

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

LCB File No. R058-09

Effective June 30, 2010

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

AUTHORITY: §§1-3, 6 and 7, NRS 624.100 and 624.220; §4, NRS 624.100, 624.240 and 624.250; §5, NRS 624.100 and 624.283.

A REGULATION relating to contractors; revising provisions governing the determination of the monetary limits for licenses issued by the State Contractors' Board; and providing other matters properly relating thereto.

Section 1. Chapter 624 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec 2. *If a licensee or an applicant for a contractor's license is required to submit a financial statement to the Board pursuant to NRS 624.262, 624.263 or 624.264, the financial statement must be:*

1. If the requested monetary limit of the license is \$10,000 or less:

(a) Prepared by an independent certified public accountant;

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

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

2. If the requested monetary limit of the license is more than \$10,000 but less than \$50,000:

(a) Prepared and compiled by an independent certified public accountant within 6 months before the filing of the application; or

(b) Prepared and reviewed or audited by an independent certified public accountant within 1 year before the filing of the application.

3. If the requested monetary limit of the license is \$50,000 or more but less than \$250,000:

(a) Prepared and compiled by an independent certified public accountant with full disclosures within 6 months before the filing of the application; or

(b) Prepared and reviewed or audited by an independent certified public accountant within 1 year before the filing of the application.

4. If the requested monetary limit of the license is \$250,000 or more, prepared and reviewed or audited by an independent certified public accountant within 1 year before the filing of the application.

Sec. 3. 1. *A licensee may submit to the Board a written application for an increase in the monetary limit of his or her license. The application must be made on a form prescribed by the Board.*

2. A licensee must submit with the application:

(a) All applicable fees;

(b) The financial statement required by section 2 of this regulation; and

(c) Any other information required by the Board.

Sec. 4. 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 *or her* qualified employee on the form provided by the Board;

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

(d) ~~If the proposed monetary limit of the license is:~~

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

~~——(I) 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 within 1 year before the filing of the application;] *The financial statement required by section 2 of this regulation;* 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. 5. NAC 624.630 is hereby amended to read as follows:

624.630 1. The Board will mail to each licensee, at his *or her* address of record, an application for the renewal of his *or her* license. Except as otherwise provided in subsection 2, the licensee must return the completed application to the Board not later than the ~~[30th]~~ *last* day of the month in which the license expires. If the Board prescribes a shorter or longer period of validity for the licensee pursuant to NRS 624.283, the Board will notify the licensee of that fact.

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

(a) *For a licensee whose license is issued before June 30, 2010:*

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

~~[(1)]~~ *(I)* A current financial statement prepared by an independent certified public accountant;

~~[(2)]~~ *(II)* 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)]~~ *(III)* 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)]~~ (2) 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.

(b) For a licensee whose license is issued on or after June 30, 2010, the financial statement required by section 2 of this regulation.

3. If a licensee fails:

(a) To renew his *or her* 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 biennium, the Board will deny, revoke or refuse to renew the license. In either situation, ~~[(he)]~~ *the licensee* 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. 6. NAC 624.670 is hereby amended to read as follows:

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

project. Not more than five such applications may be submitted by a licensee during any 12-month period.

2. A licensee must submit with the application:

(a) ~~If the licensee is requesting an increase in the monetary limit on his license for a single project to an amount that is less than \$1,000,000:~~

~~—— (1) A current financial statement that is:~~

~~—— (I) 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; and~~

~~—— (2) Any supporting information the Board requests.~~

~~(b) If the licensee is requesting an increase in the monetary limit on his license for a single project to an amount that is \$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)] *The financial statement required by section 2 of this regulation; and*~~

(b) 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 *or her* bid for the project before the Board acts upon his *or her* application if ~~he~~ *the licensee* submits with the bid a statement that the bid is contingent upon the approval of his *or her* application by the Board. The Board may deny the application if it determines that the licensee has submitted ~~his~~ *the* 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~~ *the* application, the approval shall be deemed to become effective at the time the bid was submitted.

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

Sec. 7. 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) ~~If the monetary limit of the license:~~

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

~~(I) 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) 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;]~~ *The financial statement required by section 2 of this regulation;* and

(b) An agreement for indemnification made on a form supplied by the Board which has been signed by each indemnitor and his *or her* 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]~~ *The* financial statement ~~[of the indemnitor prepared by a certified public accountant or a public accountant;]~~ *required by section 2 of this regulation;* 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:~~

~~————(1) A personal financial statement from each indemnitor that is:~~

~~————(I) 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; 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)], *the request must be submitted with:*~~

(a) The financial statement required by section 2 of this regulation; and

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

5. Except as otherwise provided in this subsection, if an indemnitor wishes to withdraw his **or her** agreement for indemnification, ~~he~~ **the indemnitor** must deliver to the Board a written notice of his **or her** 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.

**INFORMATIONAL STATEMENT OF ADOPTED REGULATION AS
REQUIRED BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066
LCB FILE NO. R058-09**

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) 624.

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.

A workshop notice to amend NAC 624 was posted February 22, 2010 at the following locations: Washoe County Court House; Washoe County Library; Reno City Hall; Las Vegas City Hall; Sawyer State Building; Clark County Library and Offices of the Contractors' Board in Reno and Las Vegas. In addition, the notice was posted on the agency's web site and mailed to approximately 135 interested individuals. The workshop was held March 31, 2010 and the hearing was noticed March 31, 2010 and held April 30, 2010. Members of the public attended and provided comments at the workshop and hearing. Any interested person may write to the Board at 9670 Gateway Drive, Suite 100, Reno, Nevada to obtain any documents relating to the workshop or hearing.

2. The number of persons who:

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|---|-----------------------------|
| (a) Attended each workshop & hearing: | 21 (workshop); 10 (hearing) |
| (b) Testified at each workshop: | 10 |
| (c) Testified at hearing: | 2 |
| (c) Submitted to the agency written comments: | 5 |

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

Various industry groups were contacted and requested to solicit comments from their membership. In addition, comments were solicited from affected businesses by the notice posting, web site and direct mail.

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.

5. The estimated economic effect of the adopted 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
- (b) Both immediate and long-term effects

(a) The proposed revision should have a beneficial economic impact for the public by ensuring that licensees are financially fit to operate a contracting business. The proposed revision may result in additional expense for certain contractors depending upon the monetary limit of the license.

(b) The estimated immediate and long term effects are public protection by ensuring that contractors licensed by the board are financially able to operate a viable contracting business. Industry members may experience additional expenses to obtain financial statements that meet the requirements of the proposed regulation.

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

The cost to the agency for enforcement of the proposed regulation should be minimal.

7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

There are no other state or government agency regulations which the proposed amendments duplicate.