

**ADOPTED REGULATION OF THE
STATE PUBLIC WORKS BOARD**

LCB File No. R107-11

Effective May 30, 2012

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

AUTHORITY: §1, NRS 341.070 and 341.110; §2, NRS 341.070, 341.091 and 341.110.

A REGULATION relating to contracts for public works; revising provisions relating to the administration of contracts; and providing other matters properly relating thereto.

Section 1. NAC 341.090 is hereby amended to read as follows:

341.090 1. Within 48 hours after a contractor receives a written notice of the ~~[Board's intent to award him or her a contract,]~~ *Division's notice to proceed*, the contractor shall submit to the ~~[Board,]~~ *Division*, in writing, a complete listing of all the subcontractors whom he or she will engage on the contract, the license numbers issued to each such subcontractor by the State Contractors' Board and a description of the work that each such subcontractor will perform.

2. All contracts must be approved by the Attorney General.

3. The ~~[Board]~~ *Division* will ~~[record]~~ *distribute* a copy of the fully executed agreement between the contractor and the ~~[Board]~~ *Division* or other contracting agency ~~[in the county in which the work is located and will distribute copies]~~ to the contractor, the architect or engineer, the agency which will occupy or control the building, the Secretary of State and the ~~[Board's]~~ *Division's* inspector of the construction.

Sec. 2. NAC 341.376 is hereby amended to read as follows:

341.376 1. A contractor who is awarded a contract for the construction of a project shall:

(a) Recycle or cause to be recycled not less than 50 percent by weight of the total amount of solid waste generated by the construction of the project, including, without limitation, any associated demolition.

(b) Submit to the ~~[Manager]~~ *Administrator* a waste management plan for complying with the requirements of paragraph (a). The waste management plan must be in a form prescribed by the ~~[Manager]~~ *Administrator* and include, without limitation, provisions concerning the storage, collection, recycling and disposal of all solid waste generated by the construction of the project, including, without limitation, any associated demolition.

(c) Submit to the ~~[Manager]~~ *Administrator* with each progress bill or retainage bill a waste management report documenting the contractor's adherence to the waste management plan and measuring the contractor's progress toward compliance with the requirements of paragraph (a).

2. The provisions of subsection 1 must be included in:

(a) The plans and specifications of the project submitted by a design consultant or project manager to the ~~[Manager]~~ *Administrator* for approval;

(b) The plans and specifications of a project approved by the ~~[Manager]~~ *Administrator* and made available to bidders on the contract for the project pursuant to NRS 338.1385; and

(c) The contract between the ~~[Board]~~ *Division* and the contractor for the project.

3. As used in this section:

(a) "Progress bill" has the meaning ascribed to it in NRS 338.415.

(b) "Retainage bill" has the meaning ascribed to it in NRS 338.430.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R107-11**

The State Public Works Board adopted regulations assigned LCB File No. R107-11, which pertain to chapter 341 of the Nevada Administrative Code.

INFORMATIONAL STATEMENT

1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

State Public Works Board solicited public comment through notices posted at State Public Works Board in Carson City and Las Vegas, the Blasdel Building, Nevada State Library, Archives in Carson City and at the Nevada County Public Libraries and mailings to our contact database.

<u>Date of Notice</u>	<u>Workshop/ Hearing</u>	<u>Date of Workshop</u>
11/28/11	Workshop	12/15/11
1/10/12	Hearing	2/10/12

Many oral and nine written comments were received at the workshop and hearings. A copy of the audio taped comments or the record of the proceedings may be obtained by calling State Public Works Division at (775) 684-4141 or by writing to the State Public Works Division, 515 East Musser, Room 102, Carson City, NV 89701, or by e-mailing the SPWD at hfatzer@admin.nv.gov

2. The number of persons who:

	12/15/11	2/10/12
(a) Attended each hearing:	32	15
(b) Testified at each hearing:	0	0
(c) Submitted written comments:	0	0

3. A description of how comment was solicited from businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

Comments were solicited from the affected and interested contractor, unions and municipalities, by notices posted at State Public Works Board offices in Carson City and Las Vegas, Nevada State Library, and at the main public libraries in all the counties.

A copy of the audio taped comments or the record of the proceedings may be obtained by calling State Public Works Division at (775) 684-4141 or by writing to the State Public Works Division, 515 East Musser, Room 102, Carson City, NV 89701, or by e-mailing the SPWD at hfatzer@admin.nv.gov.

- 4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

The proposed regulation is not controversial; the regulation merely clarifies that the complete list of subcontractors is due 48 after the notice to proceed is issued.

- 5. The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:**

- (a) Both adverse and beneficial effects; and**

Adverse - No adverse affects.

Beneficial – Clarifies that the Contractors list of all subcontractors is due 48 hours after the issuance of the Notice to Proceed a much more realistic timeframe.

Both immediate and long-term effects.

Clarifies that the Contractors list of all subcontractors is due 48 hours after the issuance of the Notice to Proceed a much more realistic timeframe.

- 6. The estimated cost to the agency for enforcement of the adopted regulation:**

SPWB does not estimate any cost to enforce the amendments

- 7. A description of any regulations of other State or governmental agencies which the regulation overlaps or duplicates and a statement explaining why the duplication or overlap is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

None

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

Federal Law does not require the proposed regulation.

- 9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

Does not apply

10. Is the proposed regulation likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business? What methods did the agency use in determining the impact of the regulation on a small business?

Small business impact questionnaires were distributed to everyone in the qualification data base plus contractor's associations, other State Agencies and the proper postings.