

**IDAPA 07  
TITLE 05  
CHAPTER 01**

**07.05.01 - RULES OF THE PUBLIC WORKS CONTRACTORS LICENSE BOARD**

**000. LEGAL AUTHORITY.**

This chapter is adopted pursuant to Section 54-1907, Idaho Code, as amended. (3-20-04)

**001. TITLE.**

These rules shall be cited as IDAPA 07.05.01, "Rules of the Public Works Contractors License Board." (3-20-04)

**002. INTENT.**

The Board believes the legislature in providing the License Act and subsequent amendments thereto, intended to afford some protection to officials of units of government at all levels in their dealing with persons, firms or corporations engaging in the construction, reconstruction or repair of Public Works. The licensing of a person, firm or corporation as a "Public Works Contractor" is intended to provide the investing public body some assurance of the contractor's reputation, ability, qualifications, experience and financial responsibility. (3-20-04)

**003. WRITTEN INTERPRETATIONS.**

This agency has no written interpretations of this chapter. (3-20-04)

**004. ADMINISTRATIVE APPEALS.**

The administrative procedures governing this chapter are outlined herein. (3-20-04)

**005. -- 009. (RESERVED)**

**010. DEFINITIONS.**

As used in these rules. (7-1-93)

**01. Administrator.** Refers to the administrator of the Division of Building Safety. (3-20-04)

**02. Applicant.** Shall mean any person who has filed an application with the administrator. (3-20-04)

**03. Board.** Refers to the Public Works Contractors License Board which is created within the Idaho Division of Building Safety as set forth in Title 54, Chapter 19, Idaho Code. (3-20-04)

**04. Compiled.** Refers to a type of financial statement in which the information presented is based solely upon representations by an organization's management. (3-20-04)

**05. Estimated Cost.** For the purposes of the application of Section 54-1903(i), Idaho Code, the term "estimated cost" shall refer to the total aggregate amount of the value of all the separate or individual jobs, parts, components, or undertakings involved in the construction of a single project when combined and considered as a whole, regardless of the types of trades, sub-contracts, work, or other individual aspects involved, and without regard to the number of trades or crafts that are involved. (3-29-10)

**06. Financial Statement.** A balance sheet and income statement prepared in accordance with generally accepted accounting principles. (3-20-04)

**07. Incidental Work.** Shall mean work, the nature of which does not require any additional trade licenses and which may be carried out in conjunction with an activity for which the licensee is licensed, but is not intended to produce an amount of income over ten percent (10%) of the total bid amount. (3-20-04)

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**08. Independent Audit Report.** A report prepared by an independent certified public accountant presenting such auditor's opinion on the fairness of the organization's financial statements and prepared in accordance with generally accepted auditing standards. (3-20-04)

**09. Licensee.** Includes any individual proprietor, partnership, limited liability partnership, limited liability company, corporation, joint venture, or other business organization holding a current, unrevoked public works contractor license. (3-20-04)

**10. Petitioner.** Shall mean: (7-1-93)

**a.** Any licensee who has filed with the Board a written request for the change or addition to the types of construction for which he is licensed; (7-1-93)

**b.** Any applicant or licensee requesting a rehearing in any proceeding or appealing from the final decision or order of the administrator or the Board; (3-20-04)

**c.** Any interested person requesting the promulgation, amendment or repeal of a rule; or (7-1-93)

**d.** Any interested person requesting a declaratory ruling on the applicability of the License Act or of any rule or order of the Board. (7-1-93)

**11. Reviewed.** Refers to a financial statement that is accompanied by the opinion of a certified public accountant stating that, based upon representations by the organization's management, the reviewer has a reasonable basis for expressing limited assurance that there are no material modifications that should be made to the financial statements in order for the statements to be in accordance with generally accepted accounting principles. (3-20-04)

**011. -- 099. (RESERVED)**

**100. BOARD OFFICE -- LOCATION, HOURS, MAILING ADDRESS, TELEPHONE NUMBER, FACSIMILE NUMBER.**

The address of the Board office, and its mailing address, is 1090 E. Watertower Street, Meridian, Idaho 83642. Office hours are from 8 a.m. until 5 p.m., daily. The office is closed on weekends and holidays. The Board telephone number is (208) 334-4057, and the facsimile number is (208) 855-9666. (3-20-04)

**101. MEETINGS.**

Meetings of the Board are subject to the Idaho Open Meeting Law, Title 67, Chapter 23, Idaho Code. (3-20-04)

**102. COMMUNICATION.**

All written communications, forms and documents concerning any matter covered by the Act or these rules shall be addressed to the administrator and not to members of the Board or staff. All communications are deemed officially received only when delivered to the Board office. Documents may be submitted ~~by facsimile but not by other~~ in electronic ~~format acceptable to the administrator.~~ or computerized means. (3-20-04)

**103. PETITIONS.**

An applicant or licensee seeking an order or decision of the administrator or the Board on any application or other matter, or in any disciplinary proceeding, must file a written petition. (3-20-04)

**104. FORM AND CONTENT OF PETITION.**

**01. Form.** The petition, including the heading, the name of the petitioner or person making the request, and the purpose of the petition shall be in substantially the following form: (3-20-04)

**a.** Paragraph 1 shall state the petitioner's name, address, and license number. (3-20-04)

**b.** Paragraph 2 shall state the petitioner's request in brief, precise and specific terms, including references to any pertinent statutes or rules, and shall provide a detailed explanation of the purpose for the request.

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(3-20-04)

c. Paragraph 3 shall contain the statements of fact to support the petitioner's request. Briefs and supporting documents may accompany petitions. (3-20-04)

**02. Dated and Signed.** The petition shall be dated and signed by the petitioner. (3-19-99)

**03. Filed.** The petition shall be filed as set forth in Section 102 of these rules. (3-20-04)

**105. LICENSE RENEWAL -- FILING DEADLINES; PETITIONS FOR EXTENSION OF TIME TO FILE; LAPSED LICENSES.**

**01. Filing Deadline.** Applications for renewal of a license shall be filed by the last working day of the month in which the license expires. (3-20-04)

**02. Extension of Time.** A petition for an extension of time in which to renew shall be filed by the last working day of the month in which the license expires. The petition shall be accompanied by a fee in the amount of the prorated portion of the annual license fee for the class of license applied for, with a minimum fee of at least fifty dollars (\$50). The fee for this service is required in addition to the licensing and renewal fees provided for in Section 201 of these rules and shall be paid to the Division at the time of application for licensure. Petitions not accompanied by the required fees or filed after the license has expired will not be honored. (3-21-12)

i. The petition shall specify the number of days for which the extension is being requested. (3-20-04)

ii. Under no circumstances shall an extension exceed sixty (60) days. Petitions for more than sixty (60) days will not be honored. (3-20-04)

**03. Approval of Petition.** Approval of a petition for an extension of time shall authorize operation as a contractor until ~~the administrator completes action on the renewal application~~ ~~actual issuance of such renewal license for the ensuing licensing period~~, provided the application for renewal is filed with the Board within the extended time specified. (3-19-99)

**04. Failure to File.** If the licensee fails to file a timely application for renewal or petition for extension, the license shall lapse and expire on the last day of the license period. Licenses not renewed in a timely manner shall be considered delinquent for a period of one (1) year from the last day of the license period and may be renewed at any time during that year. Licenses delinquent for more than a period of one (1) year must be reinstated and the applicant for reinstatement must apply as if for a new license. (3-20-04)

**05. Expedited Licensure.** Upon an applicant's request and payment of a fee of one hundred dollars (\$100), the Division shall expedite its review and determination of a license application. The fee for this service is required in addition to the licensing and renewal fees provided for in Section 201 of these rules and shall be paid to the Division at the time of application for licensure. (3-21-12)

**106. SPECIAL PROVISIONS COVERED IN A PETITION TO CHANGE OR ADD TYPES OF CONSTRUCTION.**

A petition to change or add types of construction shall be supported by evidence, satisfactory to the administrator, of work history, job performance, experience, equipment, financial responsibility, and a minimum of three (3) letters of reference. The evidence of work history, job performance, experience, and financial responsibility shall comply with the requirements of Subsections 110.01 and 110.02 of these rules. All of the evidence shall specifically pertain to work that is similar in scope and value to that for which the change or addition is being requested. (3-20-04)

**107. RECORDS.**

Board records are subject to the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. (3-20-04)

**108. REVIEW.**

Any final decision of the administrator or the Board may be reviewed in accordance with the provisions of the Idaho

**109. NOTICE.**

In any contested case or other matter of Board business, written notification, mailed to the licensee or the applicant at the most current address on record with the Board, shall constitute sufficient notification for all purposes within Title 54, Chapter 19, Idaho Code, and these rules. (3-20-04)

**110. APPLICATION FOR LICENSURE -- DOCUMENTATION; APPRAISALS; REFERENCES; BONDING; AND FINANCIAL STATEMENTS.**

**01. Application Documentation.** To obtain a license, the applicant shall submit to the administrator, on such forms as the administrator shall prescribe, accompanied by the required fee for the class of license applied for, a ~~written, notarized~~ **completed** application for such license. All of the information submitted by the applicant shall specifically pertain to work that is similar in scope and value to that for which licensure is being requested or which is being requested in a petition to change or add types of construction. The information contained in such application forms shall include: (3-20-04)

**a.** A complete statement of the general nature of applicant's contracting business, including a concise description of the applicant's experience and qualifications as a contractor and a list of clients for whom work has been performed; (3-20-04)

**b.** A description of the value and character of contract work completed and for whom performed during the three (3) year period prior to filing the application; (3-20-04)

**c.** A general description of applicant's machinery and equipment; and (3-30-07)

**d.** An annual financial statement, as herein defined, that covers a period of time ending no more than twelve (12) months prior to the date of submission of the application, indicating compliance with such financial requirements as the Board may prescribe by rule. The applicant's financial statement may be supplemented with: (4-4-13)

**i.** Bonding. As authorized by Section 54-1910(e), Idaho Code, a letter from applicant's bonding company, not an insurance agent, stating the amount of the applicant's bonding capability per project and in the aggregate, including supporting documentation; (3-30-07)

**ii.** Guaranty. Documentation, satisfactory to the administrator, of the existence of a written guaranty agreement between the applicant and a third-party in which the third-party guarantor agrees to assume financial responsibility for payment of any obligations of the applicant for any particular project as may be determined by a court of competent jurisdiction. The guaranty agreement, along with financial statements meeting the requirements of Paragraph 110.01.e. of this rule, shall be submitted with the license application. (3-30-07)

**e.** For Class A, AA, AAA, and Unlimited license applications, financial statements shall be accompanied by an independent auditor's report or be reviewed. For Class B and CC license applications, financial statements must be accompanied by an independent audit report or be reviewed or compiled by a certified public accountant. For Class C and Class D license applications, financial statements must be accompanied by an independent audit report or be reviewed, compiled, or on the form provided by the administrator, and include such additional information as may be required by the administrator to determine the applicant's fitness for a license. (3-27-13)

**f.** The name, social security number, and business address of an individual applicant or, if the applicant is a partnership, its tax identification number, business address, and the names and addresses of all general partners; and if the applicant is a corporation, association, limited liability company, limited liability partnership, or other organization, its tax identification number, business address, and the names and addresses of the president, vice president, secretary, treasurer, and chief construction managing officers, or responsible managing employee. (3-20-04)

**g.** Applicants requesting a licensing class higher than that for which the applicant is currently licensed shall provide documentation, satisfactory to the administrator, of having performed projects, similar in scope and character to those for which license is requested. The monetary value of those jobs must fall within a range not less than ~~at~~ thirty percent (30%) below that for which the applicant is currently licensed. (4-11-06)

**02. Application for Change in Licensing Class.** Requests for a licensing class higher than that for which the applicant is currently licensed shall be accompanied by the information in Subsection 110.01 of these rules, and the applicable fee. Licenses granted under Subsection 110.02 of these rules shall be valid for a period of twelve (12) months from the date of issuance. (4-11-06)

**03. Extension of Time to File Financial Statement.** The administrator may grant an extension of time to file the annual financial statement if the licensee provides an interim compiled balance sheet and income statement for the applicant's fiscal year-to-date, duly certified as true by the applicant, and if a partnership, limited liability company, or limited liability partnership by a member thereof, and if a corporation, by its executive or financial officer. Such renewal application shall be filed prior to the first day of such renewal licensing period. In the event an extension is granted, the renewal license shall be valid for a period of twelve (12) months from the date of the issuance of the renewal license. (3-20-04)

**04. Appraisals.** The administrator may require submission of an independent appraisal of any real or chattel property reported by an applicant or licensee. Such appraisals shall be conducted by a disinterested person or firm established and qualified to perform such services. (3-20-04)

**05. References.** The administrator may require an applicant for an original or renewal license to furnish such personal, business, character, financial, or other written references as deemed necessary and advisable in determining the applicant's qualifications. (3-20-04)

#### **111. FINANCIAL REQUIREMENTS.**

The financial requirements for obtaining and maintaining a license under this Act shall be as follows: (4-11-06)

**01. Heavy, Highway, Building, and Specialty Construction Class Unlimited License.** An applicant requesting a Class Unlimited license in Heavy, Highway, Specialty or Building Construction shall have a minimum net worth of one million dollars (\$1,000,000) with six hundred thousand dollars (\$600,000) in working capital. (5-8-09)

**02. Heavy, Highway, Building, and Specialty Construction Class AAA License.** An applicant requesting a Class AAA license in Heavy, Highway, Specialty or Building Construction shall have a minimum net worth of six hundred thousand dollars (\$600,000) with two hundred thousand dollars (\$200,000) in working capital. (3-19-99)

**03. Heavy, Highway, Building, and Specialty Construction Class AA License.** An applicant requesting a Class AA license in Heavy, Highway, Specialty or Building Construction shall have a minimum net worth of four hundred fifty thousand dollars (\$450,000) with one hundred fifty thousand dollars (\$150,000) in working capital. (3-19-99)

**04. Heavy, Highway, Building, and Specialty Construction Class A License.** An applicant requesting a Class A license in Heavy, Highway, Specialty or Building Construction shall have a minimum net worth of three hundred thousand dollars (\$300,000) with one hundred thousand dollars (\$100,000) in working capital. (3-19-99)

**05. Heavy, Highway, Building, and Specialty Construction Class B License.** An applicant requesting a Class B license in Heavy, Highway, Specialty or Building Construction shall have a minimum net worth of one hundred fifty thousand dollars (\$150,000) with fifty thousand dollars (\$50,000) in working capital. (3-19-99)

**06. Heavy, Highway, Building, and Specialty Construction Class CC License.** An applicant requesting a Class CC license in Heavy, Highway, Specialty or Building Construction shall have a minimum net worth of seventy-five thousand dollars (\$75,000) with twenty-five thousand dollars (\$25,000) in working capital. (3-27-13)

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