

**PROPOSED REGULATION OF
THE STATE CONTRACTORS' BOARD**

LCB File No. R155-05

October 26, 2005

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §1, NRS 624.100, 624.240 and 624.250; §2, NRS 624.100 and 624.283; §§3 and 4, NRS 624.100 and 624.220.

A REGULATION relating to contractors; revising provisions governing financial statements required to be submitted to the State Contractors' Board for determining monetary limits for licenses; and providing other matters properly relating thereto.

Section 1. NAC 624.590 is hereby amended to read as follows:

624.590 1. A person must make a separate application for each classification of license in which the applicant desires to conduct business.

2. The Board will not consider an incomplete application. Each application must include, without limitation:

(a) All applicable fees;

(b) Four notarized certificates supporting the experience of the applicant or his qualified employee on the form provided by the Board;

(c) All information which is required to be confirmed by a bank;

(d) ~~[A]~~ *If the proposed monetary limit of the license is:*

(1) An amount less than \$1,000,000, a current financial statement that is:

(1) Prepared by an independent certified public accountant;

(II) Submitted on a form prescribed by the Board and accompanied by an affidavit that verifies the accuracy of the financial statement; or

(III) Prepared using accounting software in accordance with generally accepted accounting principles and accompanied by an affidavit that verifies the accuracy of the financial statement; or

(2) An amount of \$1,000,000 or more, a financial statement that is prepared and reviewed or audited by a certified public accountant ~~for a public accountant;~~ within 1 year before the filing of the application; and

(e) Any other information required by the Board.

3. As used in this section, “person” means:

(a) A natural person;

(b) A corporation, partnership, limited partnership or limited-liability company that is organized pursuant to the laws of this State; or

(c) A foreign corporation, foreign partnership, foreign limited partnership or foreign limited-liability company that is authorized to do business in this State.

Sec. 2. NAC 624.630 is hereby amended to read as follows:

624.630 1. Each year the Board will mail to each licensee, at his address of record, an application for the renewal of his license. Except as otherwise provided in subsection 2, the licensee must return the completed application to the Board ~~no~~ *not* later than the 30th day of the month in which the license expires.

2. If the Board has requested that a licensee submit a financial statement with his application for renewal, the licensee must return ~~the~~ *to the Board not later than the first day of the month in which the license expires, a* completed application, ~~a~~ *the renewal fee and:*

(a) If the monetary limit of the license is less than \$1,000,000:

(1) A current financial statement prepared by ~~an~~ an independent certified public accountant ~~for a public accountant and renewal fee no later than the first day of the month in which the license expires.~~;

(2) A current financial statement submitted on a form prescribed by the Board and accompanied by an affidavit that verifies the accuracy of the financial statement; or

(3) A current financial statement prepared using accounting software in accordance with generally accepted accounting principles and accompanied by an affidavit that verifies the accuracy of the financial statement; or

(b) If the monetary limit of the license is \$1,000,000 or more, a financial statement that is prepared and reviewed or audited by a certified public accountant within 1 year before the filing of the application.

3. If a licensee fails:

(a) To renew his license before it expires, a late fee will be charged at the rate of one-half the renewal fee as set forth in NAC 624.130.

(b) To attempt renewal within the first 6 months of the new license year, the Board will deny, revoke or refuse to renew the license. In either situation, he must apply for a new license.

4. If a licensee has filed a timely application for renewal, accompanied by the required fee, but necessary information is lacking, the Board will conditionally renew the license until the information is received. If the information is not received within a reasonable time, the Board will deny the renewal.

5. If the completed application for renewal contains information which warrants the action, the Board will impose or reduce the limits upon the license, or remove a classification or subclassification from the license.

Sec. 3. NAC 624.670 is hereby amended to read as follows:

624.670 1. A licensee may submit to the Board a written application for an increase, for a single project, in the monetary limit on his license. The application must be made at least 2 working days before the date he submits his bid for the project.

2. ~~The~~ A licensee must submit with the application ~~his~~ :

(a) If the license has a monetary limit of less than \$1,000,000:

(1) A current financial statement ~~prepared by a~~ that is:

(I) Prepared by an independent certified public accountant ~~for a public accountant and any~~;

(II) Submitted on a form prescribed by the Board and accompanied by an affidavit that verifies the accuracy of the financial statement; or

(III) Prepared using accounting software in accordance with generally accepted accounting principles and accompanied by an affidavit that verifies the accuracy of the financial statement; and

(2) Any supporting information the Board requests.

(b) If the license has a monetary limit of \$1,000,000 or more:

(1) A financial statement that is prepared and reviewed or audited by a certified public accountant within 1 year before the filing of the application; and

(2) Any other supporting information the Board requests.

3. The Board will approve the application if it finds that the financial status of the licensee is adequate to justify the increase and if the licensee:

(a) Procures and agrees to maintain any performance or payment bond, or both, that the Board requires; and

(b) Complies with any other conditions the Board finds necessary to protect the public interest.

4. A licensee who has complied with the requirements of subsections 1 and 2 may submit his bid for the project before the Board acts upon his application if he submits with the bid a statement that the bid is contingent upon the approval of his application by the Board. The Board may deny the application if it determines that the licensee has submitted his bid without submitting the statement required pursuant to this subsection.

5. If a licensee submits a bid in compliance with subsection 4 and the Board:

(a) Approves his application, the approval shall be deemed to become effective at the time the bid was submitted.

(b) Denies his application, the bid shall be deemed void and not to have exceeded the monetary limit placed on his license.

Sec. 4. NAC 624.675 is hereby amended to read as follows:

624.675 1. If an applicant or licensee is indemnified by its officers, directors or any other person, the Board will consider a written request to increase, remove or not place a monetary limit on the license of an applicant or licensee although the financial condition of an applicant or licensee is not adequate to justify such a request.

2. If the applicant or licensee is a corporation and the officers or directors are personally indemnifying the corporation, the request must be submitted with:

(a) ~~[A]~~ *If the monetary limit of the license:*

(1) Is less than \$1,000,000, a personal financial statement ~~[prepared by a]~~ from each indemnitor that is:

(I) Prepared by an independent certified public accountant ~~[or public accountant from each of the indemnitors;]~~ ;

(II) Submitted on a form prescribed by the Board and accompanied by an affidavit that verifies the accuracy of the financial statement; or

(III) Prepared using accounting software in accordance with generally accepted accounting principles and accompanied by an affidavit that verifies the accuracy of the financial statement; or

(2) Is \$1,000,000 or more, a financial statement from each indemnitor that is prepared and reviewed or audited by a certified public accountant within 1 year before the filing of the application; and

(b) An agreement for indemnification made on a form supplied by the Board which has been signed by each indemnitor and his spouse, if any.

3. If another corporation will act as an indemnitor for the licensee, the request must be submitted with:

(a) A resolution by the directors of the indemnitor in which they approve the indemnification;

(b) A current financial statement of the indemnitor prepared by a certified public accountant or a public accountant; and

(c) An agreement for indemnification which is made on the form supplied by the Board and is signed by the appropriate officer of the indemnitor.

4. If a natural person will act as indemnitor for the applicant or licensee ~~[]~~ *and:*

(a) *The monetary limit of the license is less than \$1,000,000*, the request must be submitted with:

~~[(a)]~~ (1) A personal financial statement ~~[, prepared by a]~~ *from each indemnitor that is:*

(I) Prepared by an independent certified public accountant ~~[or public accountant, from each of the indemnitors; and~~

~~—(b)]~~;

(II) Submitted on a form prescribed by the Board and accompanied by an affidavit that verifies the accuracy of the financial statement; or

(III) Prepared using accounting software in accordance with generally accepted accounting principles and accompanied by an affidavit that verifies the accuracy of the financial statement; and

(2) An agreement for indemnification made on a form supplied by the Board which has been signed by each indemnitor and his spouse, if any.

(b) *The monetary limit of the license is \$1,000,000 or more, the request must be submitted with:*

(1) A financial statement from each indemnitor that is prepared and reviewed or audited by a certified public accountant within 1 year before the filing of the application; and

(2) An agreement for indemnification made on a form supplied by the Board which has been signed by each indemnitor and his spouse, if any.

5. Except as otherwise provided in this subsection, if an indemnitor wishes to withdraw his agreement for indemnification, he must deliver to the Board a written notice of his withdrawal. The withdrawal becomes effective 90 days after the Board's receipt of the notice. If the agreement for indemnification was provided as a precondition to the approval by the Board of an

increase in the monetary limit on a license pursuant to NAC 624.670, the indemnitor may not withdraw the agreement.