

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

LCB File No. R103-11

Effective May 30, 2012

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

AUTHORITY: §§1-3, NRS 341.070.

A REGULATION relating to public works; removing construction managers at risk from the process for selecting professional consultants for certain projects; and providing other matters properly relating thereto.

Section 1. NAC 341.136 is hereby amended to read as follows:

341.136 1. The Manager shall appoint a committee to:

(a) Review applications received by the Board for retention by the Board in a position on a project of the Board as an architect, engineer, ~~construction manager at risk,~~ construction manager or other professional consultant who will assist in a project with an estimated cost for those services of over \$250,000; and

(b) Create a list of not more than five applicants for each position of architect, engineer, ~~construction manager at risk,~~ construction manager or other professional consultant who will assist in a project with an estimated cost for those services of over \$250,000 that the Board wishes to retain.

2. The committee appointed pursuant to subsection 1 must consist of two members who are employed by the Board and one member who is employed by the agency for which the project is to be designed or constructed.

3. After a committee appointed pursuant to subsection 1 creates a list of applicants, the Manager shall appoint another committee to interview the applicants included on the list and to recommend to the Manager an applicant for selection. The committee appointed pursuant to this subsection must:

(a) Consist of three members who are employed by the Board and two members who are employed by the agency for which the project is to be designed or constructed.

(b) Not consist of any members of the committee appointed pursuant to subsection 1.

4. The committees appointed pursuant to subsections 1 and 3 shall consider the Board's experience with the architect, engineer, ~~construction manager at risk,~~ construction manager or other professional consultant on previous projects of the Board when creating a list of applicants and making a recommendation to the Manager.

5. After reviewing the findings of the committees appointed pursuant to subsections 1 and 3, the Manager shall make a final recommendation to the Board for the selection of the applicant.

Sec. 2. NAC 341.141 is hereby amended to read as follows:

341.141 In determining whether to select an architect, engineer, ~~construction manager at risk,~~ construction manager or other professional consultant for a project without complying with the provisions of NAC 341.136, the Board and the Manager may consider whether the person possesses:

1. Experience with the same or a similar project;
2. Specialized technical knowledge or experience relevant to the project;
3. The copyright to a certain design or prototype relevant to the project;
4. Such experience or expertise as is necessary to complete the project in a more timely manner than other professionals;

5. A history of work experience and performance on other projects of the Board that is acceptable to the Board and the Manager; or

6. Any other factor that the Board determines is relevant to the health, safety or welfare of the public.

Sec. 3. NAC 341.151 is hereby amended to read as follows:

341.151 If the Chair determines that an emergency which results from a natural or man-made disaster and which threatens the health, safety or welfare of the public exists, the Manager may, without the prior approval of the Board, award a contract to meet the emergency to:

1. An architect, engineer, ~~construction manager at risk,~~ construction manager or other professional consultant without complying with the provisions of NAC 341.136.

2. A contractor who is licensed pursuant to chapter 624 of NRS without complying with the provisions of this chapter, chapter 338 of NAC and chapters 338 and 341 of NRS governing the selection of contractors.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R103-11**

The State Public Works Board adopted regulations assigned LCB File No. R103-11, 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; it merely deletes an obsolete 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 – Update of regulations to comply with new statutes by deleting obsolete regulation.

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

Update of regulations to comply with new statutes by deleting obsolete regulation.

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.