

CHAPTER 62

PUBLIC WORKS CONTRACTOR REGISTRATION

Authority

N.J.S.A. 34:11-56.48 et seq., specifically 34:11-56.57.

Source and Effective Date

R.2006 d.136, effective March 14, 2006.
See: 37 N.J.R. 1674(a), 38 N.J.R. 1752(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 62, Public Works Contractor Registration, expires on September 10, 2013. See: 43 N.J.R. 1203(a).

Chapter Historical Note

Chapter 62, Public Works Contractor Registration, was adopted as R.2000 d.167, effective April 17, 2000. See: 32 N.J.R. 381(a), 32 N.J.R. 1397(a).

Chapter 62, Public Works Contractor Registration, was readopted as R.2006 d.136, effective March 14, 2006. See: Source and Effective Date. See, also, section annotations.

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 62, Public Works Contractor Registration, was scheduled to expire on September 10, 2011. See: 43 N.J.R. 951(a).

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SUBCHAPTER 1. GENERAL PROVISIONS

12:62-1.1 Application and scope

(a) The rules in this chapter are promulgated by the Department of Labor and Workforce Development in order to implement “The Public Works Contractor Registration Act,” P.L. 1999, c.238 (N.J.S.A. 34:11-56.48 et seq.). The Act establishes a unified procedure for the registration of contractors and subcontractors engaged in public works project.

(b) The provisions of this chapter shall apply to all contractors, as that term is defined in N.J.A.C. 12:62-1.3.

Amended by R.2006 d.136, effective April 17, 2006.
See: 37 N.J.R. 1674(a), 38 N.J.R. 1752(a).

In (a), added “and Workforce Development”.

12:62-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

“Act” means “The Public Works Contractor Registration Act” (P.L. 1999, c.238; N.J.S.A. 34:11-56.48 et seq.) and the rules promulgated thereunder.

“Commissioner” means the Commissioner of Labor and Workforce Development or his or her duly authorized representatives.

“Contractor” means a person, partnership, association, joint stock company, trust, corporation, or other legal business entity or successor thereof who enters into a contract which is subject to the provisions of the New Jersey Prevailing Wage Act, P.L. 1963, c.150, N.J.S.A. 34:11-56.25 et seq., and includes any subcontractor or lower tier subcontractor of a contractor as defined in this section.

“Custom fabrication” means the fabrication of plumbing, heating, cooling, ventilation or exhaust duct systems and mechanical insulation.

“Department” means the Department of Labor and Workforce Development.

“Maintenance” means “maintenance work” as that term is defined at N.J.S.A. 34:11-56.26, namely, the repair of existing facilities when the size, type or extent of such facilities is not thereby changed or increased.

“Public work” means construction, reconstruction, demolition, alteration, or repair work, or maintenance work, including painting and decorating, done under contract and paid for in whole or in part out of the funds of a public body, except work performed under a rehabilitation program. “Public work” shall also mean construction, reconstruction, demolition, alteration, or repair work, done on any property or premises, whether or not the work is paid for from public funds, if, at the time of the entering into the contract:

1. Not less than 55 percent of the property or premises is leased by a public body or is subject to an agreement to be subsequently leased by the public body;
2. The portion of the property or premises that is leased or subject to an agreement to be subsequently leased by the public body measures more than 20,000 square feet.

“Subcontractor” means any subcontractor or lower tier subcontractor of a contractor, including owner operators or independent contractors.

“Worker” includes a laborer, mechanic, skilled or semi-skilled laborer and apprentices or helpers employed by any contractor or subcontractor and engaged in the performance of services directly upon a public work, regardless of whether

their work becomes a component part thereof, but does not include material suppliers or their employees who do not perform services at the job site. For the purposes of these rules, contractors or subcontractors engaged in custom fabrication shall not be regarded as material suppliers.

Amended by R.2004 d.164, effective April 19, 2004.

See: 35 N.J.R. 5480(a), 36 N.J.R. 1942(b).

Rewrote "Contractor"; added "Subcontractor".

Amended by R.2006 d.136, effective April 17, 2006.

See: 37 N.J.R. 1674(a), 38 N.J.R. 1752(a).

Added "and Workforce Development" to definitions of "commissioner" and "department"; added definition "custom fabrication"; rewrote definitions "subcontractor" and "worker".

12:62-1.3 Administration and enforcement

The Division of Wage and Hour Compliance, within the Department of Labor and Workforce Development, shall administer and enforce this chapter. All the powers, duties and responsibilities vested in the Commissioner by the Public Works Contractor Registration Act are hereby delegated to and vested in the Director of the Division of Wage and Hour Compliance, except the power to adopt, amend or repeal rules and the power to make final determinations resulting from any of the hearings required or permitted to be held pursuant to the Act or the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

Amended by R.2006 d.136, effective April 17, 2006.

See: 37 N.J.R. 1674(a), 38 N.J.R. 1752(a).

Added "and Workforce Development".

12:62-1.4 Validity

If any provisions of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this chapter. To this end, the provisions of this chapter are severable.

SUBCHAPTER 2. PUBLIC WORKS CONTRACTOR REGISTRATION

12:62-2.1 Registration required

(a) No contractor shall bid on any contract for public work unless the contractor is registered pursuant to the Act. In addition:

1. No contractor shall list a subcontractor, including a contractor/subcontractor who is involved in off-site custom fabrication, as defined in N.J.S.A. 34:11-56.26, in a bid proposal for a public works contract unless the subcontractor as required is registered pursuant to the terms of N.J.S.A. 34:11-56.48 et seq., the Public Works Contractor Registration Act, at the time the bid is submitted to the public entity; and

2. No contractor or subcontractor not listed on the bid proposal shall engage in the performance of any public

work project unless the contractor or subcontractor is registered pursuant to the Act.

(b) Any contractor which seeks to register under the Act shall apply to the Division of Wage and Hour Compliance, within the Department of Labor and Workforce Development. For this purpose, the Department shall prepare a "New Jersey Department of Labor and Workforce Development Application for Public Works Contractor Registration." This form shall be available from the Department.

(c) As part of its application to the Department, a contractor shall provide all required information and documents requested by the Application for Public Works Contractor Registration. The information to be submitted for review shall include:

1. The name, principal business address, telephone and fax number as well as any e-mail address of the business;
2. Whether the contractor or subcontractor is a corporation, partnership, sole proprietorship, or other form of a business entity;
3. The name and address of the custodian of records and agent for service of process within the State of New Jersey;
4. The name, addresses of residence, and telephone number of each person with a financial interest in the business and the percentage of interest, except that if the business is a publicly traded corporation, the contractor shall supply the names and addresses of residence of the corporation's officers;
5. The business' Federal Employer Identification Number and State of New Jersey Taxpayer Identification Number;
6. A history of previous and/or current labor law violations and the final dispositions of such violations and any violations, or pending violations, brought by a governmental entity of criminal or civil statutes and/or regulations which would reflect upon the fitness of the applicant/contractor to bid on or engage in public work projects;
7. Proof of workers' compensation insurance; and
8. Any other relevant and appropriate information from a particular applicant as determined by the Commissioner.

(d) The contractor shall pay an initial, non-refundable, annual registration fee of \$300.00 to the Commissioner. The non-refundable fee for the second annual registration shall be \$300.00. Upon successful completion of two consecutive years of registration, a contractor may elect to register for a two-year period and pay a non-refundable registration fee of \$500.00. However, a two-year registration will only be granted if the applicant has not violated the Act and/or the