

Prevailing Wage Act or these rules during the period of licensure preceding submission of the renewal application.

(e) An applicant shall fully and accurately complete all relevant parts of the Application for Public Works Contractor Registration. Failure to provide a complete application shall result in rejection.

(f) An applicant who fails to provide specifically requested additional information or documentation shall be considered not in compliance with the Act and shall be subject to rejection.

(g) If the applicant knowingly supplies incomplete or inaccurate information to the Department in connection with his or her application, he or she shall be disqualified under these rules, barred from reapplying for registration for a period of up to one year from the date of notice of disqualification, and may be subject to other penalties described in N.J.A.C. 12:62-2.3, 2.4 and 2.5.

Amended by R.2004 d.164, effective April 19, 2004.
See: 35 N.J.R. 5480(a), 36 N.J.R. 1942(b).

Rewrote (a); in (d), inserted "non-refundable" preceding references to registration fees throughout.

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)1, added "including a contractor/subcontractor who is involved in off-site custom fabrication, as defined in N.J.S.A. 34:11-56.26,"; in (b), added "and Workforce Development" throughout; in (c)6, added "and any violations, or pending violations, brought by . . . engaged in public work projects"; in (d), added the last sentence.

12:62-2.2 Issuance and term of a certificate of registration

(a) Upon receipt of the fee, a fully completed form and all documentation required under N.J.A.C. 12:62-2.1, the Commissioner shall issue a certificate of registration to the contractor within 30 days.

(b) An initial certificate of registration shall be valid only for a period of one calendar year from the date of registration.

(c) Registration shall be renewed not less than 30 calendar days prior to the expiration date of the immediately preceding registration. However, renewal shall be predicated upon the contractor not having knowingly or willfully violated the provisions of the Act or of the New Jersey Prevailing Wage Act during the period of licensure preceding the renewal application.

(d) Each contractor shall, after the bid is made and prior to the awarding of the public works contract, submit to the public entity for whom the work is to be performed the certificates of registration for all subcontractors listed in the bid proposal.

(e) A certificate of registration shall not be transferable.

(f) A registered contractor who allows his or her contractor registration certificate to expire prior to attempting

to renew same, must subsequently apply for a registration certificate as if for the first time.

Amended by R.2002 d.48, effective February 4, 2002.

See: 33 N.J.R. 3885(a), 33 N.J.R. 4309(a), 34 N.J.R. 776(a).

Added (e).

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

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

Rewrote (d); added (f).

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

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

In (b), substituted "An initial certificate" for "A certificate" and added "only"; in (c), added the last sentence.

12:62-2.3 Disorderly persons offense

(a) A contractor who commits any of the following acts shall be guilty of a disorderly persons offense:

1. Willfully hindering or delaying the Commissioner in the performance of his or her duties in the enforcement of the Act;

2. Failure to make, keep, and preserve any records as required under the provisions of the "New Jersey Prevailing Wage Act," P.L. 1963, c.150, N.J.S.A. 34:11-56.25 et seq.;

3. Falsifying any such record, or refusing to make any such record accessible to the Commissioner upon demand;

4. Refusing to furnish a sworn statement of such records or any other information required for the enforcement of the Act to the Commissioner upon demand;

5. Paying or agreeing to pay wages at a rate less than the rate prescribed by the "New Jersey Prevailing Wage Act," P.L. 1963, c.150, N.J.S.A. 34:11-56.25 et seq.; or

6. Otherwise violating any provision of the Act.

12:62-2.4 Denial, suspension or revocation of registration

(a) As an alternative to or in addition to sanctions provided in N.J.A.C. 12:62-2.5, a certificate of registration may be denied, suspended or revoked if the registrant or applicant or an officer, partner, director, stockholder, or agent of the applicant or registrant has at any time:

1. Failed to comply with the registration requirement set forth in the Act;

2. Bid for or performed work pursuant to a public works contract without having fully complied with the registration requirement set forth in the Act;

3. Willfully made a misstatement of or omitted revealing a material fact or facts in the application for registration or renewal;

4. Failed to provide all information requested by the Department pursuant to N.J.A.C. 12:62-2.1(c);

5. Contracted for use in the completion of a public work any subcontractor or independent contractor required

to register under the Act who is not so registered or has utilized a subcontractor who has subcontracted his or her work to any subcontractor or independent contractor who is not so registered; or

6. Failed to respond to a request to produce records, forms or documents or failed to cooperate or has interfered with a designee of the Commissioner in the course of a departmental investigation.

(b) A certificate of registration may be denied, revoked, or suspended, depending on the nature and severity of the violation, if the applicant or registrant, or an officer, partner, director, stockholder or agent of the applicant or registrant has at any time violated any provision of the Act or of this chapter, and/or 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 or has failed to comply with the labor laws of New Jersey or any other state or Federal labor law or any order of the Commissioner with regard to any matter not referred to in (a) above.

(c) The registration of a contractor shall not be revoked or suspended for a period beyond five years. However, in determining the length of time for which a contractor's registration may be denied, suspended or revoked, the following criteria shall be considered:

1. The record of previous violations by the contractor of the Public Works Contractor Registration Act and/or the New Jersey Prevailing Wage Act 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.

2. Whether the general contractor or subcontractor in question should reasonably have known that a subcontractor with whom he or she is in privity had not registered, pursuant to the Act or had his or her registration revoked or suspended or had let his or her registration lapse;

3. The total number of unregistered subcontractors at the work site(s) in question and the size and scope of public works project(s); and

4. Whether the general contractor or subcontractor in privity to the subcontractor who is not registered pursuant to the Act obeyed the Department's directive to remove the unregistered subcontractor from the work site and thus cure the violation of the Act.

(d) The Commissioner may require as a condition of initial or continued registration that a contractor who has violated either the Act or the Prevailing Wage Act must provide a surety bond payable to the State.

1. The surety bond shall be for the benefit of workers damaged by any failure of a contractor to pay wages or benefits pursuant to or otherwise comply with the provisions of the "New Jersey Prevailing Wage Act," P.L. 1963, c.150, N.J.S.A. 34:11-56.25 et seq., or the Act.

2. The surety bond shall be in the amount and form that the Commissioner deems necessary for the protection of the contractor's workers, but shall not exceed \$10,000 per worker.

3. The surety bond shall be issued by a surety that meets the requirements of N.J.S.A. 2A:44-143.

Amended by R.2002 d.48, effective February 4, 2002.

See: 33 N.J.R. 3885(a), 33 N.J.R. 4309(a), 34 N.J.R. 776(a).

In (b), inserted ", or has failed to comply with the labor laws of New Jersey or any other state or Federal labor law" following "chapter".

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)3, added "or omitted revealing a" and "or facts"; deleted "or" from (a)4; rewrote (a)5; added (a)6; in (b), added "and/or any violations, or pending violations, brought by . . . engage in public work projects"; rewrote (c), adding (c)1-4.

12:62-2.5 Administrative penalties

Any or all of the administrative penalties set forth in N.J.A.C. 12:60-9.3 for violations of the "Prevailing Wage Act," N.J.S.A. 34:11-56.25 et seq., may also be imposed by the Commissioner or his or her designee upon a finding that a registrant or applicant or an officer, partner, director, stockholder, or agent of the applicant or registrant has at any time committed any of the acts set forth at N.J.A.C. 12:62-2.4(a).

12:62-2.6 Appeals

(a) Whenever the Department shall find cause to deny, suspend or revoke a certificate of registration, to require the posting of a surety bond pursuant to N.J.A.C. 12:62-2.4(d), or to impose an administrative penalty pursuant to N.J.A.C. 12:62-2.5, it shall notify the registrant or applicant of the reasons therefor, in writing, and provide opportunity for a hearing in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(b) All requests for hearing shall be filed within 10 business days from the date of receipt of the notice. The Commissioner or his or her designee shall issue the final decision in accordance with the applicable provisions of the Administrative Procedure Act and the Uniform Administrative Procedure Rules.

1. All requests for hearing shall be in writing and shall be directed to the following address:

NJ Department of Labor and Workforce
Development
Division of Wage and Hour Compliance
PO Box 389
3rd Floor
Trenton, NJ 08625-0389

(c) In the absence of a timely request for a hearing, pursuant to (b) above, the determination of the Department shall be deemed the final administrative action in the given matter.

(d) Where the Department has notified a registrant that it has found cause to deny, suspend or revoke its certificate of registration and where further, that registrant has failed to request a hearing within the 10-day time limit prescribed in (b) above, the registrant shall, within 20 days of having received notice of the denial, revocation or suspension, surrender its certificate of registration by way of certified mail to the address listed at (b)1 above.

(e) Any contractor who has his or her registration denied, suspended or revoked for violations enumerated in this subchapter shall not be permitted to perform work for which a bid has been submitted and which is under review.

(f) Where a hearing with regard to a denial, suspension or revocation of a certificate of registration is requested and where, further, the Commissioner of Labor and Workforce Development ultimately determines that cause has been

established to deny, suspend or revoke the certificate of registration, the registrant shall, within 10 days of receipt of the final order of the Commissioner or his or her designee, surrender the certificate of registration, by way of certified mail to the address listed at (b)1 above.

(g) All requests for hearing shall be reviewed by the Division of Wage and Hour Compliance in order to determine whether the dispute can be resolved at an informal settlement conference. If the review indicates that an informal settlement conference is warranted, such conference shall be scheduled. If a settlement cannot be reached, the case shall be forwarded to the Office of Administrative Law for a formal hearing.

Amended by R.2002 d.48, effective February 4, 2002.

See: 33 N.J.R. 3885(a), 33 N.J.R. 4309(a), 34 N.J.R. 776(a).

Inserted new (c) through (f) and recodified former (c) as (g).

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 "deny,"; in (b)1, added "NJ Department of Labor and Workforce Development" and "3rd Floor" to address; in (d), added "deny," and "denial,"; in (e), added "denied,"; in (f), added "denial," "and Workforce Development" and "deny,".