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**IDAPA 07
TITLE 05
CHAPTER 01**

**07.05.01 - RULES OF THE PUBLIC WORKS CONTRACTORS LICENSE BOARD
DIVISION OF BUILDING SAFETY**

000. LEGAL AUTHORITY.

This chapter is adopted pursuant to Section 54-1907, Idaho Code, as amended. (3-20-04)

001. TITLE.

These rules shall be cited as IDAPA 07.05.01, "Rules of the Public Contractors License Board". (3-20-04)

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" is intended to provide the investing public body some assurance of the contractor's reputation, ability, qualifications, experience and financial responsibility. (3-20-04)

003. WRITTEN INTERPRETATIONS.

This agency has no written interpretations of this chapter. (3-20-04)

004. ADMINISTRATIVE APPEALS.

The administrative procedures governing this chapter are outlined herein. (3-20-04)

005. -- 009. (RESERVED).

010. DEFINITIONS.

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

01. Administrator. Refers to the administrator of the Division of Building Safety. (3-20-04)

02. Applicant. Shall mean any person who has filed an application with the administrator. (3-20-04)

03. Board. Refers to the Public Works Contractors License Board which is created within the Idaho Division of Building Safety as set forth in Title 54, Chapter 19, Idaho Code. (3-20-04)

04. Compiled. Refers to a type of financial statement in which the information presented is based solely upon representations by an organization's management. (3-20-04)

05. Financial Statement. A balance sheet and income statement prepared in accordance with generally accepted accounting principles. (3-20-04)

06. Incidental Work. Shall mean work, the nature of which does not require any additional trade licenses and which may be carried out in conjunction with an activity for which the licensee is licensed, but is not intended to produce an amount of income over ten percent (10%) of the total bid amount. (3-20-04)

07. Independent Audit Report. A report prepared by an independent certified public accountant presenting such auditor's opinion on the fairness of the organization's financial statements and prepared in accordance with generally accepted auditing standards. (3-20-04)

08. Licensee. Includes any individual proprietor, partnership, limited liability partnership, limited liability company, corporation, joint venture, or other business organization holding a current, unrevoked public works contractor license. (3-20-04)

09. 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 or appealing from the final decision or order of the administrator or the board; (3-20-04)

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)

10. Reviewed. Refers to a financial statement that is accompanied by the opinion of a certified public accountant stating that, based upon representations by the organization's management, the reviewer has a reasonable basis for expressing limited assurance that there are no material modifications that should be made to the financial statements in order for the statements to be in accordance with generally accepted accounting principles. (3-20-04)

011. -- 099. (RESERVED).

100. BOARD OFFICE -- LOCATION, HOURS, MAILING ADDRESS, TELEPHONE NUMBER, FACSIMILE NUMBER.

The address of the board office, and its mailing address, is 1090 E. Watertower Street, Meridian, Idaho 83642. Office hours are from 8 a.m. until 5 p.m., daily. The office is closed on weekends and holidays. The board telephone number is (208) 334-4057, and the facsimile number is (208) 855-9666. (3-20-04)

101. MEETINGS.

Meetings of the board are subject to the Idaho Open Meeting Law, Title 67, Chapter 23, Idaho Code. (3-20-04)

102. COMMUNICATION.

All written communications, forms and documents concerning any matter covered by the Act or these rules shall be addressed to the administrator and not to members of the board or staff. All communications are deemed officially received only when delivered to the board office. Documents may be submitted by facsimile but not by other electronic or computerized means. (3-20-04)

103. PETITIONS.

An applicant or licensee seeking an order or decision of the administrator or the board on any application or other matter, or in any disciplinary proceeding, must file a written petition. (3-20-04)

104. FORM AND CONTENT OF PETITION.

01. Form. The petition, including the heading, the name of the petitioner or person making the request, and the purpose of the petition shall be in substantially the following form: (3-20-04)

a. Paragraph 1 shall state the petitioner's name, address, and license number. (3-20-04)

b. Paragraph 2 shall state the petitioner's request in brief, precise and specific terms, including references to any pertinent statutes or rules, and shall provide a detailed explanation of the purpose for the request. (3-20-04)

c. Paragraph 3 shall contain the statements of fact to support the petitioner's request. Briefs and supporting documents may accompany petitions. (3-20-04)

02. Dated And Signed. The petition shall be dated and signed by the petitioner. (3-19-99)

03. Filed. The petition shall be filed as set forth in Section 102. (3-20-04)

105. LICENSE RENEWAL - FILING DEADLINES; PETITIONS FOR EXTENSION OF TIME TO FILE; LAPSED LICENSES.

01. Filing Deadline. Applications for renewal of a license shall be filed by the last working day of the month in which the license expires. (3-20-04)

02. Extension Of Time. A petition for an extension of time in which to renew shall be filed by the last working day of the month in which the license expires. The petition shall be accompanied by the required fees. Petitions not accompanied by the required fees or filed after the license has expired will not be honored. (3-20-04)

- i. The petition shall specify the number of days for which the extension is being requested. (3-20-04)
- ii. Under no circumstances shall an extension exceed sixty (60) days. Petitions for more than sixty (60) days will not be honored. (3-20-04)

03. Approval Of Petition. Approval of a petition for an extension of time shall authorize operation as a contractor until actual issuance of such renewal license for the ensuing licensing period, provided the application for renewal is filed with the Board within the extended time specified. (3-19-99)

04. Failure To File. If the licensee fails to file a timely application for renewal or petition for extension, the license shall lapse and expire on the last day of the license period. Licenses not renewed in a timely manner shall be considered delinquent for a period of one (1) year from the last day of the license period and may be renewed at any time during that year. Licenses delinquent for more than a period of one (1) year must be reinstated and the applicant for reinstatement must apply as if for a new license. (3-20-04)

106. SPECIAL PROVISIONS COVERED IN A PETITION TO CHANGE OR ADD TYPES OF CONSTRUCTION.

A petition to change or add types of construction shall be supported by evidence, satisfactory to the administrator, of work history, job performance, experience, equipment, financial responsibility, and a minimum of three (3) letters of reference. The evidence of work history, job performance, experience, and financial responsibility shall comply with the requirements of Subsections 110.01 and 110.02 of these rules. All of the evidence shall specifically pertain to work that is similar in scope and value to that for which the change or addition is being requested. (3-20-04)

107. RECORDS.
Board records are subject to the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. (3-20-04)

108. REVIEW.
Any final decision of the administrator or the board may be reviewed in accordance with the provisions of the Idaho Administrative Procedures Act, Title 67, Chapter 52, Idaho Code. (3-20-04)

109. NOTICE.
In any contested case or other matter of board business, written notification, mailed to the licensee or the applicant at the most current address on record with the board, shall constitute sufficient notification for all purposes within Title 54, Chapter 19, Idaho Code, and these rules. (3-20-04)

110. APPLICATION FOR LICENSURE - DOCUMENTATION; APPRAISALS; REFERENCES; BONDING; AND FINANCIAL STATEMENTS.

01. Application Documentation. To obtain a license, the applicant shall submit to the administrator, on such forms as the administrator shall prescribe, accompanied by the required fee for the class of license applied for, a written, notarized application for such license. All of the information submitted by the applicant shall specifically pertain to work that is similar in scope and value to that for which licensure is being requested or which is being requested in a petition to change or add types of construction. The information contained in such application forms shall include: (3-20-04)

- a. A complete statement of the general nature of applicant's contracting business, including a concise description of the applicant's experience and qualifications as a contractor and a list of clients for whom work has been performed; (3-20-04)
- b. A description of the value and character of contract work completed and for whom performed

during the three (3) year period prior to filing the application; (3-20-04)

c. A general description of applicant's machinery and equipment; (3-20-04)

d. An annual financial statement, as herein defined, that was issued no more than twelve (12) months prior to the date of submission of the application, indicating compliance with such financial requirements as the board may prescribe by rule and which may include a letter from applicant's bonding company stating the amount of the applicant's bonding capability per project and in the aggregate; (3-20-04)

e. For class A, AA, and AAA license applications, financial statements shall be accompanied by an independent auditor's report or be reviewed. For class B license applications, financial statements must be accompanied by an independent audit report or be reviewed or compiled by a certified public accountant. For class C and D license applications, financial statements must be accompanied by an independent audit report or be reviewed, compiled, or on the form provided by the administrator, and include such additional information as may be required by the administrator to determine the applicant's fitness for a license. (3-20-04)

f. The name, social security number, and business address of an individual applicant or, if the applicant is a partnership, its tax identification number, business address, and the names and addresses of all general partners; and if the applicant is a corporation, association, limited liability company, limited liability partnership, or other organization, its tax identification number, business address, and the names and addresses of the president, vice president, secretary, treasurer, and chief construction managing officers, or responsible managing employee. (3-20-04)

02. Application For Change In Licensing Class. Requests for a licensing class higher than that for which the applicant qualifies shall be accompanied by the information in Subsections 110.01.a., 110.01.b., 110.01.d., and 110.01.e., and the applicable fee. Licenses granted under Subsection 110.02 shall be valid for a period of twelve (12) months from the date of issuance. (3-20-04)

03. Extension Of Time To File Financial Statement. The administrator may grant an extension of time to file the annual financial statement if the licensee provides an interim compiled balance sheet and income statement for the applicant's fiscal year-to-date, duly certified as true by the applicant, and if a partnership, limited liability company, or limited liability partnership by a member thereof, and if a corporation, by its executive or financial officer. Such renewal application shall be filed prior to the first day of such renewal licensing period. In the event an extension is granted, the renewal license shall be valid for a period of twelve (12) months from the date of the issuance of the renewal license. (3-20-04)

04. Appraisals. The administrator may require submission of an independent appraisal of any real or chattel property reported by an applicant or licensee. Such appraisals shall be conducted by a disinterested person or firm established and qualified to perform such services. (3-20-04)

05. References. The administrator may require an applicant for an original or renewal license to furnish such personal, business, character, financial, or other written references as deemed necessary and advisable in determining the applicant's qualifications. (3-20-04)

06. Bonding. Applicants may submit letters from a bonding company, not an insurance agent, stating the amount of the applicant's bonding capability per project and in the aggregate, together with supporting information. (3-20-04)

111. COMPLAINTS.

Complaints alleging a violation of the License Act or these rules shall be in writing and filed with the administrator as provided in these rules. All complaints must be verified and submitted on forms provided by the board. (3-20-04)

112. -- 199. (RESERVED).

200. LIMITATIONS.

01. One License. A licensee will be permitted to hold only one (1) class of license at any given time.

(3-20-04)

02. Previous License Null And Void. When a licensee of one class has been issued a license of another class, the previous license shall be null and void. (3-20-04)

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. The aggregate total of bids shall include all bids of the subcontractors. Subcontractor bids shall not be considered a separate bid for the purposes of computing the bid on a given public works project. (3-20-04)

04. Two 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. (3-20-04)

05. 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. (3-20-04)

201. FEES.

01. Fees. Fees for each class of public works contractor and construction manager license shall be as designated and defined in Sections 54-1904 and 54-4510, Idaho Code. (3-20-04)

02. Payment Of Fees. Fees shall be payable to "Division of Building Safety - Public Works Contractors". (3-20-04)

03. Application Filed With Fees. Required fees shall accompany all applications. An application filed without the required fees shall be deemed incomplete and returned to the applicant. (3-20-04)

04. Construction Manager Licensing Fees. (3-19-99)

- a.** The fee for initial examination and licensing shall be two hundred dollars (\$200). (3-19-99)
- b.** The fee for license renewal shall be two hundred dollars (\$200). (3-19-99)
- c.** The fee for an inactive license shall be fifty dollars (\$50). (3-19-99)
- d.** The fee for license reinstatement shall be two hundred dollars (\$200). (3-19-99)
- e.** The fee for administering the examination shall be the standard fee established for taking that examination. (3-19-99)
- f.** The fee for issuing and for reinstating a certificate of authority shall be one hundred dollars (\$100). (3-19-99)

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, And Specialty Construction Class AAA License. An applicant requesting a Class AAA license in Heavy, Highway, Specialty or Building Construction shall have a minimum net worth of six hundred thousand dollars (\$600,000) with two hundred thousand dollars (\$200,000) in working capital. (3-19-99)

02. Heavy, Highway, Building, And Specialty Construction Class AA License. An applicant

requesting a Class AA license in Heavy, Highway, Specialty or Building Construction shall have a minimum net worth of four hundred fifty thousand dollars (\$450,000) with one hundred fifty thousand dollars (\$150,000) in working capital. (3-19-99)

03. Heavy, Highway, Building, And Specialty Construction Class A License. An applicant requesting a Class A license in Heavy, Highway, Specialty or Building Construction shall have a minimum net worth of three hundred thousand dollars (\$300,000) with one hundred thousand dollars (\$100,000) in working capital. (3-19-99)

04. Heavy, Highway, Building, And Specialty Construction Class B License. An applicant requesting a Class B license in Heavy, Highway, Specialty or Building Construction shall have a minimum net worth of one hundred fifty thousand dollars (\$150,000) with fifty thousand dollars (\$50,000) in working capital. (3-19-99)

05. Heavy, Highway, Building, And Specialty Construction Class C License. An applicant requesting a Class C license in Heavy, Highway, Specialty or Building Construction shall have a minimum net worth of twenty five thousand dollars (\$25,000) with seven thousand five hundred dollars (\$7,500) in working capital. (3-19-99)

06. Heavy, Highway, Building, And Specialty Construction Class D License. An applicant requesting a Class D license in Heavy, Highway, Specialty or Building Construction shall have a minimum net worth of ten thousand dollars (\$10,000) with three thousand dollars (\$3,000) in working capital. (3-19-99)

07. Indemnification. If the applicant's financial resources do not meet the Board requirements, an applicant may seek to indemnify its net worth and working capital by using a third party's assets to meet the minimum requirements for licensure. This must be done prior to licensure in writing in a form and manner approved by the Board. (3-19-99)

203. -- 299. (RESERVED).

300. BUSINESS ORGANIZATION - CHANGES IN ORGANIZATION OR STRUCTURE - MEMBERS OF JOINT VENTURES - CHANGES FOR REASONS OTHER THAN DEATH.

A licensed licensed public works contractor or construction manager who undergoes a change in business organization or structure (such as a change from an individual proprietor to a partnership, corporation, limited liability partnership, limited liability company, joint venture, or other combination thereof), or where there is a change in ownership, must file an application for a new license on behalf of such successor organization or new owners within sixty (60) days after such change occurs. The administrator 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 within thirty (30) days after such change occurs. Each participant in a joint venture must be licensed at the time of bidding. Where there is a change in the surviving members of a licensed partnership, limited liability company, or limited liability partnership, due to a reason other than the death of one (1) of the partners, the remaining or succeeding member or members shall be required to file an application for an original license. (3-20-04)

301. -- 399. (RESERVED).

400. CERTIFICATES - DISPLAY AND POSSESSION.

Licensee shall sign and display the license certificate issued to him in his main office or chief place of business and shall furnish satisfactory evidence of the possession of a license certificate and the current renewal thereof upon the administrator's demand. (3-20-04)

401. 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)

402. CHANGES IN LICENSE CERTIFICATE.

When any change in the license certificate has been approved by the Board, a new license certificate shall be issued. (3-19-99)

403. -- 499. (RESERVED).

500. PROCEEDINGS FOR DISCIPLINARY ACTIONS.

The procedure for disciplinary actions and contested cases shall be as provided in IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," the Administrative Procedure Act, as found in Chapter 67, Title 52, Idaho Code, Sections 54-1915 through 54-1919, Idaho Code and these rules. (3-20-04)

501. FORMS.

The complaint, citation, answer, notice of hearing, decision and order of the administrator and other related documents shall be filed in the form and manner prescribed in these rules, in IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," and the Administrative Procedure Act. (3-20-04)

502. TECHNICALITIES OF FORM.

The administrator may, during any hearing or proceeding waive any technicalities of form not deemed necessary in the circumstances. (3-20-04)

503. HEARINGS.

The general procedure for hearings before the administrator and the board shall be as prescribed in these rules and Title 67, Chapter 52, Idaho Code. (3-20-04)

01. 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)

02. 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)

03. 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)

04. 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)

504. -- 599. (RESERVED).

600. CONSTRUCTION MANAGER EXAMINATIONS.

If the applicant fails an examination, the applicant may take the examination a second time. A grade of at least seventy-five percent (75%) shall be required to pass each section of the examination. If the applicant fails to score a passing grade, the applicant must pass all failed sections within one (1) year of the initial test date. If the applicant fails to achieve a passing grade in each individual section on the second examination, the applicant must wait one (1) full year before taking the examination again. The applicant must then take and pass all sections of the examination (receiving no credit for sections successfully completed during the previous year). (3-20-04)

601. -- 999. (RESERVED).

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