

LCB File No. R014-07

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

(This regulation was previously adopted as T007-07)

NOTICE OF INTENT TO ACT UPON A REGULATION

**Notice of Workshop and Hearing for the Adoption, Amendment or Repeal of
Regulations
of
The State of Nevada Contractors' Board**

The State of Nevada Contractors' Board ("Board") will hold a workshop on Tuesday, September 4, 2007 at 10:00 a.m. and a public hearing on Friday, September 7, 2007 at 10:00 a.m. The workshop and hearing will be video-conferenced between the Board's Henderson Office located at 2310 Corporate Circle, Suite 200, Henderson, Nevada 89074 and the Reno Office located at 9670 Gateway Drive, Reno, Nevada 89521. A temporary regulation was adopted by the Board on January 25, 2007. The Board proposes to adopt the temporary regulation as a permanent regulation.

The following information is provided pursuant to the requirements of NRS 233B.060 and 233B.0603:

- 1. The need for and purpose of the proposed regulation or amendment.**
The purpose of the proposed regulation is to amend Chapter 624 of the Nevada Administrative Code concerning the eligibility of contractors to receive a certificate of eligibility to receive preference in bidding on certain public works projects.
- 2. Either the terms or the substance of the regulations to be adopted, amended or repealed or a description of the subjects and issues involved.**
The proposed regulation clarifies the criteria for a contractor to be eligible to apply for a certificate of eligibility under NRS 624.687. A copy of the proposed regulation may be obtained by writing to the Board's offices at 9670 Gateway Drive, Reno, Nevada 89521.
- 3. The estimated economic effect of this proposed regulation on the business which it is to regulate and on the public.**
 - (a) Adverse and beneficial effects.**
The adoption of this regulation should have no adverse economic effect on members of the industry.

(b) Both immediate and long-term effects.

The immediate and long term effect of implementing the change should be minimal.

4. The estimated cost to the Agency for enforcement of the proposed regulation.

The cost to the agency should be minimal.

5. A description of and citation to any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary.

The proposed regulation does not overlap or duplicate any regulation of other state or local governmental entities.

6. If the regulation is required pursuant to federal law, a citation and description of the federal law.

Does not apply.

7. If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.

Does not apply.

8. Whether proposed regulation establishes a new fee or increases an existing fee.

The regulation does not establish a fee or increase an existing fee.

Persons wishing to comment upon the proposed action of the Board may appear at the scheduled public workshop or hearing or may address their comments, data, views or arguments, in written form to the Executive Officer of the Nevada State Contractors' Board, 2310 Corporate Circle, Suite 200, Henderson, Nevada 89074 or in Reno at 9670 Gateway Drive, Suite 100, Reno, Nevada 89521. Written submissions must be received by the Board five days prior to the scheduled workshop. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Board may proceed immediately to act upon any written submissions.

A copy of this notice and the regulations to be adopted, amended or repealed will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notices and the regulation to be adopted will be available at the State Contractors' Board, 2310 Corporate Circle, Suite 200, Henderson, Nevada 89074 and 9670 Gateway Drive, Suite 100, Reno, Nevada 89521. In all counties in which an office of the Board is not maintained, a copy of this notice and the text of the proposed regulation will also be available for public inspection and copying at the main public library during business hours. This notice and the text of the proposed regulation will be available in the State

of Nevada Register of Administrative Regulations which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://www.leg.state.nv.us>. Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the Board, if requested to do so by an interested person, either before adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

This notice has been mailed to all persons on the agency's mailing list of administrative regulations and posted at the following locations:

Washoe County Court House
Washoe County Library
Reno City Hall
Las Vegas City Hall
Sawyer State Building
Clark County Library
Offices of the State Contractors' Board in Reno and Henderson

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

CERTIFICATES OF ELIGIBILITY

NAC 624.685 Definitions. (NRS 338.1389, 338.147, 624.100) As used in NAC 624.685 to 624.6899, inclusive, unless the context otherwise requires, the words and terms defined in NAC 624.6853 to 624.6863, inclusive, have the meanings ascribed to them in those sections.

NAC 624.6853 “Affidavit for a certificate of eligibility” defined. (NRS 338.1389, 338.147, 624.100) “Affidavit for a certificate of eligibility” means an affidavit from a certified public accountant required pursuant to subsection 3 or 4 of NRS 338.1389 or subsection 3 or 4 of NRS 338.147.

NAC 624.6855 “Affidavit for renewal of a certificate of eligibility” defined. (NRS 338.1389, 338.147, 624.100) “Affidavit for renewal of a certificate of eligibility” means an affidavit from a certified public accountant required pursuant to subsection 6 of NRS 338.1389 or subsection 6 of NRS 338.147.

NAC 624.6857 “Certificate of eligibility” defined. (NRS 338.1389, 338.147, 624.100) “Certificate of eligibility” means a certificate of eligibility to receive a preference in bidding on public works issued by the Board pursuant to NRS 338.1389 or 338.147.

NAC 624.6859 “Contractor” defined. (NRS 338.1389, 338.147, 624.100) “Contractor” means:

1. A general engineering contractor;
 2. A general building contractor;
 3. A general engineering and general building contractor; or
 4. A specialty contractor who is able to act as a prime contractor,
- who is properly licensed pursuant to the provisions of chapter 624 of NRS.

NAC 624.6863 “Statement of compliance” defined. (NRS 338.1389, 338.147, 624.100) “Statement of compliance” means a statement from a contractor who applies for a certificate of eligibility which states that the contractor is properly licensed pursuant to the provisions of chapter 624 of NRS for the certificate of eligibility for which he is applying.

NAC 624.687 Required documents; qualifications; separate application for each classification. (NRS 338.1389, 338.147, 624.100)

1. A contractor who wishes to obtain a certificate of eligibility must submit to the Board:

- (a) An application on a form provided by the Board;
- (b) A notarized affidavit for a certificate of eligibility on a form provided by the Board;
- (c) A notarized statement of compliance on a form provided by the Board;
- (d) The fee set forth in NAC 624.130; and
- (e) Any other documentation required by the Board.

~~[2. For each classification of a license for which a certificate of eligibility is requested, the applicant must be a contractor who is licensed in the classification for which the certificate is requested pursuant to the provisions of chapter 624 of NRS on the date that he submits the application and who has been licensed as a contractor in the classification for which the certificate is requested for the 5 years immediately preceding the date on which he submits the application.]~~

2. (a) For each certificate of eligibility as a general contractor, the applicant must be a contractor who has been licensed as a general contractor for five (5) years immediately preceding the date on which he submits the application.

(b) For each certificate of eligibility as a specialty contractor, the applicant must be a contractor who has been licensed as a specialty contractor for five (5) years immediately preceding the date on which he submits the application.

3. If an applicant has more than one classification of a license as a contractor, he must submit a separate application for each classification of a license for which a certificate of eligibility is requested and must satisfy all applicable requirements pursuant to NRS 338.1389 or 338.147.

NAC 624.6873 Application; review of banking records. (NRS 338.1389, 338.147, 624.100)

1. An application for a certificate of eligibility must include, without limitation:

- (a) The name of the applicant;
- (b) The license number of the applicant;
- (c) The date of issuance of the license of the applicant;
- (d) The mailing and physical address of the applicant;
- (e) The telephone number of the applicant;
- (f) The name and address of the designated agent for service of process;
- (g) The name of any officer of the applicant and any identifying information;
- (h) The signature of the applicant; and
- (i) Any other information that the Board may require.

2. For each classification of a license for which a certificate of eligibility is requested, a certified public accountant shall review and examine any necessary banking records in accordance with generally accepted auditing standards, including, without limitation, bank statements, cancelled checks, electronic transfers, cash disbursement records and any other records that the Board deems appropriate, to substantiate an affidavit for a certificate of eligibility.

NAC 624.6876 Issuance or denial. (NRS 338.1389, 338.147, 624.100) The Board or its designee will issue or deny a certificate of eligibility within a reasonable time after the date on which the Board receives the application, all required documentation that supports the application and the fee set forth in NAC 624.130.

NAC 624.6879 Contents of certificate. (NRS 338.1389, 338.147, 624.100) The certificate of eligibility must include, without limitation:

1. The date of issuance;
2. The date of expiration;
3. The classification of the license; and
4. Such other information that the Board deems appropriate.

NAC 624.6883 Issuance of duplicate certificate. (NRS 338.1389, 338.147, 624.100) The Board will issue a duplicate certificate of eligibility to any contractor who has received a certificate of eligibility and who certifies that his certificate of eligibility has been lost or destroyed.

NAC 624.6886 Affidavit for renewal. (NRS 338.1389, 338.147, 624.100) An affidavit for renewal of a certificate of eligibility must be on a form provided by the Board and must be notarized.

NAC 624.6889 Issuance of certificate prohibited if license not active; revocation; reapplication. (NRS 338.1389, 338.147, 624.100) The Board will not issue a certificate of eligibility to a contractor whose license is not on active status. If the contractor whose license is not on active status has received a certificate of eligibility, the Board will revoke the certificate of eligibility. Such a contractor must reapply for a certificate of eligibility pursuant to subsection 3 or 4 of NRS 338.1389 or subsection 3 or 4 of NRS 338.147 and NAC 624.685 to 624.6899, inclusive.

NAC 624.6893 Disciplinary action. (NRS 338.1389, 338.147, 624.100)

1. If a contractor who applies to the Board for a certificate of eligibility submits false or misleading information, submits an application which is incomplete or does not comply with this chapter or chapter 338 or 624 of NRS, the Board may:

- (a) Deny the application;
- (b) If the contractor has received a certificate of eligibility, revoke the certificate of eligibility; or
- (c) Take such actions that the Board deems appropriate under the circumstances.

2. In carrying out the provisions of this section, the Board may rely on information contained in the records maintained by the Board and need not conduct any investigation, inquiry or hearing regarding the information contained in those records.

NAC 624.6896 Written objection filed with public body. (NRS 338.1389, 338.147, 624.100) If a written objection is filed with a public body pursuant to subsection 13 of NRS 338.1389 or subsection 13 of NRS 338.147, the Board will, upon request by the public body, provide to the public body a copy of the application

of the contractor against whom the complaint was made and any documentation submitted with the application.

NAC 624.6899 Notification to Board of determination by public body; revocation of certificate. (NRS 338.1389, 338.147, 624.100)

1. If a public body determines that a written objection is accompanied by the required proof or substantiating evidence pursuant to subsection 14 of NRS 338.1389 or subsection 14 of NRS 338.147, the public body shall notify the Board in writing of the determination of the public body within 30 days after the date of its determination.

2. Upon receipt of the written documentation from the public body, the Board or its designee will immediately revoke the certificate of eligibility for the contractor. No formal disciplinary hearing is required before revocation of the certificate of eligibility based upon the receipt of the documentation from the public body which received the bid or proposal on a contract for the completion of a public work.