

2017



**Public Works Contractor
Licensing
&
Construction Management
Licensing**

**Idaho Statutes
and
Administrative Rules**

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TITLE 54. PROFESSIONS, VOCATIONS, AND BUSINESSES

CHAPTER 19. PUBLIC WORKS CONTRACTORS

§ 54-1901. Legislative intent -- Definitions

(1) The legislature finds that it is in the best interests of the people of the state of Idaho to establish a process for licensure of public works contractors to be administered through the public works contractors license board. To assure that experienced and qualified contractors provide services to public entities in Idaho, the board is charged with licensing as provided in this chapter. Effective licensing procedures should assure that contractors of integrity provide work for which they have specific experience and expertise and that public facilities are constructed and rebuilt by efficient and cost-effective means. Licensing should also protect the public health and safety through judicious exercise of investigative, disciplinary and enforcement activities.

(2) For the interpretation of this chapter, unless the context indicates a different meaning:

(a) "Person" includes any individual, firm, copartnership, corporation, limited liability company, limited liability partnership, association or other organization, or any combination thereof acting as a unit.

(b) "Public works contractor," which term is synonymous with the term "builder," "sub-contractor" and "specialty contractor," and in this chapter referred to as "contractor" or "licensee," includes any person who, in any capacity, undertakes, or offers to undertake, or purports to have the capacity to undertake any construction, repair or reconstruction of any public work, or submits a proposal to, or enters into a contract with, the state of Idaho, or any county, city, school district, sewer district, fire district, or any other taxing subdivision or district of any public or quasi-public corporation of the state, or with any agency, or with any other public board, body, commission, department or agency, or officer or representative thereof, authorized to let or award contracts for the construction, repair or reconstruction of any public work.

(c) "Public works construction" includes any or all of the following branches:

(i) Heavy construction, which is defined as constructing substantially in its entirety any fixed works and structures (not including "building construction"), without limitation, for any or all of the following divisions of subjects: irrigation, drainage, sanitation, sewage, water power, water supply, reservoirs, flood control, reclamation, inland waterways, railroads, grade separations, track elevation, elevated highways, hydroelectric developments, aqueducts, transmission lines, duct lines, pipelines, locks, dams, dikes, levees, revetments, channels, channel cutoffs, intakes, drainage, excavation and disposal of earth and rocks, foundations, piers, abutments, retaining walls, viaducts, shafts, tunnels, airports, air bases and airways, and other facilities incidental to the same;

(ii) Highway construction, which is defined as all work included in highway construction contracts, including, without limitation, highways, roads, streets, bridges, tunnels, sewer and street grading, street paving, curb setting, surfacing and other facilities incidental to any of the same;

(iii) Building construction, which is defined as all work in connection with any structure now built, being built, or hereafter built, for the support, shelter and enclosure of persons, chattels, personal and movable property of any kind, requiring in its construction the use of more than two (2) unrelated building trades or crafts.

(iv) Specialty construction, which is defined as any work in connection with any public works construction, requiring special skill and the use of specially skilled trades or crafts.

(d) "Board" means the board created by this chapter under the name of "public works contractors license board."

(e) "Administrator" means the administrator of the division of building safety.

(f) "Year" means the fiscal year ending June 30, each year.

(g) "Federal aid funds" means a direct grant in aid, matching funds, or loan from an agency of the federal government and designated for a specific public works project. Revenue sharing funds, federal impact funds, timber stumpage fees, and similar indirect allowances and subsidies not designated for a specific public works project shall not be regarded as "federal aid funds" within the meaning of this section.

(h) "Government obligation" means a public debt obligation of the United States government or the state of Idaho and an obligation whose principal and interest is unconditionally guaranteed by the United States government or the state of Idaho.

(i) "Public entity" means the state of Idaho, or any county, city, school district, sewer district, fire district, or any other taxing subdivision or district of any public or quasi-public corporation of the state, or any agency thereof, or with any other public board, body, commission, department or agency, or officer or representative thereof.

(j) "Bid" or "bidder" means any proposal submitted by a public works contractor to a public entity in competitive bidding for the construction, alteration, repair or improvement of any public works construction.

§ 54-1902. Unlawful to engage in public works contracting without license -- Investigations

(1) It shall be unlawful for any person to engage in the business or act in the capacity of a public works contractor within this state without first obtaining and having a license issued pursuant to the provisions of this chapter by the administrator of the division of building safety, unless such person is particularly exempted as provided in this chapter.

(2) It shall be unlawful for any public works contractor to subcontract in excess of eighty percent (80%) of the work under any contract to be performed by him as such public works contractor according to the contract prices therein set forth, unless otherwise provided in the specifications of such contracts.

(3) Except as provided in subsection (4) of this section, it shall be unlawful for any public works contractor to:

(a) Accept a bid from any person who at that time does not possess the appropriate license for the project involved; or

(b) Accept bids to sublet any part of any contract for specialty construction from a specialty contractor who at that time does not possess the appropriate license in accordance with this chapter.

(4) No contractor shall be required to have a license under this chapter in order to submit a bid or proposal for contracts for public works financed in whole or in part by federal aid funds, provided that, at or prior to the award and execution of any such contract by the state of Idaho or any other contracting authority mentioned in this chapter, the successful bidder has secured a license as provided in this chapter.

(5) The administrator may, upon his own motion or at the direction of the board, and shall, upon the verified written complaint of any person, investigate allegations of unlicensed practice of public works contracting.

§ 54-1903. Exemptions

This chapter shall not apply to:

(1) An authorized representative of the United States government, the state of Idaho, or any incorporated town, city, county, irrigation district, reclamation district or other municipal or political corporation or subdivision of this state.

(2) Officers of a court when they are acting within the scope of their office.

(3) Public utilities operating under the jurisdiction of the public utilities commission of the state of Idaho on construction, maintenance and development work incidental to their own business.

(4) The sale or installation of any finished products, materials or articles of merchandise, which are not actually fabricated into and do not become a permanent fixed part of the structure.

(5) Any construction, alteration, improvement or repair of personal property.

(6) Any construction, alteration, improvement or repair carried on within the limits and boundaries of any site or reservation, the title of which rests in the federal government.

(7) Any construction or operation incidental to the construction and repair of irrigation and drainage ditches of regularly constituted irrigation districts, drainage districts or reclamation districts, except when performed by a person required to be licensed under this chapter.

(8) Duly licensed architects, licensed engineers, and land surveyors when acting solely in their professional capacity.

(9) Any construction, alteration, improvement or repair involving any single project involving any number of trades or crafts with an estimated cost of less than fifty thousand dollars (\$50,000).

(10) Any construction, operation, alteration or maintenance of a solid waste disposal site including those operated by, for, or at the direction of a city or a county.

(11) Any construction, operation or repair carried on in response to an emergency that has been officially declared by the governor pursuant to the provisions of [chapter 10, title 46](#), Idaho

Code, or an emergency that has been declared by a governing body (city or county) in anticipation of a governor's declaration, for a period of time not to exceed seven (7) calendar days.

§ 54-1904. Classes of licenses -- Rights granted under licenses -- Fees

(1) There shall be eight (8) classes of licenses issued under the provisions of this chapter which are hereby designated as Classes Unlimited, AAA, AA, A, B, CC, C and D, the maximum fee for which shall be as hereinafter specified. Each applicant for a license shall specify the class of license applied for in his application.

(2) For the purpose of licensing public works contractors under this chapter the board may adopt rules necessary to determine the classification according to their responsibility, and the type and scope of the operations of a licensed contractor to those in which he is classified and qualified to engage as in this chapter provided.

(3) The license classes shall be as follows:

(a) Class "Unlimited" license. Any contractor whose qualifications, ability and responsibility to execute contracts for public works involving an estimated cost of more than five million dollars (\$5,000,000) may, upon application and payment of a license fee not to exceed six hundred dollars (\$600), be granted a Class "Unlimited" license and be so classified by the board in accordance with the provisions of this chapter. The holder of a Class "Unlimited" license shall be entitled to engage in the public works contracting business in this state as provided in said license. The renewal fee for a Class "Unlimited" license shall not exceed six hundred dollars (\$600). 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.

(b) Class "AAA" license. Any contractor whose qualifications, ability and responsibility to execute contracts for public works involving an estimated cost of not more than five million dollars (\$5,000,000) may, upon his application and the payment of a license fee not to exceed five hundred dollars (\$500), be granted a Class "AAA" license and be so classified by the board in accordance with the provisions of this chapter. The holder of a Class "AAA" license shall be entitled to engage in the public works contracting business in the state as provided in said license. The renewal fee for a Class "AAA" license shall not exceed five hundred dollars (\$500).

(c) Class "AA" license. Any contractor whose qualifications, ability and responsibility to execute contracts for public works involving an estimated cost of not more than three million dollars (\$3,000,000) may, upon his application and the payment of a license fee not to exceed four hundred dollars (\$400), be granted a Class "AA" license and be so classified by the board in accordance with the provisions of this chapter. The holder of a Class "AA" license shall be entitled to engage in the public works contracting business in the state as provided in said license. The renewal fee for a Class "AA" license shall not exceed four hundred dollars (\$400).

(d) Class "A" license. Any contractor whose qualifications, ability and responsibility to execute contracts for public works involving an estimated cost of not more than one million two

hundred fifty thousand dollars (\$1,250,000) may, upon his application and the payment of a license fee not to exceed three hundred dollars (\$300), be granted a Class "A" license and be so classified by the board in accordance with the provisions of this chapter. The holder of a Class "A" license shall be entitled to engage in the public works contracting business in the state as provided in said license. The renewal fee for a Class "A" license shall not exceed three hundred dollars (\$300).

(e) Class "B" license. Any contractor whose qualifications, ability and responsibility to execute contracts for public works involving an estimated cost of not more than six hundred thousand dollars (\$600,000), may, upon his application and the payment of a license fee not to exceed one hundred fifty dollars (\$150) be granted a Class "B" license and be so classified by the board in accordance with the provisions of this chapter. The holder of a Class "B" license shall be entitled to engage in the public works contracting business in the state as provided in said license. The renewal fee for a Class "B" license shall not exceed one hundred fifty dollars (\$150).

(f) Class "CC" license. Any contractor whose qualifications, ability and responsibility to execute contracts for public works involving an estimated cost of not more than four hundred thousand dollars (\$400,000), may, upon his application and the payment of a license fee not to exceed one hundred fifty dollars (\$150), be granted a Class "CC" license and be so classified by the board in accordance with the provisions of this chapter. The holder of a Class "CC" license shall be entitled to engage in the public works contracting business in the state as provided in said license. The renewal fee for a Class "CC" license shall not exceed one hundred fifty dollars (\$150).

(g) Class "C" license. Any contractor whose qualifications, ability and responsibility to execute contracts for public works involving an estimated cost of not more than two hundred thousand dollars (\$200,000), may, upon his application and the payment of a license fee not to exceed one hundred dollars (\$100), be granted a Class "C" license and be so classified by the board in accordance with the provisions of this chapter. The holder of a Class "C" license shall be entitled to engage in the public works contracting business in the state as provided in said license. The renewal fee for a Class "C" license shall not exceed one hundred dollars (\$100).

(h) Class "D" license. Any contractor whose qualifications, ability and responsibility to execute contracts for public works involving an estimated cost of not more than fifty thousand dollars (\$50,000), may, upon his application and the payment of a license fee not to exceed fifty dollars (\$50.00), be granted a Class "D" license and be so classified by the board in accordance with the provisions of this chapter. The holder of a Class "D" license shall be entitled to engage in the public works contracting business in the state as provided in said license. The renewal fee for a Class "D" license shall not exceed fifty dollars (\$50.00).

(4) The board shall be vested with the power to fix annually the amount of the original and renewal license fees for each class of license for the ensuing license year. The amount of the license fee so fixed shall not exceed the maximum fee set forth in this section.

(5) Each license issued by the administrator shall clearly indicate the type and scope of work for which the licensee is qualified and licensed. The holder of the license shall be permitted to submit proposals for and perform only those types of work specified in each license. The administrator may extend the permissible type or scope of work to be done under any license when

it is determined by the administrator that the applicant meets all of the requirements of this chapter to qualify him to do such other work.

(6) The total of any single bid on a given public works project, or the aggregate total of any split bids, or the aggregate of any base bid and any alternate bid items, or the aggregate total of any separate bid by a licensee of any class, except Class "Unlimited," shall not exceed the estimated cost or bid limit of the class of license held by the licensee. The aggregate total of bids shall include all bids of subcontractors. Subcontractor bids shall not be considered a separate bid for the purposes of computing the bid on a given public works project.

§ 54-1904A. Filing of notices and income tax returns -- Payment of income taxes by contractors

Within thirty (30) days after any public works contractor who is required to be licensed pursuant to this chapter has been awarded a contract for construction to be performed within the state of Idaho involving the expenditure of any public moneys, the contract awarding agency shall notify the state tax commission that the contract has been awarded and shall provide to the state tax commission the name and address of the prime contractor. Upon written request of the state tax commission, the prime contractor, within thirty (30) days, shall file with the state tax commission a signed statement showing the date on which such contract was made or awarded, the names and addresses of the home offices of the contracting parties, including all subcontractors, the state of incorporation if the party is a corporation, the project number and a general description of the type and location of the work to be performed, the amount of the prime contract and all subcontracts, and all other relevant information which may be required on forms which may be prescribed by the state tax commission. The state tax commission shall forward to the administrator such information from the form as the administrator and the state tax commission agree is necessary for the administrator to fulfill the requirements of *section 54-1913, Idaho Code*. Every contractor or subcontractor whose name appears on any such notice shall be required to file income tax returns with the state tax commission and to pay all income taxes which may be due thereon pursuant to law for all years in which any public moneys were received by him in connection with any construction work which was performed within the state of Idaho.

§ 54-1904B. Relief from bids

(a) If an awarding authority for the public entity determines that a bidder is entitled to relief from a bid because of a mistake, the authority shall prepare a report in writing to document the facts establishing the existence of each element required in *section 54-1904C, Idaho Code*. The report shall be available for inspection as a public record and shall be filed with the public entity soliciting bids.

(b) A bidder claiming a mistake satisfying all the conditions of *section 54-1904C, Idaho Code*, shall be entitled to relief from the bid and have any bid security returned by the public entity. Bidders not satisfying the conditions found in *section 54-1904C, Idaho Code*, shall forfeit any bid security. Bidders failing to execute a contract and not satisfying the conditions of a mistake shall also forfeit any bid security.

§ 54-1904C. Grounds for relief

The bidder shall establish to the satisfaction of the public entity that:

- (a) A clerical or mathematical mistake was made;
- (b) The bidder gave the public entity written notice within five (5) calendar days after the opening of the bids of the mistake, specifying in the notice in detail how the mistake occurred; and
- (c) The mistake was material.

§ 54-1904D. Prohibition against further bidding

A bidder who claims a mistake or who forfeits their bid security shall be prohibited from participating in any rebidding of that project on which the mistake was claimed or security forfeited.

§ 54-1904E. Award of contract to second or next lowest bidder

If the public entity deems it is in its best interest, it may, on refusal or failure of the successful bidder to execute the contract, award it to the second lowest responsible bidder.

If the second lowest responsible bidder fails or refuses to execute the contract, the public entity may likewise award it to the next lowest responsible bidders.

On the failure or refusal of the second or next lowest responsible bidders to execute a contract, their bidder's security shall be likewise forfeited. A public entity may determine it is in its best interests to cancel and rebid the public works project and retain any forfeited bid security.

§ 54-1905. Public works contractors license board created -- Qualifications of appointees -- Term -- Removals

There is hereby created and made part of the division of building safety in the department of self-governing agencies a public works contractors license board. It shall be the responsibility and duty of the administrator of the division of building safety to administer and enforce the provisions of this chapter, and to serve as secretary to the board. The board shall be composed of eight (8) members, who shall be appointed by the governor. One (1) member of the board shall be a person whose primary business is that of a "heavy construction" contractor, one (1) member shall be a person whose primary business is that of a "highway construction" contractor, one (1) member shall be a person whose primary business is that of a "building construction" contractor, one (1) member shall be a person whose primary business is that of a "specialty construction" contractor, as such construction terms are defined in this chapter, one (1) member shall be a subcontractor with a license no higher than a class "A", one (1) member shall be a "construction manager," and one (1) member shall be a registered professional engineer, and one (1) member shall be a member of the general public with an interest in the rights of consumers of public works contracting services. All contractor members of the board shall be contractors holding a current unrevoked license at the time of their appointment, actively engaged in the contracting business and have

been so engaged for a period of not less than five (5) years preceding the date of their appointment, and who shall so continue in the contracting business during their term of office. Each member of the board next preceding his appointment shall have been a citizen and resident of the state of Idaho for at least five (5) years. The governor shall appoint a member to said board for a term of three (3) years, and no member shall be appointed to more than two (2) consecutive terms. All members shall serve at the pleasure of the governor. Each member shall hold office after the expiration of their own term until their successor has been duly appointed and qualified. Vacancies on the board for any cause shall be filled by appointment by the governor for the balance of the unexpired term. Each member of the board shall receive a certificate of appointment from the governor, and before entering upon the discharge of their duties, shall file with the secretary of state the constitutional oath of office.

§ 54-1906. Principal place of business. [Repealed.]

§ 54-1907. Duties and powers of the board -- Seal

The board is authorized and directed to prescribe and amend rules consistent with this chapter for the administration of this chapter and to effectuate the purpose thereof, and for the investigation, classification, examination and licensing of public works contractors. The board shall adopt a seal, having upon it the words "Public Works Contractors License Board -- State of Idaho." The care and custody of the seal shall be with the administrator. Any member of the board may administer oaths and may take testimony concerning all matters within the jurisdiction of the board.

§ 54-1908. Meetings -- Quorum

The board shall hold not less than four (4) regular meetings each year, on a day not later than the fifteenth day of the month in each of the months of January, April, July and October, for the purpose of transacting such business as may properly come before it. At the April meeting of each year the board shall elect officers. Special or regular monthly meetings of the board may be held at such times as the board may provide in the rules. Four (4) members of the board shall constitute a quorum. Two (2) members of the board may call a special meeting at any time. Due notice of each meeting of the board and the time and place thereof shall be given each member in the manner prescribed in the rules. Each member of the board shall be compensated as provided by *section 59-509(n), Idaho Code*, and paid from the public works contractors license board account.

§ 54-1909. Reports. [Repealed.]

54-1910. Examinations, qualifications and applications

Under such rules as the board may adopt, the administrator shall have the power and authority to investigate, classify, and to qualify applicants for licenses under this chapter, by written or oral examinations, or both.

The qualifications to be required of an applicant by the board are as follows

(a) Such degree of experience, and such general knowledge of the building, safety, health and lien laws of the state, and of the rudimentary administrative principles of the contracting business, as may be deemed necessary by the board for the safety and protection of the public. The applicant if an individual may qualify as to the aforementioned experience and knowledge by personal appearance or by the appearance of his responsible managing employee, and if a copartnership or corporation, limited liability company, limited liability partnership and any other combination or organization, by the appearance of the responsible managing officer or member of the personnel of such applicant. If the person qualifying by examination as to experience and knowledge shall, for any reason whatsoever, cease to be connected with the licensee to whom the license is issued, such licensee shall so notify the administrator in writing within ten (10) days from such cessation. If such notice is given, the license shall remain in force for a reasonable length of time, to be determined by rules of the board. If such licensee fails to so notify the administrator within said ten (10) day period, then at the end of such ten (10) day period, the license of such licensee shall be automatically suspended. A suspended license shall be reinstated upon the filing with the administrator of an affidavit executed by the licensee or a member of the suspended firm, to the effect that the individual originally examined for the firm has been replaced by another individual who has been qualified by examination as herein provided, and who shall not have had a license suspended or revoked, nor have been connected with any licensee who has had a license suspended or revoked for reasons that should preclude him from personally qualifying as to good character as herein required of an applicant.

(b) The possession by the applicant of good character. Lack of character may be established by showing any of the following:

(1) That the applicant has committed or done any act which, if committed or done by any licensed contractor, would be grounds for the suspension or revocation of a contractor's license; or

(2) That the applicant has committed or done any act involving dishonesty, fraud or deceit whereby the applicant has been benefited or whereby some injury has been sustained by another; or

(3) That the applicant bears a bad reputation for honesty and integrity; or

(4) That the applicant has been convicted of a felony.

(c) That he has never been refused a license or had a license revoked for reasons that would preclude the granting of the license applied for.

(d) No license shall be issued to a corporation, copartnership, limited liability company, limited liability partnership or other combination or organization if any responsible officer of such corporation, or other combination or organization, or any member of such copartnership does not meet the qualifications required of an applicant other than those qualifications relating to knowledge and experience.

(e) To obtain an original license under this chapter, 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, and in accordance with such rules as may be deemed necessary and adopted by the board in order to carry out the foregoing provisions of this section, a sworn written application for such license, containing the statement that applicant desires the issuance of a license under the terms of this chapter. The information contained in such application forms shall include a complete statement of the general nature of applicant's contracting business, and stating concisely applicant's experience and qualifications as a contractor; the value and character of contract work completed and for whom performed during the three (3) year period prior to filing the application; a general description of applicant's machinery and equipment; a complete financial statement which may include a letter from applicant's bonding company stating the amount of the applicant's bonding capability per project and in the aggregate, on such forms and disclosing such information as shall be required by the administrator, together with such additional information as may be required by the administrator to determine the applicant's fitness for a license under this chapter. The application shall contain, if by an individual, the individual's name, social security number and business address; if by a copartnership, its business address and the names and addresses of all partners; and if by a corporation, association, limited liability company, limited liability partnership or other organization, its business address and the names and addresses of the president, vice president, secretary, and chief construction managing officers, or responsible managing employee. A request for a licensing class higher than that for which the applicant qualifies must go to the administrator for review and may be approved up to the bond limit. A final appeal of a decision of the administrator may be made to the board.

§ 54-1911. Filing, issuance and denial of licenses -- Fees not refunded

Applications for original licenses, together with the fees therefor, shall be filed with the administrator. After such examination and investigation as may be prescribed by rule, in accordance with the provisions of this chapter, if no valid reason exists for further investigation of applicant, the administrator shall issue a license to applicant permitting him to engage in business as a contractor under the terms of this chapter for the licensing period designated. If the information brought to the attention of the administrator concerning the character and integrity of an applicant is such that it would appear proper to deny the application, the applicant shall be notified by certified mail to show cause within such time, not less than five (5) days, nor more than thirty (30) days, why the application should not be denied.

Fees accompanying original applications under this section are for the administration and enforcement of the provisions of this chapter and shall not be refunded to the applicant.

§ 54-1912. Expiration and renewal of licenses -- Fees

All contractors required by the provisions of this section to be licensed, shall be licensed for a period of twelve (12) consecutive calendar months.

Each licensing period shall start on the first day of a calendar month and end on the last day of the twelfth month from the date of beginning.

Licensing periods shall expire at midnight on the last day of the licensing period.

Application for renewal of a current license prior to its expiration date shall authorize operation as a contractor by such licensee until actual issuance of such renewal license for the ensuing year or until the final decision of the board is rendered in any proceeding. An applicant for renewal of a license issued under this chapter shall not be required to take any other or further examination to obtain such renewal license, provided that at the time of such application his license has not been suspended or permitted to lapse or expire for any cause for a period of one (1) year or more. All applications for renewal of license shall be made on forms prescribed by the administrator and shall be accompanied by the annual renewal fee and a complete current financial statement on such forms and disclosing such information as shall be required by rule, duly certified as true by the applicant, and if a copartnership, 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. Fees accompanying renewal applications under this section are for the administration and enforcement of the provisions of this chapter and shall not be refunded to the applicant.

The license issued under this chapter shall be signed both by the administrator and by the licensee, shall be nontransferable, and shall be displayed in the licensee's main office or chief place of business, and satisfactory evidence of the possession thereof and of the current annual renewal thereof shall be exhibited by licensee upon demand.

A surviving member or members of a licensed copartnership, limited liability company or limited liability partnership by reason of death shall be entitled to continue in business under such license until the expiration date thereof, provided due application for permission is made to the administrator within thirty (30) days after death of the member, and the application is approved by the administrator in accordance with rules.

All licensees shall report to the administrator all changes of personnel, name style or addresses recorded under this chapter within thirty (30) days after the changes are made.

§ 54-1913. Records, lists and information

The administrator shall maintain, open to public inspection during office hours, a complete record of all retained applications, licenses issued, licenses renewed, data collected through the provisions of *section 54-1904A, Idaho Code*, and all revocations, cancellations and suspensions of licenses, and shall furnish a certified copy of any license issued, upon receipt of the sum of fifty cents (50 cent(s)), which certified copy shall be received in all courts and elsewhere as evidence of the facts stated therein.

Whenever funds are available for the purpose, the administrator shall publish a list of the names and addresses of contractors licensed under this chapter and such further information with respect to this chapter and its administration as the administrator deems proper. The administrator may furnish the lists to such public works and building departments, public officials or public bodies, and other persons interested in or allied with the building and construction industry in this or any other state as

deemed advisable, and at such intervals as deemed necessary, whenever funds therefor are available. Copies of the lists may also be furnished by the administrator upon request to any firm or individual upon payment of a reasonable fee fixed by the board.

Whenever funds are available for the purpose, the administrator may publish and disseminate to licensees and to public officials or other persons interested in or allied with the building and construction industry, such information with relation to the administration and enforcement of this chapter as deemed necessary to carry out its purposes.

§ 54-1914. Administrative enforcement proceedings

(1) The administrator may upon his own motion or at the direction of the board, and shall upon the verified complaint in writing of any person, investigate the actions of any public works contractor within the state and may undertake to reclassify, retype, place on probation, defer or pre-condition licensure, impose an administrative fine not to exceed twenty thousand dollars (\$20,000) per violation, impose the administrative costs of bringing the action including, but not limited to, hearing officer fees, expert witness fees, attorney's fees, costs of hearing transcripts and copies, temporarily suspend or permanently revoke any license if the holder, while a licensee or applicant hereunder, is guilty of or commits any one (1) or more of the following acts or omissions:

(a) Abandonment without legal excuse of any construction project or operation engaged in or undertaken by the licensee as a contractor.

(b) Diversion of funds or property received under express agreement for prosecution or completion of a specific construction project or operation, or for a specified purpose in the prosecution or completion of any construction project or operation, and their application or use for any other construction project or operation, obligation or purpose, with intent to defraud or deceive creditors or the owner.

(c) Willful departure from or disregard of, plans or specifications in any material respect, and prejudicial to another, without consent of the owner or his duly authorized representative, and without the consent of the person entitled to have the particular construction project or operation completed in accordance with such plans and specifications.

(d) Willful or deliberate disregard and violation of valid building laws of the state, or of any political subdivision thereof, or of the safety laws or labor laws or compensation insurance laws of the state.

(e) Misrepresentation of a material fact by an applicant in obtaining a license.

(f) Aiding or abetting an unlicensed person to evade the provisions of this chapter or conspiring with an unlicensed person, or allowing one's license to be used by an unlicensed person, or acting as agent or partner or associate or otherwise, of an unlicensed person with the intent to evade the provisions of this chapter.

(g) Failure in any material respect to comply with the provisions of this chapter.

(h) Acting in the capacity of a contractor under any license issued hereunder except: (1) in the name of the licensee as set forth upon the license, or (2) in accordance with the personnel of the

licensee as set forth in the application for such license, or as later changed as provided in this chapter.

(i) Knowingly accepting a bid from, or entering into a contract with another contractor for a portion of a public works project if at that time such contractor does not possess the appropriate license to do that work as provided in this chapter.

(j) Willful failure or refusal without legal excuse on the part of a licensee as a contractor to finish a construction project or operation with reasonable diligence, causing material injury to another.

(k) Willful or deliberate failure by any licensee, or agent or officer thereof, to pay any moneys when due, for any materials or services rendered in connection with his operations as a contractor, when he has the capacity to pay or when he has received sufficient funds therefor as payment for the particular construction work, project or operation for which the services or materials were rendered or purchased; or denial of any such amount due or the validity of the claim thereof with intent to secure for himself, his employer, or other person, any discount upon such indebtedness or with intent to hinder, delay or defraud the person to whom such indebtedness is due.

(l) Suffers a change in financial circumstances which may impair the licensee's financial responsibility.

(m) Holding oneself or one's firm out as a public works contractor by engaging in any act meeting the definition or character of a public works contractor as defined herein without a legally required license.

(n) Failure to comply with *subsection (1), (2) or (3) of section 67-2310, Idaho Code.*

(2) The administrator may upon his own motion or at the direction of the board, and shall upon the verified complaint in writing of any licensed public works contractor eligible to perform public works contracting duties, investigate the actions of any public entity within the state and may impose an administrative fine not to exceed five thousand dollars (\$5,000) per violation or impose the administrative costs of bringing the action including, but not limited to, hearing officer fees, expert witness fees, attorney's fees, costs of hearing transcripts and copies, if the public agency contracts for public works construction with an unlicensed or improperly licensed contractor or knowingly awards a contract based upon a bid or proposal not in compliance with *subsection (1) or (2) of section 67-2310, Idaho Code.*

§ 54-1914A. Impaired financial responsibility -- Notification -- Hearing -- Licensee's statement. [Repealed.]

§ 54-1915. Procedure for imposition of discipline

(1) Upon the filing of a verified complaint with the administrator charging a licensee or public entity with the commission of any act constituting a cause for disciplinary action within two (2) years prior to the date of filing, or upon such a finding made by the administrator following an investigation, the administrator shall forthwith issue a notice, accompanied by a copy of the com-

plaint, directing the licensee or public entity, within ten (10) days after service of the notice, to appear by filing with the administrator a verified answer to the complaint.

(2) The administrator shall have the power to appoint, by an order in writing, a hearing officer to take testimony, who shall have power to administer oaths, issue subpoenas and compel the attendance of witnesses.

(3) Service of the notice and complaint upon the licensee or public entity shall be fully effected by mailing a true copy of the notice and complaint by certified mail addressed to the licensee at his last address of record with the administrator or to the public entity at its principal place of business. Service of the notice and complaint shall be complete at the time of deposit in accordance with the provisions of the Idaho rules of civil procedure relating to service by mail.

(4) The hearing shall be conducted in accordance with the provisions of *chapter 52, title 67, Idaho Code*, and the Idaho rules of administrative procedure.

(5) Following the hearing, the hearing officer shall issue recommended findings of fact, conclusions of law, and order. The recommended order may:

(a) Provide for the immediate complete suspension by the licensee of all operations as a contractor during the period fixed by the decision.

(b) Permit the licensee to complete any or all contracts shown by competent evidence taken at the hearing to be then uncompleted.

(c) Impose upon the licensee compliance with such specific conditions as may be just in connection with his operations as a contractor disclosed at the hearing and may further provide that until such conditions are complied with no application for restoration of the suspended or revoked license shall be accepted by the administrator.

(d) Provide for the imposition of any of the sanctions provided by *section 54-1914, Idaho Code*.

(6) Following a review of the entire hearing record, the administrator shall issue a final decision.

§ 54-1916. Judicial review -- Appeals procedure

(1) The applicant, public entity, or licensee, as the case may be, shall have the right to judicial review of an action of the administrator refusing issuance of a license, or actions taken by the board pursuant to *section 54-1914, Idaho Code*, in accordance with the provisions of *chapter 52, title 67, Idaho Code*.

(2) Appeals may be taken from the judgment of said district court to the supreme court of Idaho by either party in the same manner that appeals are taken and records prepared on appeal in civil actions.

(3) On any appeal to the district court by a licensee, the court may, in its discretion, upon the filing of a proper bond by the licensee in an amount to be fixed by the court, but not less than one thousand dollars (\$1,000), guaranteeing the compliance by the licensee with specific conditions im-

posed upon him by the board's decision, if any, permit the licensee to continue to do business as a contractor pending entry of judgment by the district court.

(4) On any appeal to the district court by a public entity, the court may, in its discretion, suspend the action taken by the board pursuant to *section 54-1914, Idaho Code*, pending entry of judgment by the district court.

§ 54-1917. Renewal of suspended or revoked license

After suspension or revocation of the license upon any of the grounds set forth in this chapter, the administrator may renew the license upon proof of compliance by the contractor with all provisions of the decision as to renewal or, in the absence of such decision or any provisions therein as to renewal, in the sound discretion of the administrator. After revocation of a license upon any of the grounds set forth in this chapter, the license shall not be renewed or reissued within a period of one (1) year after the final decision of revocation and then only on proper showing that all loss caused by the act or omission for which the license was revoked has been fully satisfied and that all conditions imposed by the decision of revocation have been complied with. At any time before a case is finally submitted to the board for decision, whether upon an original hearing, or upon a rehearing, a complaint or answer may, upon the motion of either party, and with the consent of the board, or upon the board's own motion, be amended. If new charges are alleged in an amended complaint, the defendant may, upon request, be allowed ten (10) days to prepare his defense to such new charges.

§ 54-1918. Subpoenas and process

In any investigation, proceeding or hearing which the administrator is empowered to institute, conduct or hold, the board, and each member thereof, may administer oaths, certify to official acts, issue subpoenas for the attendance of witnesses and the production of books, papers and records, in like manner and to the same extent as courts of record, and with their aid when necessary. The process issued by the board, or any member thereof, shall extend to all parts of the state and may be served by any person authorized to serve process, or by any person designated for that purpose by the board or a member thereof. The person executing any such process shall receive such compensation as may be allowed by the board and not to exceed the fees prescribed by law for similar services, and such fees shall be paid in the same manner as provided herein for the payment of fees for witnesses. Any citation, notice or other process or any paper or document required by this chapter to be served on any party may be personally served as provided in the code of civil procedure, with the same effect as if served by mail in the manner provided in this chapter.

§ 54-1919. Revocation by court

The suspension or revocation of a license as provided in this act may also be included in any action otherwise proper in any court involving the licensee's performance of his legal obligation as a contractor.

§ 54-1920. Penalties -- Injunction

(1) Any person, firm, copartnership, corporation, limited liability company, limited liability partnership, association or other organization acting in the capacity of a public works contractor within the meaning of this chapter, without a license as herein provided or fails to comply with the provisions of *subsection (1), (2) or (3) of section 67-2310, Idaho Code*, shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine not to exceed five thousand dollars (\$5,000) or by imprisonment in the county jail for a term not to exceed one (1) year or by both such fine and imprisonment, at the discretion of the court. The same penalties shall apply, upon conviction to any member of a copartnership, or to any construction, managing or directing officer of any corporation, limited liability company or limited liability partnership, or other organization consenting to, participating in, or aiding or abetting any such violation of this chapter.

(2) Every public officer who knowingly lets a public contract to any person, firm, copartnership, corporation, limited liability company, limited liability partnership, association or other organization who does not hold a license as required by the provisions of this chapter or knowingly fails to comply with the provisions of *subsection (1) or (2) of section 67-2310, Idaho Code*, shall be guilty of a misdemeanor and upon conviction, punishable as provided in this section, unless, however, there be no qualified bidder willing to undertake the public works covered by the contract. No person engaged in the business or acting in the capacity of a contractor, may bring or maintain any action in any court of this state for the collection of compensation for the performance of any act or contract for which a license is required by this chapter without alleging and providing that he was a duly licensed contractor at all times during the performance of such act or contract.

(3) In addition to any other penalties specified in this section, whenever any person violates the provisions of this chapter by acting as a public works contractor without a license, the administrator may maintain an action in the name of the state of Idaho to enjoin the person from any further violations. Such action may be brought either in the county in which the acts are claimed to have been or are being committed, in the county where the defendant resides or in Ada County. Upon the filing of a verified complaint in the district court, the court, if satisfied that the acts complained of have been or probably are being or may be committed, may issue a temporary restraining order and/or preliminary injunction, without bond, enjoining the defendant from the commission of any such act or acts constituting the violation. A copy of the complaint shall be served upon the defendant and the proceedings shall thereafter be conducted as in other similar civil actions. If the commission of the act or acts is established, the court shall enter a decree permanently enjoining the defendant from committing such act or acts. If an injunction issued under the provisions of this section is violated, the court, or the judge thereof at chambers, may summarily try and punish the offender for contempt of court.

§ 54-1920A. Enforcement

Upon request of the administrator, it shall be the duty of the attorney general to institute and prosecute civil enforcement actions or injunctive actions as provided in *section 54-1920, Idaho Code*. The attorney general may delegate the authority and duty under this section to the prosecuting attorney of the county in which the action may arise.

§ 54-1921. Public works contractors license fund -- Appropriation

The state treasurer shall be custodian of a fund, which is hereby created, to be known as the "Public Works Contractors License Fund," into which shall be paid and deposited all funds accruing or received under any and all provisions of this chapter. All moneys from whatever source accruing to or received by said fund are hereby appropriated for the payment of the cost and expense of the administration and enforcement of this chapter, as herein provided. Any moneys remaining in said fund on the last day of each year, as the term "year" is defined in this chapter, shall continue to be appropriated for the purposes of this chapter.

§ 54-1922. Act superior to all laws in conflict

Wherever any provisions of the existing laws of the state of Idaho are in conflict with the provisions of this act, the provisions of this act shall control and supersede all such laws.

§ 54-1923. Title

This act shall be known as "Public Works Contractors License Act."

§ 54-1924. Separability

If any part or parts of this act shall be adjudged by the courts to be unconstitutional or invalid, the same shall not affect the validity of any part or parts thereof which can be given effect without the part or parts adjudged to be unconstitutional or invalid.

§ 54-1925. Public Contracts Bond Act -- Short title

This act may be cited as the Public Contracts Bond Act.

§ 54-1926. Performance and payment bonds required of contractors for public buildings and public works of the state, political subdivisions and other public instrumentalities -- Requirements for bonds -- Governmental obligations

Before any contract equal to or greater than fifty thousand dollars (\$50,000) for the construction, alteration, or repair of any public building or public work or improvement of the state of Idaho, or of any county, city, town, municipal corporation, township, school district, public educational institution, or other political subdivision, public authority, or public instrumentality, or of any officer, board, commission, institution, or agency of the foregoing, is executed, the person to whom such contract was awarded shall furnish to the state of Idaho, or to such county, city, town, municipal corporation, township, school district, public educational institution, or other political subdivision,

public authority, or public instrumentality, or to such officer, board, commission, institution, or agency thereof, bonds that shall become binding upon the execution of the contract, and the person to whom the contract was awarded is hereinafter designated as "contractor":

(1) A performance bond in any amount to be fixed by the contracting body, but in no event less than eighty-five percent (85%) of the contract amount conditioned upon the faithful performance of the contract in accordance with the plans, specifications and conditions thereof. Said bond shall be solely for the protection of the public body executing the contract.

(2) A payment bond in an amount to be fixed by the contracting body but in no event less than eighty-five percent (85%) of the contract amount, solely for the protection of persons supplying labor or materials, or renting, leasing, or otherwise supplying equipment to the contractor or his subcontractors in the prosecution of the work provided for in such contract.

(3) Public bodies requiring a performance bond or payment bond in excess of fifty percent (50%) of the total contract amount shall not be authorized to withhold from the contractor or subcontractor any amount exceeding five percent (5%) of the total amount payable as retainage. Further, the public body shall release to the contractor any retainage for those portions of the project accepted by the contracting public body and the contractors as complete within thirty (30) days after such acceptance. Contractors, contracting with subcontractors pursuant to contract work with a public body, shall not be authorized to withhold from the subcontractor any amount exceeding five percent (5%) of the total amount payable to the subcontractor as retainage. The contractor shall remit the retainage to the subcontractor within thirty (30) days after completion of the subcontract.

Each bond shall be executed by a surety company or companies duly authorized to do business in this state, or the contractor may deposit any of the type of government obligations listed in subsection (2)(h) of section [54-1901](#), Idaho Code, in lieu of furnishing a surety company performance or payment bond or bonds. In the case of contracts of the state or a department, board, commission, institution, or agency thereof the aforesaid bonds shall be payable to the state, or particular state agency where authorized. In case of all other contracts subject to this chapter, the bonds shall be payable to the public body concerned.

Said bonds shall be filed in the office of the department, board, commission, institution, agency or other contracting body awarding the contract.

Nothing in this section shall be construed to limit the authority of the state of Idaho or other public body hereinabove mentioned to require a performance bond or other security in addition to these, or in cases other than the cases specified in this chapter.

It shall be illegal for the invitation for bids, or any person acting or purporting to act, on behalf of the contracting body to require that such bonds be furnished by a particular surety company, or through a particular agent or broker.

§ 54-1926A. Use of government obligations instead of surety bonds

(a) If a person is required under a law of the state of Idaho to give a surety bond, the person may give a government obligation, as defined in *subsection (2)(h) of section 54-1901, Idaho Code*. The government obligation shall:

(1) Be given to the official having authority to approve the surety bond, or its authorized custodian;

(2) Be in an amount equal at fair market value to the penal sum of the required surety bond;
and

(3) Authorize the official receiving the obligation to collect or sell the obligation if the person defaults on a required condition.

(b) (1) An official receiving a government obligation under subsection (a) of this section may deposit it with:

1. The state treasurer;
2. A national or state chartered bank; or
3. A depository designated by the state treasurer.

(2) The state treasurer, bank, or depository shall issue a safekeeping receipt that describes the obligation deposited.

(c) Using a government obligation instead of a surety bond for security is the same as using:

- (1) A corporate surety bond;
- (2) A certified check;
- (3) A bank draft;
- (4) A post office money order; or
- (5) Cash.

(d) When security is no longer required, a government obligation given instead of a surety bond shall be returned to the person giving the obligation. If a person supplying labor or material to a contractor defaulting under the public contracts bond act, *sections 54-1925 through 54-1930, Idaho Code*, files with the contracting body the application and affidavit provided under *section 54-1927, Idaho Code*, the contracting body:

(1) May return to the contractor the government obligation given as security or proceeds of the government obligation given under the public contracts bond act, *sections 54-1925 through 54-1930, Idaho Code*, only after the ninety (90) day period for bringing a civil action under *section 54-1927, Idaho Code*;

(2) Shall hold the government obligation or the proceeds subject to the order of the court having jurisdiction of the action if a civil action is brought in the ninety (90) day period.

(e) The provisions of this section do not affect the:

(1) Priority of a claim of the contracting body against a government obligation given under this section;

(2) Right or remedy of the contracting body for default on an obligation provided under this section;

(3) Authority of a court over a government obligation given as security in a civil action; and

(4) Authority of an official of the state of Idaho authorized by another law to receive a government obligation as security.

(f) To avoid frequent substitution of government obligations, the state treasurer may promulgate rules limiting the effect of the provisions of this section, to a government obligation maturing more than one (1) year after the date the obligation is given as security.

§ 54-1927. Claims for labor or material furnished or equipment supplied -- Suit on contractor's payment bond -- Procedure -- Limitation

Every claimant who has furnished labor or material or rented, leased, or otherwise supplied equipment in the prosecution of the work provided for in such contract in respect of which a payment bond is furnished under this act, and who has not been paid in full therefor before the expiration of a period of ninety (90) days after the day on which the last of the labor was done or performed by him or material or equipment was furnished or supplied by him for which such claim is made, shall have the right to sue on such payment bond for the amount, or the balance thereof, unpaid at the time of institution of such suit and to prosecute such action to final judgment for the sum or sums justly due him and have execution thereon; provided, however, that any such claimant having a direct contractual relationship with a subcontractor of the contractor furnishing such payment bond but no contractual relationship expressed or implied with such contractor shall not have a right of action upon such payment bond unless he has given written notice to such contractor within ninety (90) days from the date on which such claimant performed the last of the labor or furnished or supplied the last of the material for which such claim is made, stating with substantial accuracy the amount claimed and the name of the person to whom the material or equipment was furnished or supplied or for whom the labor was done or performed. Each notice shall be served by mailing the same by registered or certified mail, postage prepaid, in an envelope addressed to the contractor at any place he maintains an office or conducts his business or at his residence.

The contracting body and the agent in charge of its office, is authorized and directed to furnish, to anyone making application therefor who submits an affidavit that he has supplied labor, equipment, or materials for such work and payment therefor has not been made or that he is being sued on any such bond, or that it is the surety thereon, a certified copy of such bond and the contract for which it was given, which copy shall be prima-facie evidence of the contents, execution, and delivery of the original. Applicants shall pay for such certified copies such reasonable fees as the contracting body or the agent in charge of its office fixes to cover the actual cost of the preparation thereof.

Every suit instituted on the aforesaid payment bond shall be brought in appropriate court in any county in which the contract was to be performed and not elsewhere; provided, however, that no such suit shall be commenced after the expiration of one (1) year from the date on which the claimant performed the last of the labor or furnished or supplied the last of the material or equipment for which such suit is brought, except, that if the claimant is a subcontractor of the contractor, no such suit shall be commenced after the expiration of one (1) year from the date on which final payment under the subcontract became due.

§ 54-1928. Liability of public body for failure to obtain payment bond

Any public body subject to this act which shall fail or neglect to obtain the delivery of the payment bond as required by this act, shall, upon demand, itself promptly make payment to all persons who have supplied materials or performed labor in the prosecution of the work under the contract, and

any such creditor shall have a direct right of action upon his account against such public body in any court having jurisdiction in any county in which the contract was to be performed and executed which action shall be commenced within one (1) year after the furnishing of materials or labor.

§ 54-1929. Attorney's fees allowed

In any action brought upon either of the bonds provided herein, or against the public body failing to obtain the delivery of the payment bond, the prevailing party, upon each separate cause of action, shall recover a reasonable attorney's fee to be taxed as costs.

§ 54-1930. Meaning of terms used in act

The terms "person" and "claimant" and the masculine pronoun as used in this act shall include individuals, associations, copartnerships, or corporations.

**TITLE 54. PROFESSIONS, VOCATIONS, AND BUSINESSES
CHAPTER 45. PUBLIC WORKS CONSTRUCTION MANAGEMENT
LICENSING ACT**

§ 54-4501. Short title

The provisions of this chapter shall be known and may be cited as the "Public Works Construction Management Licensing Act of 1998".

§ 54-4502. Legislative intent

In order to protect the public welfare and to promote the highest degree of professional conduct on the part of persons providing construction management services, the provisions of this chapter provide for the licensure of individuals and regulation of persons providing construction management services for public works projects.

§ 54-4503. Definitions

As used in this chapter:

- (1) "Administrator" means the administrator of the Idaho division of building safety.
- (2) "Applicant" means an individual who applies for a license or interim license pursuant to the provisions of this chapter.
- (3) "Board" means the public works contractors license board established in section [54-1905](#), Idaho Code.

(4) "Certificate of authority" means a certificate issued by the division of building safety authorizing a firm to provide or hold itself out as providing construction manager services. A certificate of authority shall serve as verification by the division that one (1) or more principals or employees of the firm are licensed construction managers in good standing and that the firm meets such other reasonable criteria established by the board. The licensed construction manager associated with a firm shall accept the responsibility and duty to directly supervise the provision of construction management services by the firm.

(5) "Construction manager" means an individual who performs construction management services.

(6) "Construction management services" means representation of an owner in public works construction by a person with substantial discretion and authority to plan including scheduling, estimating and approval, coordinate, manage or direct phases of a project for the construction, demolition, alteration, repair or reconstruction of any public work. This definition shall not include services for which the laws of this state require a person to be licensed as an architect or registered as a professional engineer, nor shall it include services traditionally and customarily provided by licensed architects or registered professional engineers. This definition shall not apply to highway, road or other transportation projects.

(7) "Firm" means any business organization, including individuals, partnerships, corporations, associations or any combination thereof acting as a unit.

(8) "Hold itself out" or "holding oneself or one's firm out" or "offer" means the representation by a person that the person possesses a valid construction manager license issued pursuant to the provisions of this chapter authorizing that person to provide construction management services. "Hold itself out" or "holding oneself or one's firm out" or "offer" shall include, but not be limited to, the following acts:

(a) Advertising to provide construction management services on public works construction projects;

(b) Submitting responses to requests for qualifications for construction management services on public works construction projects; and

(c) Submitting proposals, quotes or bids to perform construction management services on public works construction projects.

(9) "Licensure" means the issuance of a license to an applicant under the provisions of this chapter authorizing such individual to offer and perform construction management services.

(10) "Person" includes an individual, partnership, corporation, association or other organization.

§ 54-4504. License required

(1) Except as otherwise provided herein, on and after the effective date of this chapter, it shall be unlawful for any person to act as a construction manager in public works construction or to practice or perform or offer to perform construction management services in public works construction unless such offer is made by or such construction management services are performed by or under the direct supervision of a licensed construction manager.

(2) Only an individual may be licensed as a construction manager. No firm may provide or hold itself out as providing or currently able to provide construction management services unless it holds a certificate of authority issued by the administrator pursuant to section [54-4509](#), Idaho Code.

(3) Construction management services provided by a firm must be provided under the direct supervision and control of a licensed construction manager who is a principal or employee of the firm.

(4) An employee of an owner for which public works construction management services are to be performed shall not be required to obtain a license under this chapter in order to provide such services for his employer.

(5) A licensed architect, registered landscape architect or registered professional engineer shall not be required to obtain a license under this chapter in order to provide services for which the laws of this state require a person to be licensed as an architect, registered landscape architect or registered as a professional engineer or to provide services traditionally and customarily provided by licensed architects, registered landscape architects or registered professional engineers. Provided however, that such services shall not include the procurement of equipment or construction work required by law to be competitively bid for public works construction.

§ 54-4505. Requirements for licensure

(1) Any individual who wishes to become licensed as a construction manager shall make written application to the administrator on such forms or in such manner as the administrator may prescribe. Each applicant shall provide such proof as the administrator may require that he:

(a) Has a bachelor's degree in architecture, engineering or construction management from a college or university that has an educational program in architecture, engineering or construction management, as the case may be, accredited by a nationally recognized accrediting organization and that he has a minimum of four (4) years' experience in managing construction projects; or

(b) Has a minimum of five (5) years' experience in managing construction projects.

(2) If the administrator finds that the applicant meets the requirements for licensure set forth in subsection (1) of this section, he shall administer an examination to the applicant, which examination shall be offered at least once each year. The examination shall test the applicant's knowledge and proficiency in construction management issues, including health, environmental and safety regulations, interpretation of construction contracts, financing, scheduling and project administration for construction projects. The administrator shall establish a fee for administering the examination to each applicant which must be paid before the applicant may sit for the examination.

(3) An applicant who demonstrates knowledge and proficiency of construction management by virtue of passing the examination shall, upon the payment of an appropriate fee, be issued a license authorizing that individual to provide construction management services.

§ 54-4506. Temporary Licenses.

(1) The administrator may issue a temporary license for a period not to exceed one (1) year to an applicant who provides satisfactory proof of possession of a valid construction manager's license issued by another state pursuant to requirements substantially similar to those set forth in section [54-4505](#), Idaho Code.

(2) Temporary licenses may not be renewed nor their terms extended beyond the period set forth in this section.

§ 54-4507. License renewal

(1) Each construction management license issued under the terms of this chapter shall expire and become invalid one (1) year after issuance unless renewed in the manner prescribed by the board.

(2) Upon application, the administrator may grant inactive status to the holder of a license who is no longer actively providing construction management services.

(3) The board may provide for reinstatement of an expired or inactive license upon such terms as it may determine by rule.

§ 54-4508. Disciplinary proceedings

(1) The administrator shall have the authority to deny or refuse to renew a license or certificate of authority, defer or precondition licensure, suspend or revoke a license, impose an administrative fine not to exceed twenty thousand dollars (\$20,000) per violation, impose the administrative costs of bringing the action before the board including, but not limited to, hearing officer fees, expert witness fees, attorney's fees, costs of hearing transcripts and copies, or impose probationary conditions on a person or the holder of a license or certificate of authority, upon the following grounds:

(a) Fraud or deception in the procurement of a license or certificate of authority or in the taking of an examination required under the provisions of this chapter;

(b) Incompetence in the performance of a construction manager's duties;

(c) Holding oneself or one's firm out as a construction manager by engaging in any act meeting the definition or character of a construction manager as defined herein without a legally required license;

(d) Fraud or deceit in the performance of a construction manager's duties; or

(e) Willful violation of the provisions of this chapter or the rules promulgated by the board.

(2) Proceedings that may result in the suspension or revocation of a license or certificate of authority, or the imposition of probationary or other disciplinary conditions on the holder of a license or certificate of authority, shall be conducted in accordance with the provisions of [chapter 52, title 67](#), Idaho Code; provided however, that the suspension of a certificate of authority, upon the notification by its holder that the construction manager it has designated to the administrator no longer is a principal or employee of the firm, shall not be required to be conducted in accordance with the provisions of [chapter 52, title 67](#), Idaho Code.

(3) The board may, by rule, provide for the reinstatement of suspended or revoked licenses upon such terms as it may impose.

§ 54-4509. Certificates of authority for firms

(1) No firm shall provide or hold itself out as providing construction management services unless it has a certificate of authority issued by the administrator. If one (1) or more principals or employees of a firm are licensed construction managers, the firm may apply to the administrator for a certificate of authority to provide and hold itself out as providing construction management services. An application for a certificate of authority shall:

(a) Designate the licensed construction manager or managers, who are principals or employees of the firm, specified to be in responsible charge of construction management services provided by the firm;

(b) Be accompanied by a statement signed by such licensed construction manager or managers accepting the responsibility and duty to provide construction management services for the firm; and

(c) Contain such other information as the administrator reasonably may require.

If the administrator concludes that the construction manager or managers designated by the firm is or are licensed in good standing and that the firm meets such other criteria reasonably established by the board, he shall issue a certificate of authority to the firm authorizing it to provide and hold itself out as providing construction management services.

(2) If the construction manager or managers designated by the firm cease to be licensed or to be principals or employees of the firm, the firm shall immediately notify the administrator in writing and shall cease to hold itself out as qualified to offer construction management services. Upon receiving such notification, the administrator shall suspend the firm's certificate of authority. If the firm is in the process of providing construction management services when its designated licensed construction manager becomes unable to provide those services, the firm shall complete the construction management services for the project by using the services of another licensed construction manager who need not be a principal or employee of the firm. The firm shall not provide or hold itself out as providing construction management services for other projects until the administrator has reinstated the firm's certificate of authority which the administrator shall do if the firm submits an application for reinstatement of its certificate of authority, which shall contain the information required for an original application together with such other information as the administrator reasonably may require, and the administrator finds such application to be satisfactory and complete.

§ 54-4510. Fees -- Disposition of funds

(1) The board shall adopt by rule reasonable fees not to exceed two hundred dollars (\$200) for each of the following:

(a) Initial examination and licensing;

(b) License renewal;

(c) Inactive licenses;

(d) License reinstatement; and

(e) Issuance, suspension and reinstatement of a certificate of authority.

(2) All fees collected by the administrator shall be paid to the public works contractors license board and deposited in the state treasury, to the credit of the public works contractors license fund and shall be used only for the administration of the provisions of this chapter. All expenses incurred pursuant to the provisions of this chapter shall be paid from the public works contractors license fund. All fees collected by the administrator under the provisions of this chapter are hereby appropriated for one (1) year following the effective date of this chapter and thereafter as appropriated each year by the legislature for carrying out the purposes and objectives of this chapter and to

pay all costs and expenses incurred in connection therewith. Such moneys shall be paid out on warrants drawn by the state controller upon presentation of proper vouchers approved by the board.

§ 54-4511. Award of contracts -- Dual capacity

(1) Construction manager representative (CMR). A licensed construction manager and the firm of which he is a principal or full-time employee may be awarded a contract to act only as representative for an owner. In soliciting bids or awarding contracts for public works construction to be entered into by the owner, a licensed construction manager representative shall comply with all notice and bidding laws with which an owner would be required to comply if it were to do the same activities without the assistance of a construction manager. A licensed construction manager representative and the firm of which he is a principal or employee shall not provide construction management services for a construction project on which the licensed construction manager or his firm also provides design services or other construction related services, whether as a contractor or subcontractor. Provided however, that this section shall not preclude a licensed architect or registered professional engineer from providing public works construction management services which are normally provided by licensed architects or registered professional engineers for a project on which the person or firm has provided design services. Such public works construction management services provided by a licensed architect or registered professional engineer shall not include the procurement of equipment or construction work required by law to be competitively bid for public works construction.

(2) Construction manager/general contractor (CM/GC). A licensed construction manager and the firm of which he is a principal or full-time employee may be awarded a contract to act as both construction manager and general contractor provided the construction manager/general contractor has a valid public works contractor license as a general contractor pursuant to *section 54-1902, Idaho Code*.

(3) Compensation of a construction manager/general contractor shall be determined pursuant to *section 67-2320, Idaho Code*.

(4) At such time as the design of a project or a phase of a project is available, the construction work, materials and equipment for construction of a project may be incorporated into the construction manager/general contractor contract based upon bids solicited from licensed public works contractors and from suppliers for all construction work, materials and equipment.

(5) For each portion of the work, competitive bids shall be solicited from not less than three (3) contractors or suppliers deemed to be qualified by the construction manager/general contractor. All bids shall be opened publicly in the presence of a representative of the public entity for whom the project is undertaken and, once opened, bids shall be subject to the public record requirements outlined in *Title 74, Idaho Code*.

(6) All construction work, materials and equipment shall be awarded to the lowest responsive qualified bidder. For good cause, the public entity may approve the award of bids based upon fewer than three (3) bids.

(7) The construction manager/general contractor, or its subsidiaries and affiliated companies, may bid to perform construction work or to supply materials or equipment only if it holds a

valid license pursuant to *section 54-1902, Idaho Code*, and for which it customarily self-performs or supplies such construction work, materials or equipment; provided, the public entity may limit the amount of work the construction manager/general contractor, including its subsidiaries and affiliated companies, may perform under the contract. Bids from the construction manager/general contractor and its subsidiaries or affiliated companies must be opened at the opening of any other bids.

(8) When bidding for all phases of the project has been completed, a guaranteed maximum price for the entire project may be negotiated by the public entity.

(9) No public entity shall enter into a contract with any person or firm for construction management services as construction manager representative or as construction manager/general contractor if such person or firm is required to be licensed under this chapter unless:

(a) Such person holds a valid license or such firm holds a valid certificate issued pursuant to this chapter; and

(b) The selection of such construction manager representative or construction manager/general contractor is made pursuant to *section 67-2320, Idaho Code*; and

(c) All terms of the contract including, but not limited to, terms for management fees, incentive compensation and disposition of any contingency fund, if applicable, are agreed upon in writing.

§ 54-4512. Requirement of bond

A licensed construction manager representative or firm providing public works construction management services shall be required to post a payment and performance bond or bonds in the amount of the total construction management contract to secure the construction manager's obligations thereunder. A construction manager/general contractor shall provide payment and performance bonds to secure construction of the project in the amounts required in *section 54-1926, Idaho Code*.

§ 54-4513. Penalties

Any person who violates any provision of this chapter shall, upon conviction, be guilty of a misdemeanor, and shall be punished by a fine not to exceed five thousand dollars (\$5,000) or by imprisonment in the county jail for a term not to exceed one (1) year, or by both such fine and imprisonment, at the discretion of the court.

§ 54-4514. Injunctive relief

The administrator may bring an action in the district court for a temporary restraining order, preliminary injunction or permanent injunction against any person who violates the provisions of this chapter.

§ 67-2310. Subcontractors to be listed on bid of general contractor -- Exceptions

(1) Hereafter, before the state of Idaho, the separate counties, cities, towns, villages or school districts within the state of Idaho shall let contracts for the construction, alteration or repair of any and all buildings, improvements or public works, and such construction, alteration or repair requires plumbing, HVAC work, or electrical work, the general contractor shall be required to include in his bid the name, or names and address, or addresses, of the subcontractors who shall, in the event the contractor secures the contract, subcontract the plumbing, HVAC work, and electrical work under the general contract. In the event that the general contractor intends to self-perform the plumbing, HVAC or electrical work, the general contractor must be properly licensed by the state of Idaho to perform such work. The general contractor shall demonstrate compliance with this requirement by listing the valid contractor's license number for the plumbing, HVAC or electrical work to be self-performed by the general contractor on the bid form.

(2) No general contractor shall name any subcontractor in his bid unless the general contractor has received communication from the subcontractor. For the purposes of this section, "communication" shall include telephone, mail, facsimile machine, in person, or by computer using the internet or a bid service.

(3) In the event a general contractor secures the contract, and if the general contractor and a named subcontractor cannot finalize the terms of agreement between them for any reason other than cost, the general contractor shall name another subcontractor by written notification within ten (10) days of being awarded the public works contract. The general contractor shall disclose to the public entity the cost for work to be performed by the substitute subcontractor. If the amount of the substitute subcontractor's bid is less than the original subcontractor's bid, the reduction in cost shall be passed through to the benefit of the public entity which awarded the contract.

(4) This act shall not apply to the construction, alteration or repair of public buildings under the jurisdiction of the board of regents of the university of Idaho.

(5) This act shall have no application to the preparation and submission of plans and specifications pursuant to statute or local ordinance.

(6) Failure to name subcontractors or list the valid contractor's license number for plumbing, HVAC or electrical work being self-performed by the general contractor as required by subsection (1) of this section shall render any bid submitted by a general contractor unresponsive and void.

(7) At the time subcontractors are named in accordance with the provisions of this section, they must possess the appropriate licenses or certificates of competency issued by the state of Idaho covering the contractor work classification in which each respective subcontractor is named. The provisions of this subsection (7) shall not apply in those cases where the public works contract is financed in whole or in part by federal aid funds, provided that, at or prior to the award and execution of any such contract by the state of Idaho or any other contracting authority mentioned in subsection (1) of this section, the successful bidder has secured a license as provided in this chapter.

§ 67-2348. Preference for Idaho domiciled contractors on public works

To the extent permitted by federal laws and regulations, whenever the state of Idaho, or any department, division, bureau or agency thereof, or any city, county, school district, irrigation district, drainage district, sewer district, highway district, good road district, fire district, flood district, or other public body, shall let for bid any contract to a contractor for any public works, the contractor domiciled outside the boundaries of Idaho shall be required, in order to be successful, to submit a bid the same percent less than the lowest bid submitted by a responsible contractor domiciled in Idaho as would be required for such an Idaho domiciled contractor to succeed over the bidding contractor domiciled outside Idaho on a like contract being let in his domiciliary state.

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Public Works Contractors License Administrative Rules

Rules of the Public Works Contractors License Board

07.05.01

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**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)

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, Suite 150, 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. (3-20-14)

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 office of the administrator. Documents may be submitted in electronic format acceptable to the administrator. (3-20-14)

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. (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)

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

b. 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, provided the application for renewal is filed with the Board within the extended time specified. (3-20-14)

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 74, Chapter 1, 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 Administrative Procedures Act, Title 67, Chapter 52, Idaho Code. (3-20-04)

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 and in a format as the administrator shall prescribe, including electronically, accompanied by the required fee for the class of license applied for, a complete written 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: (3-20-14)

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 thirty percent (30%) below that for which the applicant is currently licensed. (3-20-14)

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)

07. Heavy, Highway, Building, and Specialty Construction Class C License. An applicant requesting a Class C license in Heavy, Highway, Specialty or Building Construction shall have a minimum net worth of twenty-five thousand dollars (\$25,000) with seven thousand five hundred dollars (\$7,500) in working capital. (3-19-99)

08. Heavy, Highway, Building, and Specialty Construction Class D License. An applicant requesting a Class D license in Heavy, Highway, Specialty or Building Construction shall have a minimum net worth of ten thousand dollars (\$10,000) with three thousand dollars (\$3,000) in working capital. (3-19-99)

112. EXAMINATION.

The Board shall approve all subject areas and topics to be included in the examinations to become licensed as a public works contractor. (4-9-09)

01. Frequency of Conducting of Examinations. (4-9-09)

a. Examinations for all classes of licenses under the Public Contractors laws and rules will be given a minimum of four (4) times each year in at least three (3) locations: (4-9-09)

i. One (1) to be in north Idaho; (4-9-09)

ii. One (1) to be in southwest Idaho; and (4-9-09)

iii. One (1) to be in southeast Idaho. (4-9-09)

b. The applicant will be notified in writing of the date, time, and location at which the examinations will be given, following approval of the application. (4-9-09)

02. Professional Testing Services. In lieu of the administration by the administrator of the examination for licenses pursuant to this rule, the administrator may contract with a professional testing service to administer the examination, and require license applicants to pay to the testing service the fee that they have set for the examination and to take such examination at the time set by such service with the exception of Class D applicants. After taking such examination, an official copy of the applicant's test score must be provided to the administrator before the license will be granted. If the examination is conducted in this fashion, the Division of Building Safety may charge and retain the application fee provided for by Section 54-1911, Idaho Code, to cover the cost of reviewing the applicant's application. (4-9-09)

a. Class D applicants will utilize the existing in-house, open-book examination. (4-9-09)

b. Class D licensees pursuing an upgrade must reapply and pass the examination administered by the professional testing service. (4-9-09)

03. Required Score. The applicant must receive a final grade of seventy percent (70%) or higher prior to issuance of the appropriate license. (4-9-09)

04. Failed Examinations. (4-9-09)

a. An applicant receiving less than a passing score on a first or second examination may be reexamined without reapplication. (4-9-09)

b. Before being reexamined after failing an examination the third time, an applicant must resubmit the application and fee. (4-9-09)

c. Before being reexamined after any further failures, an applicant for reexamination must wait until the expiration of sixty (60) days from the date of the failed examination and resubmit the application and fee for each subsequent examination. (4-9-09)

113. -- 198. (RESERVED)

199. LIMITATIONS.

01. One License. A licensee will be permitted to hold only one (1) class of license at any given time. (3-20-04)

02. Previous License Null and Void. When a licensee of one class has been issued a license of another class, the previous license shall be null and void. (3-20-04)

03. Total Bid Cost. The total of any single bid on a given public works project, or the aggregate total of any split bids, or the aggregate total of any base bid and any alternate bid items, or the aggregate total of any separate bid by a licensee of any class, except Class Unlimited, shall not exceed the estimated cost or bid limit of the class of license held by the licensee. The aggregate total of bids shall include all bids of the subcontractors. Subcontractor bids shall not be considered a separate bid for the purposes of computing the bid on a given public works project. (5-8-09)

04. Two or More Licensees. Two (2) or more licensees of the same class or of different classes shall not be permitted to combine the estimated cost or bid limit of their licenses to submit a bid in excess of the license held by either licensee. (3-20-04)

05. Type 4 License Holder. The holder of a license for Type 4, Specialty Construction, shall be entitled to bid a public works project as a prime contractor or as a subcontractor, if more than fifty percent (50%) of the work to be performed by him on such project is covered by a category or categories listed on the license held by the licensee. (3-20-04)

200. TYPE 4-SPECIALTY CONSTRUCTION CATEGORIES.

A license for Type 4-Specialty Construction shall list one (1) or more specialty construction categories to which the license is restricted. Categories and their definitions are: (4-6-05)

01. 01107 Engineering. A specialty contractor whose primary business includes providing engineering and design services such as civil, electrical, mechanical, and structural. (4-6-05)

02. 01541 Scaffolding and Shoring. A specialty contractor whose primary business is the installation of any temporary elevated platform and its supporting structure used for supporting workmen or materials or both, and props or posts of timber or other material in compression used for the temporary support of excavations, formwork or unsafe structures; the process of erecting shoring. (4-6-05)

03. 01542 Craning and Erection. A specialty contractor whose primary business includes the art, ability and skill to safely control the workings of a crane in such a manner that building materials, supplies, equipment and structural work can be raised and set in a final position. (4-6-05)

04. 01550 Construction Zone Traffic Control. A specialty contractor whose primary business is the installation or removal of temporary lane closures, flagging or traffic diversions, utilizing pilot cars, portable devices such as cones, delineators, barricades, sign stands, flashing beacons, flashing arrow trailers, and changeable message signs on roadways, public streets and highways or public conveyances. (4-6-05)

05. 01570 Temporary Erosion and Sediment Controls. A specialty contractor whose primary business includes the ability and expertise to install silt fencing or other similar devices to prevent erosion and contain silt. (4-6-05)

06. 02110 Excavation, Removal and Handling of Hazardous Material. A specialty contractor whose primary business includes the excavation and removal of toxic and hazardous site materials. Contractors must be properly licensed and certified if required. (4-6-05)

07. 02115 Removal of Underground Storage Tanks. A specialty contractor whose primary business includes, but is not limited to, the excavation, removal, cleanup, and disposal of underground storage tanks that have contained petrochemical type fuels. This work should include the sampling and testing of surrounding materials and filing of closure documents. (4-6-05)

08. 02195 Environmental Remediation, Restoration and Soil Stabilization. A specialty contractor whose primary business is the remediation and restoration of contaminated environmental sites. (4-6-05)

09. 02210 Drilling. A specialty contractor whose primary business includes practical elementary knowledge of geology and hydrology; the art, ability, knowledge, science and expertise to bore, drill, excavate, case, pack or cement by use of standard practices, including the use of diamond bits, cable tools, percussion, air percussion, rotary, air rotary, reverse circulation rotary methods or jetting. (4-6-05)

10. **02220 Demolition.** A specialty contractor whose primary business includes the ability and expertise to demolish all types of buildings or structures and to remove all of such buildings or structures from the premises, and maintain the premises surrounding demolition site safely for passing public. (4-6-05)
11. **02230 Site Clearing.** A specialty contractor whose primary business includes the ability and expertise to remove and dispose of all trees, brush, shrubs, logs, windfalls, stumps, roots, debris and other obstacles in preparation for excavation of a construction site or other uses. (4-6-05)
12. **02231 Logging.** A specialty contractor whose primary business and expertise includes the clearing, cutting, removal and transportation of logs and trees and the construction of temporary roads and structures for such operations along with any reclamation work associated with such operations. (4-6-05)
13. **02232 Tree Removal and Trimming.** A specialty contractor whose primary business includes pruning, removal, or guying of trees, limbs, stumps, and bushes including grinding and removal of such items. (4-6-05)
14. **02240 Dewatering and Subsurface Drainage.** A specialty contractor whose primary business is to control the level and flow of subsurface water. (4-6-05)
15. **02260 Earth Retention Systems, Mechanical Stabilized Earth Walls and Retaining Walls.** A specialty contractor whose primary business includes the building of earth retention systems, mechanical stabilized earth walls and retaining walls. (4-6-05)
16. **02265 Slurry Walls.** A specialty contractor whose primary business is the construction of below ground structural diaphragm walls or containment walls through the combined use of trench excavation, mud slurry and tremie concrete. (4-6-05)
17. **02270 Rockfall Mitigation and High Scaling.** A specialty contractor whose primary business is rockfall mitigation and high scaling. (4-6-05)
18. **02310 Excavation and Grading.** A specialty contractor whose primary business includes such work as digging, moving and placing material forming the surface of the earth in such manner that a cut, fill, excavation and any similar excavating operation can be done with the use of hand and power tools and machines that are used to dig, move and place that material forming the earth's surface. (4-6-05)
19. **02312 Dust Control, Dust Abatement and Dust Oiling.** A specialty contractor whose primary business is dust control, dust abatement and dust oiling. (4-6-05)
20. **02317 Rock Trenching.** A specialty contractor whose primary business is rock trenching. (4-6-05)
21. **02318 Hauling.** A specialty contractor whose primary business includes the ability and expertise to obtain or move specified materials by transportation in a vehicle. (4-6-05)
22. **02319 Blasting.** A specialty contractor whose primary business includes the use of conventional and high explosives for pre-splitting, surface, underground and underwater blasting, drill, trench, or excavate for use of explosives; priming and loading drilled, trenched or excavated areas by pipe tamping, pneumatic loading, injector loading, mud capping, slurry loading, combination of pneumatic and injector loading or hand loading; use of volt, ohms and milliamper meter (VOM) in testing blasting machine output voltage, power line voltage, measuring electric blasting cap or blasting circuit resistance, testing for current leakage, testing for AC-DC stray current and voltage, leading wires for open or short circuits, rack bar blasting machine for running short or galvanometer output voltage; use of blasting caps, electric blasting caps, delay electric blasting caps, primacord and all other detonating devices. (4-6-05)
23. **02325 Dredging.** A specialty contractor whose primary business includes the excavation or removal of earth, rock, silt, or sediment from bodies of water including but not limited to streams, lakes, rivers or bays by means of specialized equipment. (4-6-05)

24. **02404 Horizontal and Directional Earth Boring, Trenching and Tunneling.** A specialty contractor whose primary business and expertise includes boring, trenching or tunneling. (4-6-05)
25. **02450 Drilled Piers, Pile Driving, Caisson Drilling, Geopier and Helical Piers.** A specialty contractor whose primary business includes drilling piers, pile driving, caisson drilling, Geopier and helical piers. (4-6-05)
26. **02500 Utilities.** A specialty contractor whose primary business includes the construction and installation of pipe lines for the transmission of sewage, gas and water, including minor facilities incidental thereto; installation of electrical poles, towers, arms, transformers, fixtures, conduits, conductors, switch gear, grounding devices, panels, appliances and apparatus installed outside of buildings; including excavating, trenching, grading, back fill, asphalt patching as well as all necessary work and installation of appurtenances in connection therewith. (4-6-05)
27. **02520 Well Drilling.** A specialty contractor whose primary business includes the practical elementary knowledge of geology, hydrology, the occurrence of water in the ground, water levels in wells, the prevention of surface and sub-surface contamination and pollution of the ground water supply; and the art, ability, experience, knowledge, science, and expertise to bore, drill, excavate, case, screen, cement, clean and repair water wells; or to do any or any combination of any or all such boring, drilling, excavating, casing, cementing, cleaning and repairing with hand or power tools or rigs, including the installation and repair of pumps. (4-6-05)
28. **02580 Installation of Communication Towers.** A specialty contractor whose primary business and expertise is the installation of communication towers. (4-6-05)
29. **02660 Membrane Liners for Ponds and Reservoirs.** A specialty contractor whose primary business includes the installation of liners for the purpose of containment of liquids. (4-6-05)
30. **02720 Crushing.** A specialty contractor whose primary business includes the ability and expertise to reduce rocks and aggregates to a smaller and uniform size and gradation to meet an agreed specification. (4-6-05)
31. **02740 Asphalt Paving.** A specialty contractor whose primary business includes the installation of aggregate base course, cement treated base, bitumen treated base, asphalt concrete and the application of asphalt surfacing and surface repairs of streets, intersections, driveways, parking lots, tennis courts, running tracks, play areas; including the application or installation of primer coat, asphalt binder course, tack coating, seal coating and chips, slurry seal and chips, flush or flog coats, asphalt curbs, concrete bumper curbs, redwood headers, asphalt surface binder emulsion, asbestos and sand and acrylic color systems. (Synthetic and athletic surfacing are category 02790 Athletic and Recreational Surfaces.) Also includes crack sealing, asphalt maintenance repair and soil pulverization. (4-6-05)
32. **02761 Traffic Marking and Striping.** A specialty contractor whose primary business includes the art, ability and expertise to apply markings to streets, roadways, or parking surfaces pre-designed for the use of parking or passage of vehicles by the application of directional lines, buttons, markers, and signs made of but not limited to plastic, paint, epoxies and rubber, in such manner as to provide for the channeling and controlling of the traffic flow. Also includes temporary striping. (4-6-05)
33. **02785 Asphalt Maintenance and Repair, Seal Coating, Crack Sealing and Chip Sealing.** A specialty contractor whose primary business is asphalt maintenance and repair, seal coating, crack sealing and chip sealing. (4-6-05)
34. **02790 Athletic and Recreational Surfaces.** A specialty contractor whose primary business is the installation of specialty surfaces including but not limited to non-wood athletic floors, tennis courts, running tracks and artificial turf. This would include any subsurface preparation such as leveling, excavation, fill and compaction or grading. The application of surfacing, mixing, spreading or placing of emulsions, binders, sand and acrylic color systems is also included along with the installation of modular, plastic athletic floors such as "Sport Court" type floors. This category does not include any type of structure required for the installation of these surfaces. (4-6-05)

- 35. 02810 Sprinkler and Irrigation Systems.** A specialty contractor whose primary business includes the installation of types and kinds of water distribution systems for complete artificial water or irrigation of gardens, lawns, shrubs, vines, bushes, trees and other vegetation, including the trenching, excavating and backfilling in connection therewith. (Low voltage only.) (4-6-05)
- 36. 02820 Fencing.** A specialty contractor whose primary business includes the installation and repair of any type of fencing. (4-6-05)
- 37. 02840 Guardrails and Safety Barriers.** A specialty contractor whose primary business includes the installation of guardrails and safety barriers (including cattle guards). (4-6-05)
- 38. 02850 Bridges and Structures.** A specialty contractor whose primary business includes the installation, alteration and repair of bridges and related structures, including culverts. (4-6-05)
- 39. 02855 Bridge Crossings and Box Culverts.** A specialty contractor whose primary business is the installation or construction, or both, of any bridge or crossing structure shorter than twenty (20) feet measured on the centerline of the roadway or trail. (4-6-05)
- 40. 02880 Installation of School Playground Equipment.** A specialty contractor whose primary business is the installation of school playground equipment. (4-6-05)
- 41. 02890 Traffic Signs and Signals.** A specialty contractor whose primary business includes the art, ability, knowledge, experience, science and expertise to fabricate, install and erect signs, including electrical signs and including the wiring of such signs. A licensed electrician must perform all the electrical work. (4-6-05)
- 42. 02900 Landscaping, Seeding and Mulching.** A specialty contractor whose primary business includes the preparation of plots of land for architectural, horticulture and provisions of decorative treatment and arrangement of gardens, lawns, shrubs, vines, bushes, trees and other decorative vegetation; construction of conservatories, hot and green houses, drainage and sprinkler systems, and ornamental pools, tanks, fountains, walls, fences and walks, arrange, fabricate and place garden furniture, statuary and monuments in connection therewith. (4-6-05)
- 43. 02910 Slope Stabilization, Hydroseeding, Hydromulching, Native Plant Revegetation for Erosion Control.** A specialty contractor whose primary business is slope stabilization, including necessary tillage and plant bed preparation using hydroseeding, hydromulching and native plant revegetation for erosion control. (4-6-05)
- 44. 02935 Landscape Maintenance.** A specialty contractor whose primary business and expertise includes the maintenance of existing lawns, gardens, and sprinkler systems. This would include mowing, weeding, fertilization, pest control and minor repair or relocation of sprinkler systems. (4-6-05)
- 45. 02937 Pest Control, Sterilization and Herbicide Applications.** A specialty contractor whose primary business includes the mixing, transportation and application of fertilizers, pesticides, herbicides, and sterilization chemicals for the control of insects, pests and weeds. (4-6-05)
- 46. 02955 Pipeline Cleaning, Sealing, Lining and Bursting.** A specialty contractor whose primary business and expertise includes cleaning, sealing, lining and bursting pipelines. (4-6-05)
- 47. 02965 Cold Milling, Rumble Strip Milling, Asphalt Reclaiming and Pavement Surface Grinding.** A specialty contractor whose primary business includes cold milling, rumble strip milling, asphalt reclaiming and pavement surface grinding. (4-6-05)
- 48. 02990 Structural Moving.** A specialty contractor whose primary business includes but is not limited to raising, lowering, cribbing, underpinning and moving of buildings or structures. This does not include the alterations, additions, repairs or rehabilitation of the retained portion of the structure. (4-6-05)
- 49. 03200 Concrete Reinforcing Rebar Installation.** A specialty contractor whose primary business

includes the ability and expertise to fabricate, place and tie steel mesh or steel reinforcing bars or rods of any profile, perimeter or cross-section that are or may be used to reinforce concrete. (4-6-05)

50. 03300 Concrete. A specialty contractor whose primary business includes the ability and expertise to process, proportion, batch and mix aggregates consisting of sand, gravel, crushed rock or other inert materials having clean uncoated grains of strong and durable minerals, cement and water or to do any part or any combination of any thereof, in such a manner that acceptable mass, pavement, flat and other cement and concrete work can be poured, placed, finished and installed, including the placing, forming and setting of screeds for pavement or flat work. Also includes concrete sidewalks, driveways, curbs and gutters. (4-6-05)

51. 03370 Specially Placed Concrete, Concrete Pumping and Shotcreting. A specialty contractor whose primary business includes the ability and equipment necessary to deliver and install concrete, and similar materials to their final destination in buildings and structures. (4-6-05)

52. 03380 Post-Tensioned Concrete Structures or Structural Members. A specialty contractor whose primary business is the post-tensioning of structural elements using sleeved tendons of high-strength prestressing steel. (4-6-05)

53. 03500 Gyperete. A specialty contractor whose primary business includes the ability and expertise to mix and apply gypsum concrete. (4-6-05)

54. 03600 Concrete Grouting. A specialty contractor whose primary business includes the ability and the equipment necessary to place concrete grouts. Concrete grouts are thin, fluid, shrink resistant, mortar-like materials used for filling joints and cavities and setting and anchoring items in masonry and concrete. (4-6-05)

55. 03650 Pressure Grouting and Slab Jacking. A specialty contractor whose primary business includes pressure foundation grouting and jacking and the injection of concrete or mortar into foundations for stabilization. (4-6-05)

56. 03900 Concrete Demolition, Concrete Sawing and Cutting, Core Drilling, Joint Sealing and Hydrocutting. A specialty contractor whose primary business includes concrete cutting, drilling, sawing, cracking, breaking, chipping or removal of concrete. This category also includes the caulking or sealing of joints or cracks caused by such operations. (4-6-05)

57. 04000 Masonry. A specialty contractor whose primary business includes the installation with or without the use of mortar or adhesives of brick, concrete block, adobe units, gypsum partition tile, pumice block or other lightweight and facsimile units and products common to the masonry industry. (4-6-05)

58. 04900 Chemical Cleaning and Masonry Restoration. A specialty contractor whose primary business includes the cleaning or restoration of masonry through the use of chemicals, pressure washing, sand blasting or other methods. (4-6-05)

59. 05090 Welding. A specialty contractor whose primary business causes metal to become permanently attached, joined and fabricated by the use of gases or electrical energy, developing sufficient heat to create molten metal, fusing the elements together. (4-6-05)

60. 05100 Steel Fabrication, Erection and Installation. A specialty contractor whose primary business includes the ability and expertise to fabricate, place and tie steel reinforcing bars, erect structural steel shapes and plates, of any profile, perimeter or cross-section, that are or may be used to reinforce concrete or as structural members for buildings and structures, including riveting, welding and rigging only in connection therewith, in such a manner that steel reinforcing and structural work can be fabricated and erected. (4-6-05)

61. 05700 Ornamental Metals. A specialty contractor whose primary business includes the art, ability, experience, knowledge, science and expertise to assemble, case, cut, shape, stamp, forage, fabricate and install sheet, rolled and cast, brass, bronze, copper, cast iron, wrought iron, monel metal, stainless steel, and any other metal or any combination thereof, as have been or are now used in the building and construction industry for the architectural treatment and ornamental decoration of buildings and structures, in such a manner that, under an agreed specification,

acceptable ornamental metal work can be executed, fabricated and installed; but shall not include the work of a sheet metal contractor. (4-6-05)

62. 05830 Bridge Expansion Joints and Repair. A specialty contractor whose primary business and expertise is the repair of bridge expansion joints. (4-6-05)

63. 06100 Carpentry, Framing and Remodeling. A specialty contractor whose primary business includes the placing and erection of floor systems, walls, sheeting, siding, trusses, roof decking of either wood or light gauge metal framing. This contractor also installs finish items such as running trim, sashes, doors, casing, cabinets, cases and other pre-manufactured finished items. (4-6-05)

64. 06130 Log and Heavy Timber Construction. A specialty contractor whose primary business includes the ability and expertise to build and erect log or heavy timber structures. (4-6-05)

65. 06139 Docks - Log and Wood Structures. A specialty contractor whose primary business includes the ability and expertise to construct log and wood structured docks. (4-6-05)

66. 06200 Finish Carpentry and Millwork. A specialty contractor whose primary business includes the art, ability, experience, knowledge, science and expertise to cut, surface, join, stick, glue and frame wood and wood products, in such a manner that, under an agreed specification, acceptable cabinet, case, sash, door, trim, nonbearing partition, and such other mill products as are by custom and usage accepted in the building and construction industry as millwork and fixtures, can be executed; including the placing, erecting, fabricating and finishing in buildings, structures and elsewhere of such millwork and fixtures or to do any part or any combination of any thereof. (4-6-05)

67. 07100 Waterproofing and Dampproofing. A specialty contractor whose primary business includes the ability and expertise to apply waterproofing membranes, coatings of rubber, latex, asphaltum, pitch, tar or other materials or any combination of these materials, to surfaces to prevent, hold, keep and stop water, air or steam from penetrating and passing such materials, thereby keeping moisture from gaining access to material or space beyond such waterproofing. (4-6-05)

68. 07200 Thermal Insulation. A specialty contractor whose primary business includes the installation of any insulating media in buildings and structures for the purpose of temperature control. (4-6-05)

69. 07240 Stucco and Exterior Insulation Finish Systems (EIFS). A specialty contractor whose primary business includes the ability and expertise to install Stucco and EIFS. (4-6-05)

70. 07400 Roofing and Siding. A specialty contractor whose primary business includes the ability and expertise to examine surfaces and to bring such surfaces to a condition where asphaltum, pitch, tar, felt, flax, shakes, shingles, roof tile, slate and any other material or materials or any combination thereof, that use and custom has established as usable for, or which material or materials are now used as, such waterproof, weatherproof or watertight seal for such membranes, roof and surfaces; but shall not include a contractor whose sole contracting business is the installation of devices or stripping for the internal control of external weather conditions. (4-6-05)

71. 07450 Siding and Decking. A specialty contractor whose primary business includes the application or installation of exterior siding, decking or gutters including wood, wood products, vinyl, aluminum and metal to new or existing buildings and includes wooden decks and related handrails. (This category does not include the construction or installation of covers or enclosures of any kind.) (4-6-05)

72. 07700 Sheet Metal Flashings, Roof Specialties and Accessories. A specialty contractor whose primary business includes the art, ability, experience, knowledge, science and expertise to select, cut, shape, fabricate and install sheet metal such as cornices, flashings, gutters, leaders, rainwater down spouts, pans, etc., or to do any part or any combination thereof, in such a manner that sheet metal work can be executed, fabricated and installed. (4-6-05)

73. 07800 Sprayed on Fireproofing. A specialty contractor whose primary business includes the mixing, transportation, and installation of fire proofing materials for buildings and structures. (4-6-05)

74. 07920 Caulking and Joint Sealants. A specialty contractor whose primary business includes the ability and expertise for installation of elastomeric and rigid joint sealants, caulking compounds, and related accessories. (4-6-05)

75. 08100 Doors, Gates, Specialty Doors and Activating Devices. A specialty contractor whose primary business is the installation, modification or repair of residential, commercial or industrial doors and door hardware. This includes but is not necessarily limited to wood, metal clad or hollow metal, glass, automatic, revolving, folding and sliding doors, power activated gates, or movable sun shades/shutters. Card activated equipment and other access control devices and any low voltage electronic or manually operated door hardware devices are also a part of this category. (4-6-05)

76. 08500 Windows, Glass and Glazing. A specialty contractor whose primary business includes the art, ability, experience, knowledge and expertise to select, cut, assemble and install all makes and kinds of glass and glass work, and execute the glazing of frames, panels, sash and doors, in such a manner that under an agreed specification, acceptable glass work and glazing can be executed, fabricated and installed, and may include the fabrication or installation in any building or structure of frames, glazed-in panels, sash or doors, upon or within which such frames, glazed-in panels, sash or doors, such glass work or glazing has been or can be executed or installed. (4-6-05)

77. 09110 Steel Stud Framing. A specialty contractor whose primary business includes the ability and expertise to build or assemble steel stud framing systems. (4-6-05)

78. 09200 Lath and Plaster. A specialty contractor whose primary business includes the ability and expertise to prepare mixtures of sand, gypsum, plaster, quick-lime or hydrated lime and water or sand and cement and water or a combination of such other materials as create a permanent surface coating; including coloring for same and to apply such mixtures by use of a plaster's trowel, brush or spray gun to any surface which offers a mechanical key for the support of such mixture or to which such mixture will adhere by suction; and to apply wood or metal lath or any other materials which provide a key or suction base for the support of plaster coatings; including the light gauge metal shapes for the support of metal or other fire proof lath. Includes metal stud framing. (4-6-05)

79. 09250 Drywall. A specialty contractor whose primary business includes the ability and expertise to install unfinished and prefinished gypsum board on wood and metal framing and on solid substrates; gypsum and cementitious backing board for other finishes; accessories and trim; and joint taping and finishing. (4-6-05)

80. 09300 Tile and Terrazzo. A specialty contractor whose primary business includes the ability and expertise to examine surfaces and bring such surfaces to a condition where acceptable work can be executed and fabricated thereon by the setting of chips or marble, stone, tile or other material in a pattern with the use of cement, and to grind or polish the same. (4-6-05)

81. 09500 Acoustical Treatment. A specialty contractor whose primary business includes the installation, application, alteration and repair of all types of acoustical systems, to include acoustical ceilings, wall panels, sound control blocks and curtains, hangers, clips, inserts, nails, staples, related hardware and adhesive, lightweight framing systems and related accessories (electrical excluded), installation and repair of gypsum wall board, painting, accessories, taping and texturing. (4-6-05)

82. 09600 Flooring. A specialty contractor whose primary business includes the ability and expertise to examine surfaces, specify and execute the preliminary and preparatory work necessary for the installation of flooring, wherever installed, including wood floors and flooring (including the selection, cutting, laying, finishing, repairing, scraping, sanding, filling, staining, shellacking and waxing) and all flooring of any nature either developed as or established through custom and usage as flooring. (4-6-05)

83. 09680 Floor Covering and Carpeting. A specialty contractor whose primary business includes the installation, replacement and repair of floor covering materials, including laminates and including preparation of surface to be covered, using tools and accessories and industry accepted procedures of the craft. (4-6-05)

84. 09900 Painting and Decorating. A specialty contractor whose primary business includes the

ability and expertise to examine surfaces and execute the preliminary and preparatory work necessary to bring such surfaces to a condition where acceptable work can be executed thereon with the use of paints, varnishes, shellacs, stains, waxes, paper, oilcloth, fabrics, plastics and any other vehicles, mediums and materials that may be mixed, used and applied to the surface of buildings, and the appurtenances thereto, of every description in their natural condition or constructed of any material or materials whatsoever that can be painted or hung as are by custom and usage accepted in the building and construction industry as painting and decorating. (4-6-05)

85. 09950 Sand Blasting. A specialty contractor whose primary business includes the ability and expertise to sand blast surfaces through the use of equipment designed to clean, grind, cut or decorate surfaces with a blast of sand or other abrasive applied to such surfaces with steam or compressed air. (4-6-05)

86. 09960 Specialty Coatings. A specialty contractor whose primary business includes the surface preparation and installation of specialty coatings. (4-6-05)

87. 10150 Institutional Equipment. A specialty contractor whose primary business includes the installation, maintenance and repair of booths, shelves, laboratory equipment, food service equipment, toilet partitions, and such other equipment and materials as are by custom and usage accepted in the construction industry as institutional equipment. (4-6-05)

88. 10270 Raised Access Flooring. A specialty contractor whose primary business includes the installation of wood or metal-framed elevated computer-flooring systems. This does not include the structural floor on which the computer floor is supported or mezzanines. (4-6-05)

89. 10445 Non-Electrical Signs. A specialty contractor whose primary business includes the installation of all types of non-electrical signs, including but not limited to traffic delineators, mile post markers, post or pole supported signs, signs attached to structures, painted wall signs, and modifications to existing signs. (4-6-05)

90. 11001 Specialty Machinery and Equipment Installation and Servicing. A specialty contractor whose primary business is the installation, removal, modification or repair of pumps, water and waste water equipment, conveyors, cranes, dock levelers, various hoisting and material handling equipment, trash compactors and weighing scales installation and servicing. This does not include the construction of buildings or roof structures for this equipment. (4-6-05)

91. 11140 Petroleum and Vehicle Service Equipment, Installation and Repair. A specialty contractor whose primary business includes the installation and repair of underground fuel storage tanks used for dispensing gasoline, diesel, oil or kerosene fuels. This includes installation of all incidental tank-related piping, leak line detectors, vapor recovery lines, vapor probes, low voltage electrical work, associated calibration, testing and adjustment of leak detection and vapor recovery equipment, and in-station diagnostics. This contractor may also install auto hoisting equipment, grease racks, compressors, air hoses and other equipment related to service stations. (4-6-05)

92. 11200 Water/Wastewater and Chemical Treatment. A specialty contractor whose primary business is the supply, installation and operational startup of equipment and chemicals for chemical treatment of water, wastewater or other liquid systems. (4-6-05)

93. 11485 Climbing Wall Structures and Products. A specialty contractor whose primary business includes the ability and expertise to design, fabricate and install climbing wall structures and equipment. This does not include concrete foundations or buildings in which the climbing walls may be supported or housed. (4-6-05)

94. 12011 Prefabricated Equipment and Furnishings. A specialty contractor whose primary business includes the installation of prefabricated products or equipment including but not limited to the following: theater stage equipment, school classroom equipment, bleachers or seats, store fixtures, display cases, toilet or shower room partitions or accessories, closet systems, dust collecting systems, appliances, bus stop shelters, telephone booths, sound or clean rooms, refrigerated boxes, office furniture, all types of pre-finished, pre-wired components, detention equipment and other such equipment and materials as are by custom and usage accepted in the construction industry as prefabricated equipment. (4-6-05)

95. 12490 Window, Wall Coverings, Drapes and Blinds. A specialty contractor whose primary business includes the installation of decorative, architectural or functional window glass treatments or covering products or treatments for temperature control or as a screening device. (4-6-05)

96. 13110 Cathodic Protection. A specialty contractor whose primary business is the prevention of corrosion by using special cathodes and anodes to circumvent corrosive damage by electric current. (4-6-05)

97. 13121 Pre-Manufactured Components and Modular Structures. A specialty contractor whose primary business includes the moving, setup, alteration or repair of pre-manufactured components, houses or similar modular structures. (4-6-05)

98. 13125 Pre-Engineered Building Kits. A specialty contractor whose primary business includes the assembly of pre-engineered building kits or structures obtained from a single source. This category is limited to assembly only of pre-engineered metal buildings, pole buildings, sunrooms, geodesic structures, aluminum domes, air supported structures, manufactured built greenhouses or similar structures. This does not include any other categories such as concrete foundations, carpentry, plumbing, heating or cooling, or electrical work. (4-6-05)

99. 13150 Swimming Pools and Spas. A specialty contractor whose primary business includes the ability to construct swimming pools, spas or hot tubs including excavation and backfill of material, installation of concrete, Gunitite, tile, pavers or other special materials used in pool construction. This category shall also include the installation of heating and filtration equipment, using those trades or skills necessary for installing the equipment, which may require other licenses including electrical and plumbing. (4-6-05)

100. 13165 Aquatic Recreational Equipment. A specialty contractor whose primary business includes the ability and expertise to design, fabricate and erect water slides and water park equipment and structures. This does not include any other categories such as concrete foundations, carpentry, plumbing, heating, cooling or electrical work. (4-6-05)

101. 13201 Circular Prestressed Concrete Storage Tanks (Liquid and Bulk). A specialty contractor whose primary business is the construction of circular prestressed concrete structures post-tensioned with circumferential tendons or wrapped circular prestressing. (4-6-05)

102. 13280 Hazardous Material Remediation. A specialty contractor whose primary business includes the ability and expertise to safely encapsulate, remove, handle or dispose of hazardous materials within buildings, including but not limited to asbestos, lead and chemicals. Contractors must be properly licensed and certified. (4-6-05)

103. 13290 Radon Mitigation. A specialty contractor whose primary business and expertise includes the detection and mitigation of Radon gas. (4-6-05)

104. 13800 Instrumentation and Controls. A specialty contractor whose primary business includes the installation, alteration or repair of instrumentation and control systems used to integrate equipment, sensors, monitors' controls and mechanical operators for industrial processes, building equipment, mechanical devices and related equipment. (4-6-05)

105. 13850 Alarm Systems. A specialty contractor whose primary business includes the installation, alteration and repair of communication and alarm systems, including the mechanical apparatus, devices, piping and equipment appurtenant thereto (except electrical). (4-6-05)

106. 13930 Fire Suppression Systems (Wet and Dry-Pipe Sprinklers). A specialty contractor whose primary business includes the ability and expertise to lay out, fabricate and install approved types of Wet-Pipe and Dry-Pipe fire suppression systems, charged with water, including all mechanical apparatus, devices, piping and equipment appurtenant thereto. Licensure with State Fire Marshal is required. (4-6-05)

107. 13970 Fire Extinguisher and Fire Suppression Systems. A specialty contractor whose primary business is the installation of pre-engineered or pre-manufactured fixed chemical extinguishing systems primarily used for protecting kitchen-cooking equipment and electrical devices. Contractor also furnishes, installs and

maintains portable fire extinguishers. (4-6-05)

108. 14200 Elevators, Lifts and Hoists. A specialty contractor whose primary business includes the ability to safely and efficiently install, service and repair all elevators, lifts, hoists, including the fabrication, erection and installation of sheave beams, sheave motors, cable and wire rope, guides, cabs, counterweights, doors, sidewalk elevators, automatic and manual controls, signal systems and other devices, apparatus and equipment appurtenant to the installation. (4-6-05)

109. 15100 Pipe Fitter and Process Piping. A specialty contractor whose primary business is the installation of piping for fluids and gases or materials. This category does not include domestic water, sewage, fire protection and utilities as they are covered under other categories. (4-6-05)

110. 15400 Plumbing. A specialty contractor whose primary business includes the ability to create and maintain sanitary conditions in buildings, by providing a permanent means for a supply of safe, pure and wholesome water, ample in volume and of suitable temperatures for drinking, cooking, bathing, washing, cleaning, and to cleanse all waste receptacles and like means for the reception, speedy and complete removal from the premises of all fluid and semi-fluid organic wastes and other impurities incidental to life and the occupation of such premises, including a safe and adequate supply of gases for lighting, heating, and industrial purposes. (Licensure with State Plumbing Bureau is required). (4-6-05)

111. 15510 Boiler and Steam Fitting. A specialty contractor who installs, services and repairs boilers and associated steam distribution systems. This category is limited to work not requiring a heating, ventilating, and air conditioning (HVAC) license issued by the Division of Building Safety. (4-2-08)

112. 15550 Chimney Repair. A specialty contractor whose primary business includes the cleaning or repair of multi-type chimneys, flues or emission control devices used to conduct smoke and gases of combustion from above a fire to the outside area. (4-6-05)

113. 15600 Refrigeration. A specialty contractor whose primary business includes the art, ability, experience, knowledge, science and expertise to construct, erect, install, maintain, service and repair devices, machinery and units for the control of air temperatures below fifty (50) degrees Fahrenheit in refrigerators, refrigerator rooms, and insulated refrigerated spaces and the construction, erection, fabrication and installation of such refrigerators, refrigerator rooms, and insulated refrigerator spaces, temperature insulation, air conditioning units, ducts, blowers, registers, humidity and thermostatic controls of any part or any combination thereof, in such a manner that, under an agreed specification acceptable refrigeration plants and units can be executed, fabricated, installed, maintained, serviced and repaired, but shall not include those contractors who install gas fuel or electric power services for such refrigerator plants or other units. (4-6-05)

114. 15700 Heating, Ventilation, and Air Conditioning (HVAC). A specialty contractor whose primary business includes the installation, alteration and repair of heating, ventilating, and air conditioning (HVAC) systems. Licensure by the Division of Building Safety as an HVAC contractor is required. (4-2-08)

115. 15950 Testing and Balancing of Systems. A specialty contractor whose primary business includes the installation of devices and performs any work related to providing for a specified flow of air or water in all types of heating, cooling or piping systems. (4-6-05)

116. 16000 Electrical. A contractor engaging in, conducting, or carrying on the business of installing wires or equipment to carry electric current or installing electrical apparatus to be operated by such current. A contractor licensed in this category may perform all work covered in categories defined in Subsection 200.118 of these rules. A contractor in this category must be an electrical contractor, licensed pursuant to Section 54-1007(1), Idaho Code. (3-30-07)

117. 16700 Communication. A specialty contractor whose primary business includes the installation, alteration or repair of communication systems (voice, data, television, microwave, and other communication systems). (4-6-05)

118. 16800 Electrical Specialty Contractor. A contractor engaging in, conducting, or carrying on the

business of installing, altering, or repairing special classes of electrical wiring, apparatus, or equipment. A contractor in this category must be an electrical specialty contractor, licensed pursuant to Section 54-1007(1), Idaho Code, and may perform only that work included within the specialty license. Electrical specialty categories include, but are not limited to: (3-30-07)

- a. Elevator, Dumbwaiter, Escalator or Moving-walk Electrical; (3-30-07)
- b. Sign Electrical; (3-30-07)
- c. Manufacturing or Assembling Equipment; (3-30-07)
- d. Limited Energy Electrical License (low voltage); (3-30-07)
- e. Irrigation Sprinkler Electrical; (3-30-07)
- f. Well Driller and Water Pump Installer Electrical; and (3-30-07)
- g. Refrigeration, Heating and Air Conditioning Electrical Installer. (3-30-07)

119. 18100 Golf Course Construction. A specialty contractor whose primary business includes the construction, modification, and maintenance of golf courses. This includes clearing, excavation, grading, landscaping, sprinkler systems and associated work. This does not include the construction of buildings or structures such as clubhouses, maintenance or storage sheds. (4-6-05)

120. 18200 Underwater Installation and Diving. A specialty contractor whose primary business is marine construction under and above water. (4-6-05)

121. 18300 Develop Gas and Oil Wells. A specialty contractor whose primary business includes the ability and expertise to perform oil well drilling and other oil field related specialty work. This does not include water well drilling. (4-6-05)

122. 18400 Nonstructural Restoration After Fire or Flood. A specialty contractor whose primary business includes cleaning and nonstructural restoration after fire, flood or natural disasters. (4-6-05)

123. 18600 Building Cleaning and Maintenance. A specialty contractor whose primary business includes the cleaning and maintenance of a structure designed for the shelter, enclosure and support of persons, chattels, personal and moveable property of any kind. (4-6-05)

124. 18700 Snow Removal. A specialty contractor whose primary business includes the plowing, removal or disposal of snow from roads, streets, parking lots and other areas of the public rights-of-way. (4-6-05)

125. 18800 Roadway Cleaning, Sweeping and Mowing. A specialty contractor whose primary business includes the clearing of trash and debris by manual or automated means from public thoroughfares. This category also includes cutting or mowing of grasses, plants, or weeds from public rights-of-way. (4-6-05)

201. FEES.

01. Public Works Contractor Licensing Fees. Initial licensing and renewal fees for each class of public works contractor licenses shall be, in accordance with Section 54-1904, Idaho Code, as follows: (4-9-09)

- a. The fee for a Class Unlimited license shall be five hundred fifty dollars (\$550). (4-9-09)
- b. The fee for a Class A license shall be two hundred fifty dollars (\$250). (3-19-07)
- c. The fee for a Class AA license shall be three hundred fifty dollars (\$350). (3-19-07)
- d. The fee for a Class AAA license shall be four hundred fifty dollars (\$450). (3-19-07)

- e. The fee for a Class B license shall be one hundred fifty dollars (\$150). (3-19-07)
 - f. The fee for a Class CC license shall be one hundred twenty-five dollars (\$125). (3-27-13)
 - g. The fee for a Class C license shall be one hundred dollars (\$100). (3-19-07)
 - h. The fee for a Class D license shall be fifty dollars (\$50). (3-19-07)
- 02. Construction Manager Licensing Fees.** Initial licensing and renewal fees for construction manager licenses shall be, in accordance with Section 54-4510, Idaho Code, as follows: (4-9-09)
- a. The fee for initial examination and licensing shall be two hundred dollars (\$200). (3-19-99)
 - b. The fee for license renewal shall be two hundred dollars (\$200). (3-19-99)
 - c. The fee for an inactive license shall be fifty dollars (\$50). (3-19-99)
 - d. The fee for license reinstatement shall be two hundred dollars (\$200). (3-19-99)
 - e. The fee for administering the examination shall be the standard fee established for taking that examination. (3-19-99)
 - f. The fee for issuing and for reinstating a certificate of authority shall be one hundred dollars (\$100). (3-19-99)
- 03. Payment of Fees.** Fees shall be payable to “Division of Building Safety -- Public Works Contractors.” (3-20-04)
- 04. Application Filed With Fees.** Required fees shall accompany all applications. An application filed without the required fees shall be deemed incomplete and returned to the applicant. (3-20-04)
- 202. COMPLAINTS.**
Complaints alleging a violation of Title 54, Chapter 19, Idaho Code, or these rules shall be in writing and filed with the administrator as provided in these rules. All complaints must be verified and submitted on forms provided by the Board. (3-20-04)
- 203. -- 299. (RESERVED)**
- 300. BUSINESS ORGANIZATION -- CHANGES IN ORGANIZATION OR STRUCTURE -- MEMBERS OF JOINT VENTURES - CHANGES FOR REASONS OTHER THAN DEATH.**
A licensed public works contractor or construction manager who undergoes a change in business organization or structure (such as a change from an individual proprietor to a partnership, corporation, limited liability partnership, limited liability company, joint venture, or other combination thereof), or where there is a change in ownership, must file an application for a new license on behalf of such successor organization or new owners within sixty (60) days after such change occurs. The administrator may authorize the continuous operation of the licensee as a contractor during the interim period until the application of the successor organization is reviewed; provided written notice of such change is filed within thirty (30) days after such change occurs. Each participant in a joint venture must be licensed at the time of bidding. Where there is a change in the surviving members of a licensed partnership, limited liability company, or limited liability partnership, due to a reason other than the death of one (1) of the partners, the remaining or succeeding member or members shall be required to file an application for an original license. (3-20-04)
- 301. -- 399. (RESERVED)**
- 400. CERTIFICATES -- DISPLAY AND POSSESSION.**
Licensee shall sign and display the license certificate issued to him in his main office or chief place of business and

shall furnish satisfactory evidence of the possession of a license certificate and the current renewal thereof upon the administrator's demand. (3-20-04)

401. LICENSE NUMBER ON BIDS.

Licensee shall place his license number on any and all bids submitted or contracts entered into, for any public works projects in the state of Idaho. (7-1-93)

402. CHANGES IN LICENSE CERTIFICATE.

When any change in the license certificate has been approved by the Board, a new license certificate shall be issued. (3-19-99)

403. -- 499. (RESERVED)

500. PROCEEDINGS FOR DISCIPLINARY ACTIONS.

The procedure for disciplinary actions and contested cases shall be as provided in IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," the Administrative Procedure Act, as found in Title 67, Chapter 52, Idaho Code, Sections 54-1915 through 54-1919, Idaho Code, and these rules. (3-20-04)

501. FORMS.

The complaint, citation, answer, notice of hearing, decision and order of the administrator and other related documents shall be filed in the form and manner prescribed in these rules, in IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," and the Administrative Procedure Act. (3-20-04)

502. TECHNICALITIES OF FORM.

The administrator may, during any hearing or proceeding waive any technicalities of form not deemed necessary in the circumstances. (3-20-04)

503. HEARINGS.

The general procedure for hearings before the administrator and the Board shall be as prescribed in these rules and Title 67, Chapter 52, Idaho Code. (3-20-04)

01. Notes. Any interested persons may request, in writing, five (5) days before any scheduled hearing in a contested case that the oral proceedings thereof be taken in the form of stenographic notes to be transcribed at his own expense. (7-1-93)

02. Stipulations. If the parties can agree upon any facts, issues or questions to be presented to the Board, appropriate stipulations may be made. (7-1-93)

03. Continuance. In the event a hearing cannot be completed within the time allotted, the Board may, in its discretion, continue same to a subsequent meeting as it deems necessary for proper consideration of the purpose for the hearing. (7-1-93)

04. Procedure. The Board reserves the right to amend, modify or repeal all or any part of the above procedure or to dispense with any part thereof, at any hearing before the Board, as it may deem necessary in the circumstances. (7-1-93)

504. -- 599. (RESERVED)

600. CONSTRUCTION MANAGER EXAMINATIONS.

If the applicant fails an examination, the applicant may take the examination a second time. A grade of at least seventy-five percent (75%) shall be required to pass each section of the examination. If the applicant fails to score a passing grade, the applicant must pass all failed sections within one (1) year of the initial test date. If the applicant fails to achieve a passing grade in each individual section on the second examination, the applicant must wait one (1) full year before taking the examination again. The applicant must then take and pass all sections of the examination (receiving no credit for sections successfully completed during the previous year). (3-20-04)

601. -- 999. (RESERVED)

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