories for which he is licensed shall file with the Board a written petition for same in the manner provided in these rules. The Board will review such petitions at regular meetings. (7-1-93)

205. -- 299. (RESERVED).

300. FILING.

Applicant may file an application form, financial statement and fee with the Board by mail or in person. (7-1-93)

301. SCREENING - NOTICE.

The Registrar and staff will receive and screen each application for completeness, clarity, etc. If an application is incomplete, notice of same will be mailed to the applicant by First Class Mail. The notice will specify the incomplete items to be completed. If necessary, the application form will be returned to the sender for completion. (7-1-93)

302. NOTICE OF REVIEW.

When an application is deemed complete in all respects, a notice acknowledging and setting the date, time and place for its review by the Board will be sent to the applicant by First Class Mail. The application will be retained on file awaiting the date set for review. The Registrar may send notice of the pending application to references designated by the applicant or to other interested persons. (7-1-93)

303. REVIEW BY BOARD.

At a regular meeting on the date scheduled, the application, other information, data, documents and references will be reviewed by the Board. If the application is approved, a License Certificate will be issued effective from the date of approval. (7-1-93)

304. DENIED APPLICATIONS.

If, after reviewing the application, other information, data, documents or references, the Board decides: (7-1-93)

01. Incomplete Information. The information before the Board is incomplete, inadequate or in conflict,

and further action is required before a decision can be rendered. (7-1-93)

02. Denial of Application. The information before the Board is such that it would appear proper to deny the application, notice of same will be mailed to the applicant, by certified mail. The notice will state the basis for the action of the Board and may suggest means by which the matter might be remedied, and shall provide the applicant an opportunity to answer, to show cause, and shall set a date, time and place for a hearing in the matter. (7-1-93)

305. ANSWER AND APPEARANCE.

The applicant shall have not less than five (5) nor more than thirty (30) days from the date the notice is served to file a written answer to show cause and to make a written and/or personal appearance before the Board at the scheduled hearing. (7-1-93)

306. HEARING - APPROVAL.

At a regular meeting on the date set for the hearing, the Board will review the written answer to show cause and any additional information, data, documents or references furnished by the applicant or other interested persons, and the testimony of the applicant or other persons, if a personal appearance is made, and reconsider the application. If the Board approves the application, a License Certificate will be issued effective from the date the application is approved without further hearing on the matter. (7-1-93)

307. HEARING - DENIED APPLICATIONS.

If, after reviewing the answer, any additional information, data, documents or references furnished by the applicant or other interested persons, and the testimony of the applicant or other persons, if a personal appearance is made, and reconsidering the application, the Board deems it proper to deny the application, a decision to that effect will be drawn and served on the applicant by Certified Mail. (7-1-93)

308. FAILURE TO ANSWER OR APPEAR.

If the applicant fails to file a written answer to show cause, or fails to make an appearance either in writing or in person at the scheduled hearing, after due notice of same has been served, the Board may take note of such failure to answer or appear and enter a decision denying the application without further hearing on the matter. The written decision of the Board will be served on the applicant by Certified Mail. (7-1-93)

309. ACCEPTANCE OF DECISION.

In any notice, hearing or decision, the Board may, in its discretion, deem it proper to deny any application for any class and/or type(s) and approve the application for another class and/or types(s) and serve notice of same on the applicant. If the applicant accepts in writing such other class and/or types(s) the Registrar shall issue a License Certificate effective on the date applicant's written acceptance is filed with the Board without further hearing or action in the matter by the Board. (7-1-93)

310. PETITION FOR REHEARING.

A petition for rehearing may be filed by the applicant whose application has been denied within twenty (20) days from the date the decision of the Board denying the application is served on the applicant. (7-1-93)

311. REVIEW OF PETITION.

A petition for rehearing will be reviewed at a regular meeting of the Board and treated in the manner specified in these rules for petitions. (7-1-93)

312. NOTICE OF REHEARING.

If a petition for rehearing is approved, the Board shall set a date, time and place for the rehearing, notify the applicant by Certified Mail, and proceed in the manner specified in these rules for hearings. (7-1-93)

313. -- 399. (RESERVED).

400. APPLICATION FOR ORIGINAL LICENSE.

An application for an Original license, together with the fees, financial statement, references and License Examination therefor, shall be filed with the Board prior to consideration thereof by the Board (Section 54-1911). (7-1-93)

401. APPLICATION FOR ANNUAL RENEWAL.

An application for annual renewal of a current license together with the fees therefor shall be filed not later than the last day of the license period. Timely filing shall authorize operation as a contractor by the licensee until actual issuance of the renewal license for the ensuing year or until final decision of the Board is rendered in any proceeding. (Section 54-1912). (7-1-93)

402. APPLICATION FOR RENEWAL OF A LAPSED OR EXPIRED LICENSE.

An application for renewal of a lapsed or expired license, together with the fees therefor, shall be filed with the Board (Section 54-1912). For purposes of these rules, all licenses issued under the Act shall lapse and expire on the last day of the license period, and shall be considered a delinquent renewal for a one year period. (7-1-93)

403. -- 499. (RESERVED).

500. LICENSE NON-TRANSFERABLE.

The license certificate shall be non-transferable either to another person or to a successor business organization such as a copartnership, corporation, joint venture, or other combination thereof. (Sec. 54-1912) (7-1-93)

501. CHANGED BUSINESS ORGANIZATION.

A licensee who undergoes a change in business organization or structure (such as a change from an individual proprietor to a copartnership, corporation, joint venture or other combination thereof) must file an ORIGINAL application on behalf of such successor organization within sixty (60) days after such change occurs. The Board may authorize the continuous operation of the licensee as a contractor during the interim period until the application of the successor organization is reviewed; provided written notice of such change is filed with the Board within thirty (30) days after such change occurs. (7-1-93)

502. SURVIVING PARTNER.

A surviving member or members of a licensed COPARTNERSHIP by reason of death shall be entitled to continue in business under such license until the expiration date thereof, provided the APPLICATION FOR PERMISSION is made to the Board within thirty (30) days after the death of a member, and the application (for permission) is approved by the Board. (7-1-93)

503. VOLUNTARY CHANGE IN COPARTNERSHIP.

Where there is a Voluntary Change of individual partners in a licensed copartnership, the remaining or succeeding partner or partners shall be required to file an application for an original license. (7-1-93)

504. REPORT OF CHANGES.

Licensees shall report to the Board all changes of management and key personnel, name style or address recorded under the Act within thirty (30) days after the changes are made. (7-1-93)

505. -- 599. (RESERVED).

600. COMPLIANCE.

Licensee shall comply with all the provisions of the Act and the Rules and Regulations promulgated thereunder. (7-1-93)

601. SUBCONTRACT LIMIT.

Licensee shall not subcontract in excess of eighty (80%) percent of the work under any contract to be performed by him as a public works contractor according to the contract prices therein set forth, unless otherwise provided in the specifications of such contract. (7-1-93)

602. SPECIALTY SUBCONTRACTORS.

Licensee shall not sublet any part of any contract for specialty construction to a specialty contractor who is not licensed in accordance with this Act. (7-1-93)

603. DISPLAY CERTIFICATE.

Licensee shall sign and display the license certificate issued to him in his main office or chief place of business. (7-1-93)

604. POSSESSION OF CERTIFICATE.

Licensee shall furnish satisfactory evidence of the possession of a license certificate and the current renewal thereof upon demand. (7-1-93)

605. LICENSE NUMBER ON BIDS.

Licensee shall place his license number on any and all bids submitted or contracts entered into, for any public works projects in the state of Idaho. (7-1-93)

606. FILE RENEWAL.

Licensee shall prepare and submit a timely application for license renewal. (7-1-93)

607. REPORT CHANGES.

Licensee shall report all change in personnel, name style, business organization or address within thirty (30) days after the changes are made. (7-1-93)

608. CHANGES IN LICENSE CERTIFICATE.

When any change in the license certificate has been approved by the Board, the licensee shall upon due notice return the license certificate to the Board promptly for the recording of such changes. (7-1-93)

609. USE OF LICENSE BY ANOTHER.

Licensee shall not aid or abet an unlicensed person to evade the provisions of the Act, or knowingly combine or conspire with an unlicensed person, or allow his license to be used by an unlicensed person, or act as agent or partner or associate or otherwise, of an unlicensed person with intent to evade the provisions of the Act. (7-1-93)

610. UNLICENSED CONTRACTORS.

Licensee shall not knowingly enter into a contract with a contractor while such contractor is not licensed. (7-1-93)

611. -- 699. (RESERVED).

700. PROCEEDINGS FOR DISCIPLINARY PROCEEDINGS.

The procedure for the handling of complaints filed pursuant to Section 54-1914, Idaho Code, and for the proceedings for the suspension or revocation of a licensee shall be as provided in Section 54-1915 through Section 54-1919, Idaho Code, as amended and as supplemented by these rules. (7-1-93)

701. FORMS.

The complaint, citation, answer, notice of hearing, decision and order of the Board and other related documents shall be filed in the form and manner prescribed in the Act. (7-1-93)

702. TECHNICALITIES OF FORM.

The Board may, in its discretion, during any hearing or proceeding waive any technicalities of form not deemed necessary in the circumstances. (7-1-93)

703. HEARINGS.

The general procedure for hearings before the Board shall be as prescribed in these rules. (7-1-93)

704. NOTICE, ANSWER, HEARING, DECISION AND ORDER.

The notice, answer, hearing, decision and order of the Board in proceedings concerning the impaired financial responsibility of a licensee pursuant to Section 54-1914A, Idaho Code, shall be in the form and manner as those provided in these rules. (7-1-93)

705. -- 799. (RESERVED).

800. HEARING PROCEDURE.

In order to expedite hearings and to assist persons appearing before the Public Works Contractors State License Board, the Board has adopted the following general procedure: (7-1-93)

01. Hearings. Hearings before the Board are conducted in an informal and summary manner. (7-1-93)
02. Counsel. Interested persons appearing before the Board may be represented by counsel. (7-1-93)
03. Notice. Reasonable notice of any hearing will be furnished to any interested persons. (7-1-93)
04. Notes. Any interested persons may request, in writing, five (5) days before any scheduled hearing in a contested case that the oral proceedings thereof be taken in the form of stenographic notes to be transcribed at his own expense. (7-1-93)
05. Read Documents. At the time and place set for the hearing, the hearing officer or counsel appointed by the Board shall read any application, complaint, citation, notice, answer, petition or other documents filed with the Board pertinent to the purpose of the hearing. (7-1-93)
06. Stipulations. If the parties can agree upon any facts, issues or questions to be presented to the Board, appropriate stipulations may be made. (7-1-93)
07. Evidence. The hearing officer or other interested party may present any oral or documentary evidence that is relevant and material to the purpose of the hearing. Documentary evidence may be examined by any interested party. Witnesses may be called and sworn if testimony under oath is deemed necessary by the Board. Witnesses may be cross-examined by any party to obtain a full and true disclosure of the facts. The admissibility of any evidence shall be determined by the Chairman. Objections to any evidence may be made by any party and will be noted for the record. In ruling on the admissibility of evidence, the Chairman may rely upon the type that is commonly relied upon by reasonable prudent men in the conduct of their affairs. Repetitious testimony may be limited by the Chairman. (7-1-93)
08. Continuance. In the event a hearing cannot be completed within the time allotted, the Board may, in its discretion, continue same to a subsequent meeting as it deems necessary for proper consideration of the purpose for the hearing. (7-1-93)
09. Procedure. The Board reserves the right to amend, modify or repeal all or any part of the above procedure or to dispense with any part thereof, at any hearing before the Board, as it may deem necessary in the circumstances. (7-1-93)

801. -- 899. (RESERVED).

900. THE BOARD.

The Board may, in its discretion, upon the filing of a verified complaint, charging any person or firm with acting in the capacity of a Public Works Contractor without a license, or charging any public officer who has knowingly let a public contract to any person or firm who does not hold a license, as provided in Section 54-1920, Idaho Code, investigate and enter an oral and/or written protest with the interested parties. In any protest entered, the Board may: (7-1-93)

01. Withdrawal. Seek the withdrawal of any bid made or offered by an unlicensed person; (7-1-93)
02. Rejection. Seek the rejection of any bid made or offered by an unlicensed person; (7-1-93)
03. Refusal. Seek the refusal of the payment of any estimate to an unlicensed person or firm; (7-1-93)
04. Compliance. Seek immediate compliance with the Act by such unlicensed person or firm; (7-1-93)
05. Restrain. Seek to restrain such unlicensed person or firm from acting as a Public Works Contractor without a license; (7-1-93)
06. Prevention. Seek to prevent the award of a contract or to obtain the cancellation or revocation of any public contract that has been awarded to an unlicensed person or firm. (7-1-93)

07. Other. Failing in this, the Board shall refer the complaint and any other related documents to the County Attorney in the County where the events are alleged to have occurred to be processed in the manner provided in Section 54-1920, Idaho Code. (7-1-93)

901. -- 999. (RESERVED).