

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

LCB File No. R097-09

Effective October 15, 2010

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

AUTHORITY: §§1-3, NRS 338.1375, 338.13844, 338.13847 and 341.110.

A REGULATION relating to public works; providing requirements for applications for a bidder's preference for local businesses owned by veterans with service-connected disabilities with respect to certain public works contracts; providing that the State Public Works Board will maintain on its website information relating to such qualified businesses; and providing other matters properly relating thereto.

Section 1. Chapter 338 of NAC is hereby amended by adding thereto a new section to read as follows:

- 1. To qualify to receive the preference set forth in NRS 338.13844, a business must:*
 - (a) Submit an application to the Manager on a form prescribed and provided by the Board;*
 - and*
 - (b) Certify in writing on the application and include with the application documentation evidencing that the business is:*
 - (1) A local business; and*
 - (2) A business owned by a veteran with a service-connected disability.*
- 2. The Board will:*
 - (a) Compile and maintain a list of the businesses that the Board has determined are qualified to receive the preference set forth in NRS 338.13844; and*
 - (b) Post the list on the Internet website maintained by the Board.*

3. As used in this section:

(a) *“Business owned by a veteran with a service-connected disability” has the meaning ascribed to it in NRS 338.13841.*

(b) *“Local business” has the meaning ascribed to it in NRS 333.3363.*

(c) *“Veteran with a service-related disability” has the meaning ascribed to it in NRS 338.13843.*

Sec. 2. NAC 338.130 is hereby amended to read as follows:

338.130 As used in NAC 338.130 to 338.410, inclusive, *and section 1 of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 338.132 to 338.144, inclusive, have the meanings ascribed to them in those sections.

Sec. 3. NAC 338.250 is hereby amended to read as follows:

338.250 1. To qualify to bid on one or more contracts for public works, a prime contractor must:

(a) Submit an application to the Manager on a form prescribed and provided by the Board.

(b) Be qualified before bids are required to be submitted for a public work on which the prime contractor wishes to bid. The Board will not delay the opening of bids on a public work pending the determination or appeal of the qualification of a prime contractor who wishes to bid on the public work.

2. The Board will specify:

(a) In the application for a specific public work, any special requirements for the specific public work that the Board prescribes.

(b) In the application for qualification for a 2-year period, the cost categories

(1) Of less than \$100,000;

- (2) Of \$100,000 to \$1,000,000;
- (3) Of \$1,000,001 to \$5,000,000; and
- (4) Of more than \$5,000,000,

↳ for which a prime contractor may be qualified, which are based on the estimated cost of an individual public work. If a prime contractor is qualified to bid on public works in one of the cost categories specified in this subsection, the prime contractor is eligible to bid on public works in any lower cost category.

3. If the application is for qualification for a 2-year period, the prime contractor must indicate on the application:

(a) Whether the prime contractor is interested in receiving offers to bid on public works for which the estimated cost is more than \$25,000 but less than \$100,000; and

(b) The cost category for which the prime contractor seeks to qualify to submit bids.

4. *If the prime contractor is qualified to receive the preference set forth in NRS 338.13844, the prime contractor must indicate on the application his or her qualification for the preference.*

5. An application must contain the original signature of the prime contractor who is submitting the application. The Board will not accept a faxed or photocopied application.

~~5.1~~ 6. The submission of a materially incomplete or falsified application or the failure of a prime contractor to disclose information in the application may be grounds for a delay in the qualification of the prime contractor or the denial or revocation of the qualification of a bidder.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R097-09**

The State Public Works Board adopted regulations assigned LCB File No. R097-09, which pertain to chapter 338 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.

Date of Notice	Workshop/ Hearing	Date of Workshop
1/8/10	Workshop	1/26/10
6/22/10	Hearing	7/29/10

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 Board at (775) 684-4141 or by writing to the State Public Works Board, 515 East Musser, Room 102, Carson City, NV 89701, or by e-mailing the SPWB at dnenzel@spwb.state.nv.us.

2. The number of persons who:

	1/26/10	7/29/10
(a) Attended each hearing:	8	28
(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 Board at (775) 684-4141 or by writing to the State Public Works Board, 515 East Musser, Room 102, Carson City, NV 89701, or by e-mailing the SPWB at dnenzel@spwb.state.nv.us.

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.**

There was no adverse comments on the proposed regulation

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 – New opportunities for Service Disabled Veterans to qualify for state work.

- (b) **Both immediate and long-term effects.**

New opportunities for Service Disabled Veterans to qualify for state work.

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.**

Federal Law does not require the proposed regulation.

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?**

No, since there is no application fee. The cost of processing applications is within the administrative costs for the qualification of bidders program.

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