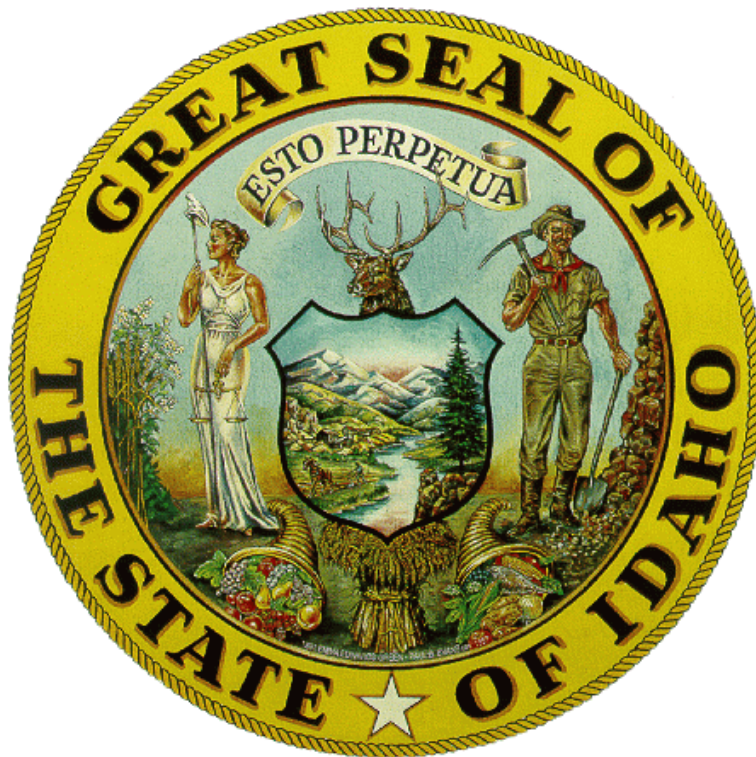


DIVISION OF BUILDING SAFETY

PUBLIC WORKS CONTRACTORS LICENSE BOARD
VIDEOCONFERENCE MEETING

APRIL 9, 2018



PUBLIC WORKS CONTRACTORS LICENSE BOARD

Agenda Item No. 01

Agenda

PRESENTER: Jim Roletto, Chairman

OBJECTIVE: Approve agenda for the April 9, 2018 PWCL Board meeting.

ACTION: Consent

BACKGROUND:

**PROCEDURAL
HISTORY:**

ATTACHMENTS: Tentative agenda



TENTATIVE AGENDA

NOTICE OF PUBLIC MEETING

PUBLIC WORKS CONTRACTORS LICENSE BOARD VIDEOCONFERENCE MEETING

**Division of Building Safety
1090 East Watertower Street, Suite 150, Meridian
1250 Ironwood Drive, Suite 220, Coeur d'Alene
2055 Garrett Way, Building 1, Suite 4, Pocatello
dbs.idaho.gov – (208) 332-7137**

**Monday, April 9, 2018
9:30 a.m. – 11:30 a.m. (MDT)**

(Note: North Idaho - Meeting Commences @ 8:30 a.m. PDT)

9:30 a.m. CALL TO ORDER – Jim Roletto, Chairman

- Roll Call & Introductions
- Open Forum

CONSENT AGENDA

1. Approval of the April 9, 2018 Agenda – Jim Roletto
2. Approval of the December 28, 2017 Special Board Meeting Minutes – Jim Roletto
3. Approval of the January 8, 2018 Board Meeting Minutes – Jim Roletto
4. Approval of the January 18, 2018 Special Board Meeting Minutes – Jim Roletto
5. Approval of the February 8, 2018 Special Board Meeting Minutes – Jim Roletto

ACTION AGENDA

6. Election of Officers – Jim Roletto

INFORMATIONAL AGENDA

(These items are for informational purposes only. Any action will be at the PWCL Board's discretion.)

7. Licensing Freedom Executive Order – Patrick J. Grace, Regional Manager
8. Three-Year Public Works Contractor License – Patrick J. Grace
9. Consolidation/Modernization of Subcontractor Categories – Jeff Egan, Regional Manager
10. Licensing Changes--Different Categories – Brian Bailey, Board Member

11. Automatic Suspension--Draft Rule – Spencer Holm, Deputy Attorney General
12. Meeting and Quorum Requirements – Spencer Holm
13. Compliance Report – Amy Kohler, Compliance Program Specialist
14. Administrator Report – Chris L. Jensen
 - a. Financial Report

11:30 a.m. ADJOURN

For additional agenda information, refer to the packet, available one week prior to this meeting, at the DBS's central and regional offices and <https://dbs.idaho.gov/boards/pwboard/pwmeetings.html>.

All times, other than beginning, are approximate and scheduled according to Mountain Daylight Time (MDT), unless otherwise noted. Agenda items may shift depending on the PWCL Board's preference. 04/04/2018rb

PUBLIC WORKS CONTRACTORS LICENSE BOARD

Agenda Item No. 02

Minutes

PRESENTER: Jim Roletto, Chairman

OBJECTIVE: Approve draft minutes from the December 28, 2017 Special PWCL Board meeting.

ACTION: Consent

BACKGROUND:

PROCEDURAL HISTORY:

ATTACHMENTS: Draft minutes



**PUBLIC WORKS CONTRACTORS LICENSE BOARD
SPECIAL TELECONFERENCE MEETING**

Thursday – December 28, 2017 – 9:30 a.m. (MST)

**Division of Building Safety
2055 Garrett Way, Building 1, Suite 4, Pocatello**

***DRAFT MINUTES OF THE DECEMBER 28, 2017 MEETING**

NOTE: The following report is not intended to be a verbatim transcript of the discussions at the meeting, but to record the significant features of those discussions.

The meeting began at 9:30 a.m. (MST)

Board Members Present:

Jim Roletto, Chairman
Garry Tolley
Robbie Austin
Evan Goodwin
Brian Bailey

DBS Staff Present:

Chris L. Jensen, Administrator
Ron Whitney, Deputy Administrator
Kay Christensen, Division Chief, Contracts &
Administrative Law Division, Office of the
Attorney General
Patrick Grace, Regional Manager, Region 2
Jeff Egan, Regional Manager, Region 3
Kayla Harris, Administrative Assistant 1

◆ **Granite Excavation, Inc.'s Petitions and Notices of Appeal under Idaho Code 67-2805(2)(b)(iv)**

Pursuant to Idaho Code § 67-2805, the Division received an appeal on December 14, 2017. Granite Excavation, Inc. based its appeal on the denial of pre-qualification by Payette Lakes Recreational Water and Sewer District on two phases of its public works project.

Kay Christensen, Division Chief with the Office of the Attorney General, reminded the Board that under statute it only has 35 days to resolve the appeal.

With a short time-frame, the Board decided to appoint a hearing officer to schedule, hear, and bring a recommendation to the Board. The Board will then schedule a special teleconference meeting to discuss and make a decision on the case.

MOTION: Garry Tolley made a motion to appoint a hearing officer to review the case and provide a recommendation to the Board for a final decision no later than January 15, 2018. Brian Bailey seconded. Roll call vote: Evan Goodwin, yes; Brian Bailey, yes; Robbie Austin, yes; Jim Roletto, yes; and Garry Tolley, yes. All in favor, motion carried.

◆ **Adjournment**

MOTION: Brian Bailey made a motion to adjourn the meeting. Evan Goodwin seconded. All in favor, motion carried.

The meeting adjourned at 9:40 a.m. (MST).

JIM ROLETTO, CHAIRMAN
PUBLIC WORKS CONTRACTORS
LICENSE BOARD

CHRIS L. JENSEN, ADMINISTRATOR
DIVISION OF BUILDING SAFETY

DATE

DATE

*These DRAFT minutes are subject to possible correction and final approval by the PWCL Board. 01/05/2018rb

PUBLIC WORKS CONTRACTORS LICENSE BOARD

Agenda Item No. 03

Minutes

PRESENTER: Jim Roletto, Chairman

OBJECTIVE: Approve draft minutes from the January 8, 2018 PWCL Board meeting.

ACTION: Consent

BACKGROUND:

**PROCEDURAL
HISTORY:**

ATTACHMENTS: Draft minutes



**PUBLIC WORKS CONTRACTORS LICENSE BOARD
VIDEOCONFERENCE MEETING**

Monday – January 8, 2018 – 9:30 a.m. (MST)

**Division of Building Safety
1090 East Watertower Street, Suite 150, Meridian
1250 Ironwood Drive, Suite 220, Coeur d'Alene
2055 Garrett Way, Building 1, Suite 4, Pocatello**

***DRAFT MINUTES OF THE JANUARY 8, 2018 MEETING**

NOTE: The following report is not intended to be a verbatim transcript of the discussions at the meeting, but to record the significant features of those discussions.

Chairman Jim Roletto called the meeting to order at 9:30 a.m. (MST)

Board Members Present:

Jim Roletto, Chairman
Joe Jackson, Vice-Chairman
Chuck Graves
Garry Tolley
Brian Bailey
Robbie Austin

DBS Staff Present:

Chris L. Jensen, Administrator
Spencer Holm, Deputy Attorney General
Patrick Grace, Regional Manager, Region 2
Larry Jeffres, Regional Manager, Region 1
Jeff Egan, Regional Manager, Region 3
Amy Kohler, Compliance Program Specialist
Renee Bryant, Administrative Assistant 2

◆ **Open Forum**

There were no new issues to address during open forum.

◆ **Approval of January 8, 2018 Agenda**

MOTION: Chuck Graves made a motion to approve the agenda as presented. John Jackson seconded. All in favor, motion carried.

◆ **Approval of October 2, 2017 Board Meeting Minutes**

MOTION: Joe Jackson made a motion to approve the minutes as written. Garry Tolley seconded. All in favor, motion carried.

◆ **Licensing Freedom Executive Order**

In May 2017, Lt. Governor Brad Little signed Executive Order 2017-06. The Order requires all state agencies that issue professional and occupational licenses to assess their license requirements and procedures and provide a report to the Governor's office by July 1, 2018.

To obtain more information or submit comments, a link is available on the Division's website <https://dbs.idaho.gov/>.

Regional Manager Patrick Grace will provide the Division's report at the April 2018 Board meeting for the Board's review.

ACTION: For the April 2018 Board meeting, Regional Manager Grace will bring the Division's report.

ACTION: The topic *Licensing Freedom Executive Order* will be placed on the April 2018 agenda as an informational item.

At one time, the Board discussed consolidating/modernizing subcontractor categories. With new processes and products not fitting into any of the categories, Administrator Chris L. Jensen suggested, and the Board agreed, to review the categories and provide ideas to Regional Manager Jeff Egan, jeff.egan@dbs.idaho.gov, for consideration of a proposed rule change.

ACTION: The topic *Consolidation/Modernization of Subcontractor Categories* will be placed on the April 2018 agenda as an informational item.

◆ **Implementation of Idaho Code § 54-1910(a)--Examinations, Qualifications and Applications**

Idaho Code § 54-1910(a) provides for the automatic suspension of a PWCL contractor license if the licensee does not notify DBS within ten days of when the qualified individual is no longer connected to the license. The statute states in part, "... 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." Currently, there is no rule; however, the Division's internal policy has been 60 days.

Board Member Brian Bailey suggested 90 rather than 60-days. In addition, when the contractor reapplies for his license, a fine or double fee should be applied so the contractor acts within the 90 days.

The Division will draft a rule with the 90-day requirement for the Board's review and possible submittal to the 2019 legislature.

Another issue is if the contractor does not list the qualified individual or new qualified individual on the renewal form, the Division does not know when to begin the ten-day notification period. Suggestions were: 1) Add a question to the application on when cessation occurred with the qualified individual, 2) Clarify, in rule, what the notice should look like, and 3) Include a form with the renewal notice or license.

ACTION: For the April 2018 Board meeting, DBS will bring a draft rule.

ACTION: The topic *Automatic Suspension-Draft Rule* will be placed on the April 2018 agenda as an informational item.

◆ **Meeting and Quorum Requirements**

In Idaho Code § 54-1908 *Meetings -- Quorum*, four members of the board constitutes a quorum. There are eight members on the Board; therefore, the requirement in statute does not qualify as a majority.

In addition, statute requires four regular meetings each year, no later than the 15th of January, April, July, and October. Most Boards require two regular meetings; holding additional meetings as needed. The Administrator offered to put together a statute change; bringing it to the April 2018 Board meeting for possible submittal to the 2019 legislature.

ACTION: For the April 2018 Board meeting, DBS will bring a proposed statute change.

ACTION: The topic *Meeting and Quorum Requirements* will be placed on the April 2018 agenda as an informational item.

◆ **Administrator Report**

Financial Report – Financially, the Board is in good shape.

Legislature – Legislators are back at the Capitol for the 2018 legislative session.

Budget – The Governor approved six more trade inspectors; however, denied five investigators for the Damage Prevention program.

McCain Foods – McCain Foods USA will invest more than \$100 million to expand the Burley manufacturing plant with the addition of a third production line. The Division is inspecting all the plumbing, electrical and HVAC.

◆ **Compliance Program Report**

Compliance – Regional managers continue to visit local jurisdictions and job sites, as well as train inspectors. The Compliance Program Manager continues to formalize forms and internal processes.

Damage Prevention Board – The Division is taking every opportunity to meet with the boards, members of industry and contractors to inform them of the role of the Damage Prevention Board and its program.

Granite Excavation, Inc. – The Division hired a hearing officer to facilitate an appeal for Granite Excavation, Inc. on January 10, 2018. A recommendation is required by January 15, 2018, and the Board will meet prior to January 18, 2018, to make a final decision.

◆ **Adjournment**

MOTION: Chuck Graves made a motion to adjourn the meeting. Garry Tolley seconded. All in favor, motion carried.

The meeting adjourned at 10:15 a.m. (MST).

JIM ROLETTO, CHAIRMAN
PUBLIC WORKS CONTRACTORS
LICENSE BOARD

CHRIS L. JENSEN, ADMINISTRATOR
DIVISION OF BUILDING SAFETY

DATE

DATE

1/10/2018rb

PUBLIC WORKS CONTRACTORS LICENSE BOARD

Agenda Item No. 04

Minutes

PRESENTER: Jim Roletto, Chairman

OBJECTIVE: Approve draft minutes from the January 18, 2018 Special PWCL Board meeting.

ACTION: Consent

BACKGROUND:

**PROCEDURAL
HISTORY:**

ATTACHMENTS: Draft minutes



**PUBLIC WORKS CONTRACTORS LICENSE BOARD
SPECIAL TELECONFERENCE MEETING**

Thursday – January 18, 2018 – 12:00 p.m. (MST)

**Division of Building Safety
1090 East Watertower Street, Suite 150, Meridian**

***DRAFT MINUTES OF THE JANUARY 18, 2018 MEETING**

NOTE: The following report is not intended to be a verbatim transcript of the discussions at the meeting, but to record the significant features of those discussions.

The meeting began at 12:00 p.m. (MST)

Board Members Present:

Jim Roletto, Chairman
Garry Tolley
Robbie Austin
Evan Goodwin
Karen Echeverria

DBS Staff Present:

Chris L. Jensen, Administrator
Ron Whitney, Deputy Administrator
Spencer Holm, Deputy Attorney General
Larry Jeffres, Regional Manager, Region 1
Patrick Grace, Regional Manager, Region 2
Amy Kohler, Compliance Program Specialist
Renee Bryant, Administrative Assistant 2

◆ **Clarification of Executive Order**

On the agenda was the topic *Executive Session, if needed*. In the Idaho Open Meeting Law Manual, Idaho Code § 74-206, there are certain circumstances in which to hold an executive session. This meeting did not meet any of the requirements; therefore, there was no executive session.

◆ **Granite Excavation, Inc.'s Petitions and Notices of Appeal under Idaho Code 67-2805(2)(b)(iv)**

Joe Meuleman, Attorney for Granite Excavation, sent an informal argument to Deputy Attorney General Spencer Holm with regard to Hearing Officer Molly O'Leary's Recommended Order. Advice to the Board was to disregard Mr. Meuleman's argument at this meeting as he has 14 days upon the issuance of the Final Order to file a motion for reconsideration. Upon receipt of a petition for reconsideration, the Board can have the hearing officer consider the argument and make a decision accordingly.

Board Member Evan Goodwin expressed concern entities requesting pre-qualification on public works projects are circumventing the statute under the Public Works Contractors License Board. Although the statute does allow for prequalification under certain circumstances, Administrator Chris L. Jensen suggested at some point the Board may want to review the statute; clarifying the conditions needed to prevail in order to pre-qualify a contractor.

MOTION: Karen Echeverria made a motion to accept the Recommended Order by Hearing Officer Molly O'Leary as presented. Robbie Austin seconded. Roll call vote: Evan Goodwin,

yes; Garry Tolley, yes; Robbie Austin, yes; Karen Echeverria, yes; and Jim Roletto, yes. All in favor, motion carried.

Deputy Attorney General suggested, and the Board agreed, the final order would include a statement where Hearing Officer O’Leary receives and addresses any petitions for reconsideration.

ACTION: The Deputy Attorney General will draft a Final Order for the Chairman’s signature.

◆ **Adjournment**

MOTION: Garry Tolley made a motion to adjourn the meeting. Karen Echeverria seconded. All in favor, motion carried.

The meeting adjourned at 12:17 p.m. (MST).

JIM ROLETTO, CHAIRMAN
PUBLIC WORKS CONTRACTORS
LICENSE BOARD

CHRIS L. JENSEN, ADMINISTRATOR
DIVISION OF BUILDING SAFETY

DATE

DATE

*These DRAFT minutes are subject to possible correction and final approval by the PWCL Board. 01/31/2018rb

PUBLIC WORKS CONTRACTORS LICENSE BOARD

Agenda Item No. 05

Minutes

PRESENTER: Jim Roletto, Chairman

OBJECTIVE: Approve draft minutes from the February 8, 2018 Special PWCL Board meeting.

ACTION: Consent

BACKGROUND:

**PROCEDURAL
HISTORY:**

ATTACHMENTS: Draft minutes



**PUBLIC WORKS CONTRACTORS LICENSE BOARD
SPECIAL TELECONFERENCE MEETING**

Thursday – February 8, 2018 – 9:30 a.m. (MST)

**Division of Building Safety
1090 East Watertower Street, Suite 150, Meridian**

***DRAFT MINUTES OF THE FEBRUARY 8, 2018 MEETING**

NOTE: The following report is not intended to be a verbatim transcript of the discussions at the meeting, but to record the significant features of those discussions.

The meeting began at 9:32 a.m. (MST)

Board Members Present:

Jim Roletto, Chairman
Joe Jackson
Robbie Austin
Garry Tolley
Karen Echeverria
Chuck Graves
Brian Bailey

DBS Staff Present:

Chris L. Jensen, Administrator
Ron Whitney, Deputy Administrator
Spencer Holm, Deputy Attorney General
Larry Jeffres, Regional Manager, Region 1
Patrick Grace, Regional Manager, Region 2
Jeff Egan, Regional Manager, Region 3
Amy Kohler, Compliance Program Specialist
Renee Bryant, Administrative Assistant 2

◆ **Granite Excavation, Inc.’s Petition for Reconsideration of Final Order**

Wayne Meuleman, attorney for Granite Excavation, Inc., addressed the reason for the initial appeal, asking the Board to sustain the appeal and return it to the District to make a decision based upon the correctly submitted information.

Payette Lakes Recreational Water and Sewer District’s attorney John Hucks stated the District followed the statute, as well as all procedural guidelines in the statute as set forth by Hearing Officer O’Leary. In addition, the District was not under any obligation to allow supplemental applications after the time period had expired. Therefore, Mr. Hucks urged the PWCL Board to sustain the Recommended Order for Reconsideration from the Hearing Officer and close out this matter.

Deputy Attorney General Spencer Holm clarified the intent of an email he sent to the Board on February 7, 2018, explained the procedural process for granting/denying the Petition for Reconsideration, addressed the hearing officer’s recommendation, stated the Administrative Procedure Act does not provide for recommended orders in this situation, and suggested the Board treat this as an informal recommendation. The Deputy Attorney General also explained the Board could reach the same conclusion as the hearing officer by relying on discretion granted to the Board by Idaho Code section 67-2805 instead of agency deference.

MOTION: Karen Echeverria made a motion to deny the request for consideration. Chuck Graves seconded. Roll call vote: Robbie Austin, yes; Chuck Graves, yes; Brian Bailey, yes;

Joe Jackson, yes; Karen Echeverria, yes; Garry Tolley, yes; and Jim Roletto, yes. All in favor, motion carried.

The Board agreed for the Deputy Attorney General to draft an Order denying the Petition for Reconsideration.

ACTION: The Deputy Attorney General will draft an Order denying the Petition for Reconsideration for the Chairman's signature.

◆ **Adjournment**

MOTION: Karen Echeverria made a motion to adjourn the meeting. Garry Tolley seconded. All in favor, motion carried.

The meeting adjourned at 10:00 a.m. (MST).

JIM ROLETTO, CHAIRMAN
PUBLIC WORKS CONTRACTORS
LICENSE BOARD

CHRIS L. JENSEN, ADMINISTRATOR
DIVISION OF BUILDING SAFETY

DATE

02/28/2018rb

DATE

PUBLIC WORKS CONTRACTORS LICENSE BOARD

Agenda Item No. 06

Election of Officers

PRESENTER: Jim Roletto, Chairman

OBJECTIVE: Appoint active board members to the positions of chairman and vice-chairman.

ACTION: Vote for a chairman and vice-chairman to oversee the Board.

BACKGROUND:

PROCEDURAL HISTORY: In accordance to Idaho Code § 54-1908, the Board shall elect officers at the April meeting of each year.

ATTACHMENTS: No Documentation



PUBLIC WORKS CONTRACTORS LICENSE BOARD

Agenda Item No. 07

Licensing Freedom Executive Order

PRESENTER: Patrick J. Grace, Regional Manager

OBJECTIVE: Review the Division's report as required in Executive Order 2017-06.

ACTION: Informational

BACKGROUND: In May 2017, the Governor's Office implemented an Executive Order (E.O. 2017-06), which requires all state agencies that issue professional and occupational licenses to review their license requirements and procedures to determine whether such licenses are in the public interest. Specifically, each such agency must submit a report to the Governor's Office by July 1, 2018, with a determination as to whether such licenses are in the public's interests, and recommendations, if any, for improvements, modifications, or elimination of licensure requirements.

PROCEDURAL HISTORY:

ATTACHMENTS: Report to be provided at meeting.



PUBLIC WORKS CONTRACTORS LICENSE BOARD

Agenda Item No. 08 Three-Year Public Works Contractor License

PRESENTER: Patrick J. Grace, Regional Manager

OBJECTIVE:

ACTION: Informational

BACKGROUND: The Division was approached by legislators involved in a legislative interim subcommittee (Regulatory Reform Joint Subcommittee) and asked to consider whether it is possible to ensure all licenses administered by the DBS and its boards are issued for a period of three years. Senate Concurrent Resolution 146 authorizes a study of occupational licensing and certification reform in Idaho by the legislature, including a review of reports submitted pursuant to executive order No. 2017-06. In the next year, the committee will study occupational licensing regulation and make recommendations necessary for changes to statutes or rules that create anticompetitive barriers to licensure, license renewal and occupational practice. One item in particular brought to the attention of DBS was whether licenses are issued annually or on a longer cycle (potentially up to three years).

PROCEDURAL HISTORY: The Board has not addressed this issue in any previous meetings.

ATTACHMENTS: Senate Concurrent Resolution 146



STATEMENT OF PURPOSE

RS26344

This resolution, recommended by the Regulatory Reform Joint Sub-Committee, would authorize the Legislative Council to appoint an interim committee to: (1) study occupational licensing and certification laws and rules in Idaho, and (2) evaluate the necessity of such laws and rules. The purpose of the committee's study would be to ensure that Idaho's occupational licensing and certification laws and rules are in the public interest and are not anti-competitive in intent or effect.

FISCAL NOTE

The interim committee's cost would not exceed \$10,000 and would be paid out of the legislative account.

Contact:

Senator Todd M. Lakey
(208) 332-1328
Representative Gayann DeMordaunt
(208) 332-1057

DISCLAIMER: This statement of purpose and fiscal note are a mere attachment to this bill and prepared by a proponent of the bill. It is neither intended as an expression of legislative intent nor intended for any use outside of the legislative process, including judicial review (Joint Rule 18).

LEGISLATURE OF THE STATE OF IDAHO
Sixty-fourth Legislature Second Regular Session - 2018

IN THE SENATE

SENATE CONCURRENT RESOLUTION NO. 146

BY STATE AFFAIRS COMMITTEE

A CONCURRENT RESOLUTION

1 STATING FINDINGS OF THE LEGISLATURE AND AUTHORIZING THE LEGISLATIVE COUNCIL
2 TO APPOINT A COMMITTEE TO UNDERTAKE AND COMPLETE A STUDY OF OCCUPATIONAL
3 LICENSING AND CERTIFICATION LAWS AND RULES IN IDAHO.
4

5 Be It Resolved by the Legislature of the State of Idaho:

6 WHEREAS, the State of Idaho has enacted laws and rules regulating licen-
7 sure and certification for many occupations; and

8 WHEREAS, regulation that is not necessary for the protection of the pub-
9 lic's health, safety and interest can unreasonably restrict competition and
10 entry into various occupations; and

11 WHEREAS, restrictions on licensure and certification can create unrea-
12 sonable barriers to labor mobility by making it difficult for persons from
13 other states to practice their occupations in Idaho; and

14 WHEREAS, on May 19, 2017, Lieutenant Governor Brad Little issued Execu-
15 tive Order No. 2017-06, regarding review of Idaho's licensure requirements
16 for various occupations; and

17 WHEREAS, Executive Order No. 2017-06 required the executive depart-
18 ments of the State of Idaho to submit reports to the Governor's office by July
19 1, 2018, containing suggestions on occupational licensing requirements that
20 may be modified or eliminated; and

21 WHEREAS, many occupational licensing and certification requirements
22 are provided in statute, thus rendering legislative action necessary for
23 modification or elimination; and

24 WHEREAS, the House Business Committee and the Senate Commerce and Human
25 Resources Committee have formed the Regulatory Reform Joint Subcommittee to
26 study regulation of occupational licensing and to make recommendations nec-
27 essary for changes to statutes or rules that create anticompetitive barriers
28 to licensure, license renewal and occupational practice; and

29 WHEREAS, it is the recommendation of the Regulatory Reform Joint Sub-
30 committee that the Legislative Council appoint an interim committee to con-
31 tinue the study of occupational licensing and certification reform in Idaho
32 and to make recommendations to the 2019 Legislature.

33 NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Ses-
34 sion of the Sixty-fourth Idaho Legislature, the Senate and the House of Rep-
35 resentatives concurring therein, that the Legislative Council is authorized
36 to appoint a committee to undertake and complete a study of occupational li-
37 censing and certification laws and rules in Idaho, including review of rele-
38 vant reports submitted to the Governor's office pursuant to Executive Order
39 No. 2017-06, and to examine the necessity of such laws and rules. The Leg-
40 islative Council shall determine the number of legislators and membership
41 from each house appointed to the committee and shall authorize the committee
42 to receive input, advice and assistance from interested and affected parties
43 who are not members of the Legislature.

1 BE IT FURTHER RESOLVED that nonlegislative members of the committee may
2 be appointed by the cochairs of the committee who are appointed by the Leg-
3 islative Council. Nonlegislative members of the committee shall not be re-
4 imbursed from legislative funds for per diem, mileage or other expenses and
5 shall not have voting privileges regarding the committee's recommendations
6 or proposed legislation.

7 BE IT FURTHER RESOLVED that the committee shall report its findings,
8 recommendations and proposed legislation, if any, to the First Regular Ses-
9 sion of the Sixty-fifth Idaho Legislature.

PUBLIC WORKS CONTRACTORS LICENSE BOARD

Agenda Item No. 09 Consolidation/Modernization of Subcontractor Categories

PRESENTER: Jeff Egan, Regional Manager

OBJECTIVE: Change the rule to reflect updated subcontractor categories.

ACTION: Informational

BACKGROUND: January 2018 - At one time, the Board discussed consolidating/modernizing subcontractor categories. With new processes and products not fitting into any of the categories, Administrator Chris L. Jensen suggested, and the Board agreed, to review the categories and provide ideas to Regional Manager Jeff Egan, jeff.egan@dbs.idaho.gov, for consideration of a proposed rule change.

PROCEDURAL HISTORY:

ATTACHMENTS: No Documentation



PUBLIC WORKS CONTRACTORS LICENSE BOARD

Agenda Item No. 10

Licensing Changes--Different Categories

PRESENTER: Brian Bailey, Board Member

OBJECTIVE: Re-establish licensing criteria based on the contractors surety company's willingness to bond a project.

ACTION: Informational

BACKGROUND: Board Member Bailey has spoken to industry with regard to bidding limitations based on an Idaho license, and past performance rather than taking into consideration their financial background. A contracting company should be able to bid on a project based their bonding capability from a security company.

PROCEDURAL HISTORY:

ATTACHMENTS: Letters from Board Member Bailey, Wood's Crushing & Hauling, Inc., and Payne West Insurance



B.B. Bailey

CONSTRUCTION COMPANY, INC.

IDAHO PUBLIC WORKS #17296

• IDAHO CONTRACTOR'S LICENSE # RCE-19856

Renee Bryant
Administrative Assistant
Board Support
Division of Building Safety

3/26/18

Renee,

The following is the background of my request.

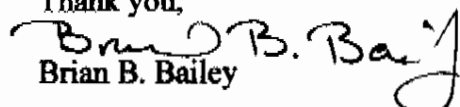
I was approached by two large firms regarding their bidding limitations based on their Idaho license, past performance, and not taking into consideration their financial background. The Wood's family would like to address the board on the morning of April 9th. from the CdA office. The other contractor, Earth Works Northwest is unable to attend the meeting, but has the same concerns. Both companies are able to perform work in other states based on their bonding capacity surety company.

The bottom line is that the contracting company should be able to bid on a project based on their bonding capability, being that the bonding company is securing their bid bond performance and maintenance bond based on the company's financials and net worth. Performance standard should be the qualifier for license category.

I know we have discussed combining and eliminating specialty licenses and perhaps we need to also look at the ratings of A, AA, AAA, and unlimited licenses categories and move towards on category of, maybe, general engineering or general contractor. In the yearly license procedure it should be based on the company's financial statement and their bonding capacity from their security company. The Division of Building Safety would still have the final say approval after their final analysis of the contractor's financial data.

Thank you for your consideration of this matter.

Thank you,


Brian B. Bailey



Public Works: 11242-AAA-4
 Construction Contracting Business: RCE-1911

933 Woodside Road
 Sandpoint, Idaho 83864
 (208) 263-4800 • Fax (208) 265-9246

Idaho Public Works
 Contractors Licensing

RE: Recommended changes for approval of Unlimited License Status

It has been brought to my attention that changes may be coming in the way you will be approving Idaho contractor license statuses. Wood's Crushing & Hauling Inc. has been an Idaho contractor for 41 years now and currently has an AAA Status. We have tried in the past to get our Unlimited status approved but have been unable to do so. Your current licensing criteria states that we need to have accomplished three 3-5 million dollar projects to be approved for an unlimited license. We live and work in the northern part of the state (Bonner and Boundary Counties) and very rarely are there these sizes of projects come along. Just in the last year we were unable to bid on 2 projects because they were advertised over the 5 million dollar mark. Both projects were in our local area that we work in, one being, Round Prairie to Canada and the other, Schweitzer Cutoff. These are projects that we are able to accomplish and bond but are unable to bid on due to our AAA license. Why are we able to do five 2 million dollar projects in a year but are not able to do two 5 million dollar projects? What is the difference? Our surety company will allow us to bond for this much work why won't you? At this moment the surety company is taking all the risk anyway. We believe that you should reestablish your criteria based on the contractors surety company's willingness to bond the project. If they will allow the contractor to bid the project so should the state. Below is a brief summary from our surety company regarding Idaho's licensing process and as you will read they too are in agreement.

Thank You

Scott Wood
 Manager

Scott,

Per our phone conversation in regards to the pre-qualification of contractors by a surety company, here is a condensed version of what a surety company does during and after their pre-qualification/underwriting process.

Surety companies take a careful, rigorous, and professional approach to the pre-qualifying of contractors. The surety company is being asked to guarantee that the contractor will fulfill contractual obligations that include the performance of a contract and the payment of all subcontractors, suppliers, and labor. In order to make this guarantee, the surety must satisfy themselves that the contractor is capable of meeting all current and future anticipated obligations. They look at; the reputation of a contractor, their past project history, the capabilities of the contractor, the experience of the contractors personnel, and the equipment capabilities of the contractor. The surety will make checks with prior project owners, and suppliers, in order to determine; how well run the company is, payment histories, timeliness of performance, and overall profitability. In approving any individual bond, the surety must take into consideration the overall work program picture; does this new project fit into their schedule, does it fall within their capabilities, is it outside of their standard geographic area of operations, have they worked with the project owner before, and what is the current financial picture of the contractor? When making these decisions, the surety underwriter uses all of the detailed data at their disposal in order to come to an approval decision, knowing that a failure on the part of the contractor will cost the surety, and the project owner, considerable monies and time in order to then fulfill the guarantee that is the bond(s) that were issued.

The surety process to pre-qualify a contractor is a very in-depth and rigorous process. The larger the bond obligation, the higher the bar is for pre-qualification. I fully support the idea of pre-qualifying contractors for certain levels of projects, much like the State of Idaho does in their licensing process, but I also feel that the surety companies are uniquely positioned to handle this process. I fully support the idea that the State can rely upon the surety process to help them in their pre-qualifying of contractors for the different levels of licensing. The State can rely upon the bonding letters from the sureties to satisfy their due diligence process in ascertaining the suitability of a contractor.

I hope this helps, please feel free to contact me with any questions.

Thank you,

Tom Davis
Payne West Insurance
501 N. Riverpoint Blvd, Ste. 403
Spokane, WA 99202



March 29, 2018

Idaho Public Works Licensing Board

RE: Recommend change in Public Works Licensing.

We have heard rumor of potential changes in the licensing process for ISPW contractors, and would like to recommend removing the requirements of contractor experience level as a qualifier for the rating system, or potentially removing the rating system altogether. We have found ourselves in the unfortunate position of not being able to bid on jobs well within our capabilities in the very State in which we reside because of this system. In our neighboring State of Washington we regularly bid project in access of our AAA rating with the only restraint being our relationship and financial standing with our surety company. There is something wrong with a system that inhibits growth of businesses within its own boundaries, which is exactly what the rating system is doing. In our view this system should be replaced with the surety companies regulating what projects contractors can and cannot bid and perform on. This system is already in place and a requirement of the bid and award cycle. We cannot bid a project without surety companies providing a bid bond, nor come under contract without surety providing a performance/payment bond. If a contractor defaults on a project the public works licensing does nothing to guard against loss to the tax payer regardless of the rating. It does however greatly impact the growth of businesses in this State, especially in the lower populated areas that receive fewer appropriations. It can be very difficult for contractors to get the required experience level to move to the next rating with fewer projects in the "appropriate" price range to go around. Please give our and other contractors concerns some consideration in any alterations to the public works licensing process. Feel free to contact us with any question or further discussion.

Best Regards,

Randy McDougall
President
Earthworks Northwest, Inc.
earthworksnorthwest@yahoo.com

P.O. Box 1122
Sandpoint, ID 83864
Ph: (208) 263-8700
Fx: (208) 265-9605

PUBLIC WORKS CONTRACTORS LICENSE BOARD

Agenda Item No. 11

Automatic Suspension--Draft Rule

PRESENTER: Spencer Holm, Deputy Attorney General

OBJECTIVE:

ACTION: Informational

BACKGROUND: Under Idaho Code § 54-1910(a), a public works contractor must designate an individual qualified by examination (QI). If a QI ceases to be connected with a contractor, the contractor must notify DBS within ten (10) days. If the contractor provides notice in ten (10) days, the contractor's license remains in force "for a reasonable length of time, to be determined by rules of the board." If the contractor does not provide notice in ten (10) days, the license is automatically suspended.

There is no rule that defines how long "a reasonable time length of time" is. It is also not clear what constitutes notice that a QI has ceased to be connected with a contractor and DBS cannot always tell when a QI has ceased to be connected with a contractor.

The attached proposed rule would define a QI; determine the "reasonable length of time" a contractor's license will remain in force under Idaho Code § 54-1910(a); and clarify that notice that a contractor's QI has ceased to be connected with the contractor must be provided to the administrator on forms prescribed by the administrator. The attached policy statement will help DBS staff in implementing the new rules. The attached notice form is for use in implementing the new rules.

ATTACHMENTS: Proposed Rule Changes, Policy Statement, Notice Form



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)

12. Qualified Individual. The person qualifying by examination as to the experience and knowledge mentioned in Section 54-1910(a), Idaho Code. ()

113. INDIVIDUAL QUALIFIED BY EXAMINATION.

01. Written Notice. Written notice, mentioned in Section 54-1910(a), that the qualified individual of a public works contractor has ceased to be connected with the contractor must be given to the administrator on forms prescribed by the administrator. Such notice must indicate the date the qualified individual ceased to be connected with the contractor. ()

02. Reasonable Length of Time. If a public works contractor notifies the administrator that the contractor's qualified individual has ceased to be connected with the contractor, the contractor's license will remain in force for ninety (90) days from the date of the notice. Ninety (90) days is the reasonable length of time mentioned in Section 54-1910(a), Idaho Code. ()

1143. -- 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

Public Works Contractors Qualified Individual Policy

In accordance with Idaho Code section 54-1910 and IDAPA 07.05.01.113:

If the Division of Building Safety learns that the qualified individual of a public works contractor has ceased to be connected with the contractor and the contractor has not submitted a completed notice form to the administrator, the Division will give the contractor a notice form.

If a contractor submits a completed notice form to the administrator, the contractor's license will remain in force, without a qualified individual connected with the contractor, for ninety (90) days from the date of the notice. If a new qualified individual has not become connected with the contractor at the conclusion of ninety (90) days from the date of the notice, the administrator will automatically suspend the contractor's license.

If a contractor does not submit a completed notice form to the administrator, the administrator will automatically suspend the contractor's license at the conclusion of ten (10) days from the date the Division learns the contractor's qualified individual has ceased to be connected with the contractor.

Notice to Administrator Regarding Qualified Individual

Pursuant to Idaho Code section 54-1910 and IDAPA 07.05.01.113:

Failure to complete and return this form within ten (10) days of its receipt will result in automatic suspension of the public works contractor license of (name of public works contractor) .

 (name of public works contractor) hereby notifies the administrator of the Division of Building Safety that the qualified individual previously connected to (name of public works contractor) has ceased to be connected with (name of public works contractor) .

The cessation occurred on (date) .

 (name of public works contractor) has ninety (90) days from the date of this notice to become connected with a qualified individual.

If (name of public works contractor) does not become connected with a qualified individual within ninety (90) days of the date of this notice, the administrator will automatically suspend the public works contractor license of (name of public works contractor) .

Signature of public works contractor representative

Date

PUBLIC WORKS CONTRACTORS LICENSE BOARD

Agenda Item No. 12

Meeting and Quorum Requirements

PRESENTER: Spencer Holm, Deputy Attorney General

OBJECTIVE: Get the Board's direction on changing the meeting and quorum requirements.

ACTION: Informational

BACKGROUND: In Idaho Code § 54-1908 *Meetings -- Quorum*, four members of the board constitutes a quorum. There are eight members on the Board; therefore, the requirement in statute does not qualify as a majority. A quorum ensures a board does not take any action that does not reflect the desires of a majority of the board.

In addition, statute requires four regular meetings each year, no later than the 15th of January, April, July, and October. Most Boards require two regular meetings; holding additional meetings as needed. The Administrator offered to put together a statute change; bringing it to the April 2018 Board meeting for possible submittal to the 2019 legislature.

PROCEDURAL HISTORY:

ATTACHMENTS: Proposed Changes to Idaho Code § 54-1908



54-1908. MEETINGS — QUORUM. The board shall hold not less than ~~four~~two (24) 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 e~~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~~A majority 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 fund.

PUBLIC WORKS CONTRACTORS LICENSE BOARD

Agenda Item No. 13

Compliance Report

PRESENTER: Amy Kohler, Compliance Program Specialist

OBJECTIVE: Provide an overview of the Division's Compliance Program.

ACTION: Informational

BACKGROUND: This topic is addressed at all regularly scheduled PWCL Board meetings.

**PROCEDURAL
HISTORY:**

ATTACHMENTS: Quarterly PWCL Board Report



PUBLIC WORKS CONTRACTORS LICENSE BOARD

Agenda Item No. 14

Administrator Report

PRESENTER: Chris L. Jensen, Administrator

OBJECTIVE: Provide an overview of the Division's current activities.

ACTION: Informational

BACKGROUND: This topic is addressed at all regularly scheduled PWCL Board meetings.

**PROCEDURAL
HISTORY:**

ATTACHMENTS: No Documentation



PUBLIC WORKS CONTRACTORS LICENSE BOARD

Agenda Item No. 14a

Financial Report

PRESENTER: Chris L. Jensen, Administrator

OBJECTIVE: Review the PWCL Financial Report.

ACTION: Informational

BACKGROUND: This topic is addressed at all regularly scheduled PWCL Board meetings.

**PROCEDURAL
HISTORY:**

ATTACHMENTS: Financial Report





Division of Building Safety
 PUBLIC WORKS CONTRACTORS LICENSING FUND 0229-07
 Fiscal Year 2018 Financial Statements
 As of 02/28/2018

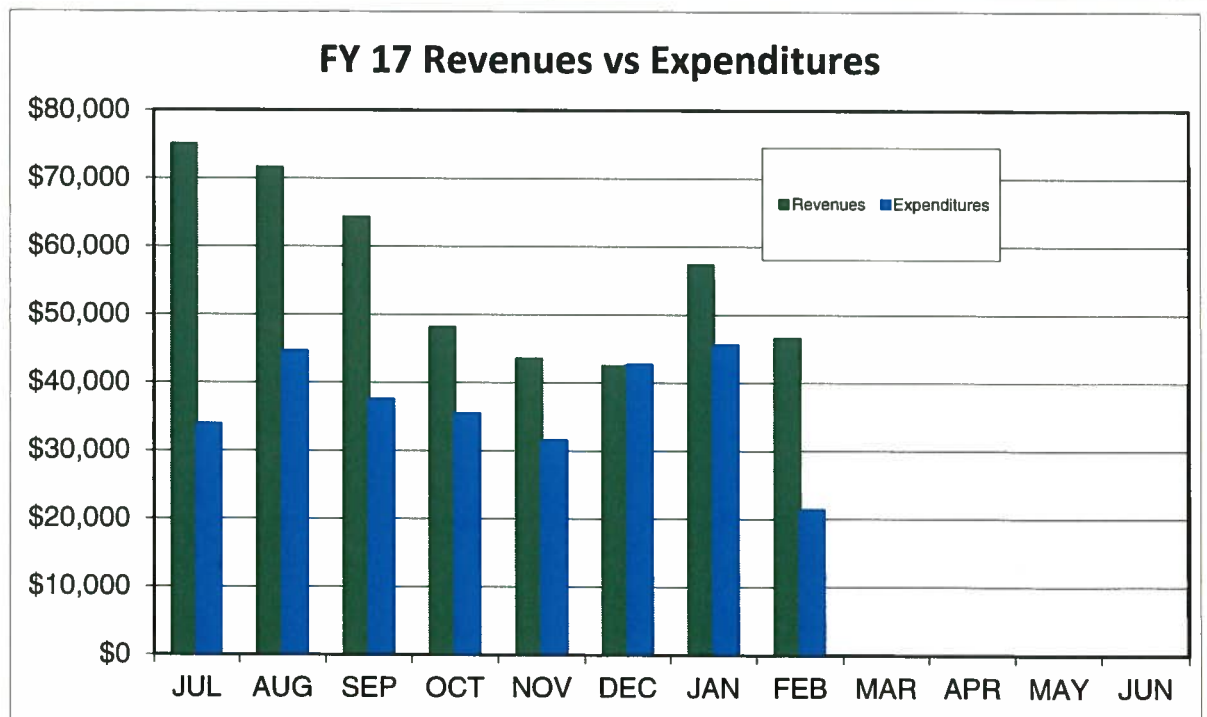
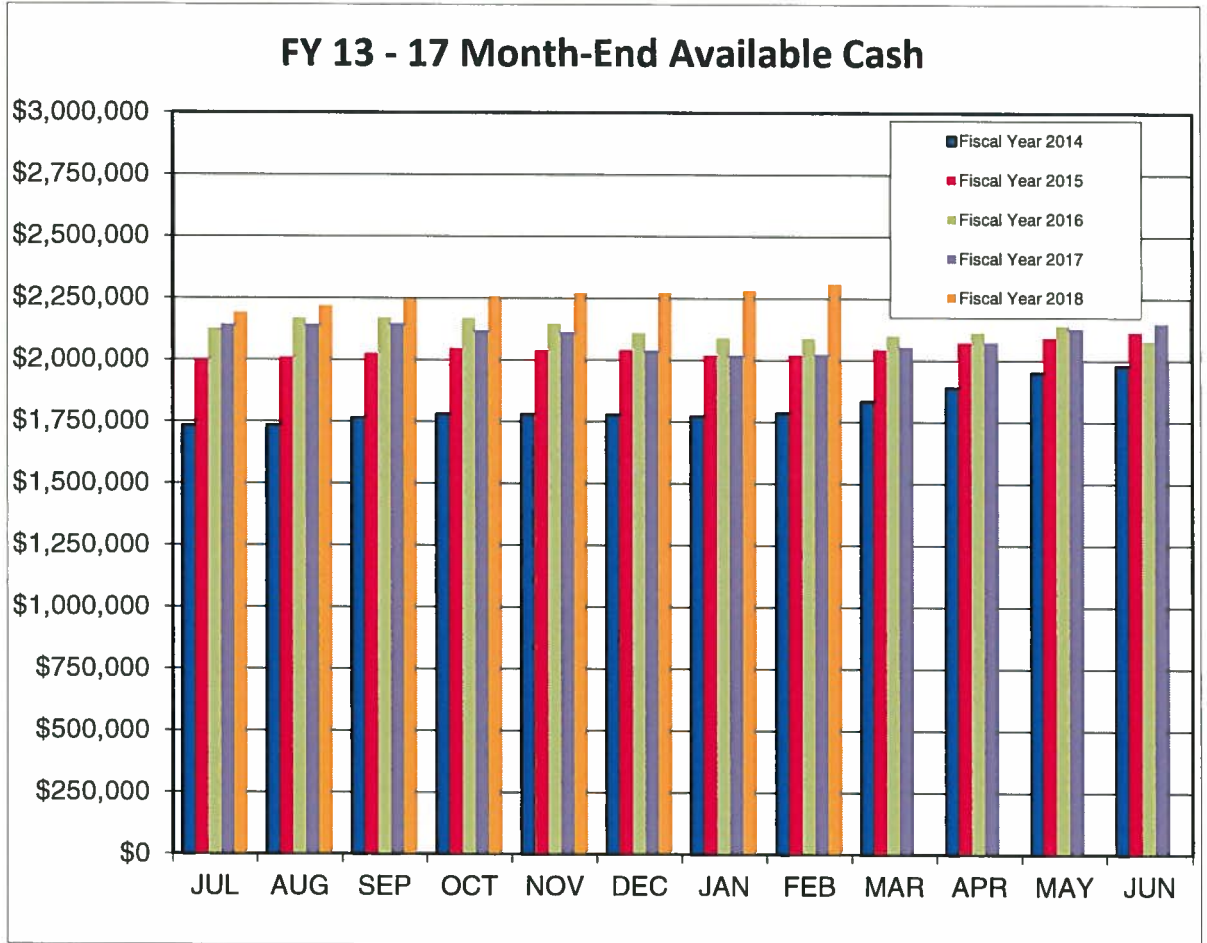
Statement of Revenues and Expenditures

Class	Budget	Fiscal Year To Date	YTD as a % of Budget	Remaining Budget	Projected for		Projected Total as a % of Budget
					Remainder of Year	Projected Year End Totals	
Revenues:	769,700	448,568	58.3%	321,132	331,722	780,290	101.4%
Expenditures							
Personnel:	532,000	235,213	44.2%	296,787	124,525	359,738	67.6%
Operating:	169,800	32,246	19.0%	137,554	12,636	44,882	26.4%
Capital:	67,900	24,975	36.8%	42,925	42,925	67,900	100.0%
Total Expenditures	769,700	292,434	38.0%	477,266	180,086	472,520	61.4%
Net for FY 2018	0	156,134			151,636	307,770	

Statement of Cash Balance

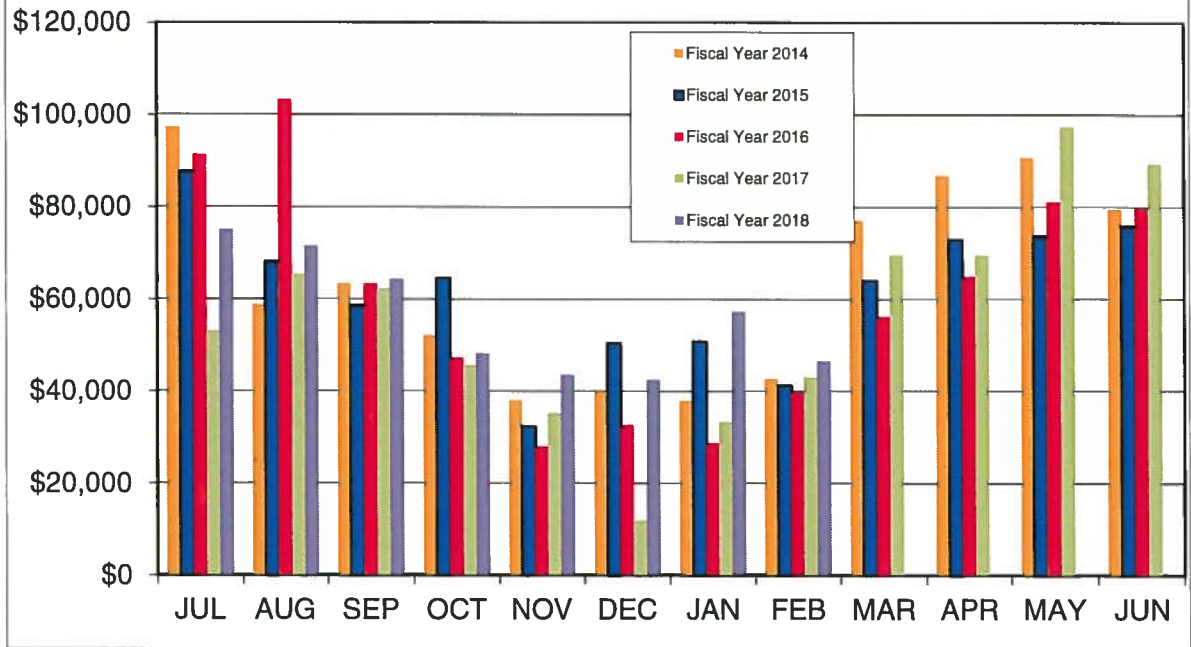
July 1, 2017	Fiscal Year to Date Expenditures and Encumbrances	Statement of Cash Balance		Projected Year End Available Cash
		Fiscal Year to Date Revenues	Available Cash as of February 28, 2018	
Beginning Cash Available	(292,434)	448,568	2,306,292	2,457,929
			1,078	151,636
				2,457,929

PUBLIC WORKS CONTRACTORS LICENSING FUND 0229-07



PUBLIC WORKS CONTRACTORS LICENSING FUND 0229-07

FY 13-17 Revenues



FY 13-17 Expenditures

