

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."

[54-4501, added 1998, ch. 410, sec. 1, p. 1267.]

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.

[54-4502, added 1998, ch. 410, sec. 1, p. 1267.]

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 con-

struction 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.

[54-4503, added 1998, ch. 410, sec. 1, p. 1267; am. 2005, ch. 213, sec. 33, p. 666; am. 2014, ch. 132, sec. 1, p. 367; am. 2017, ch. 122, sec. 1, p. 287.]

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.

[54-4504, added 1998, ch. 410, sec. 1, p. 1268; am. 2017, ch. 122, sec. 2, p. 288.]

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.

[54-4505, added 1998, ch. 410, sec. 1, p. 1268; am. 2017, ch. 122, sec. 3, p. 288.]

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.

[54-4506, added 1998, ch. 410, sec. 1, p. 1269; am. 2017, ch. 122, sec. 4, p. 289.]

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.

[54-4507, added 1998, ch. 410, sec. 1, p. 1269; am. 2017, ch. 122, sec. 5, p. 289.]

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.

[54-4508, added 1998, ch. 410, sec. 1, p. 1270; am. 2000, ch. 318, sec. 3, p. 1075; am. 2005, ch. 213, sec. 34, p. 667; am. 2017, ch. 122, sec. 6, p. 290.]

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.

[54-4509, added 1998, ch. 410, sec. 1, p. 1270; am. 2017, ch. 122, sec. 7, p. 290.]

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, charges, and fines received by the board under the provisions of this chapter shall be deposited in the state treasury to the credit of the occupational licenses fund, and all costs and expenses incurred by the board under the provisions of this chapter shall be a charge against and paid from the fund for such purposes. The funds collected under this chapter shall be immediately available for the administration of this chapter, the provisions of any other law notwithstanding.

[54-4510, added 1998, ch. 410, sec. 1, p. 1271; am. 1999, ch. 272, sec. 1, p. 685; am. 2017, ch. 122, sec. 8, p. 291; am. 2021, ch. 224, sec. 71, p. 688.]

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;

(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.

[54-4511, added 1998, ch. 410, sec. 1, p. 1271; am. 2014, ch. 132, sec. 2, p. 368; am. 2016, ch. 35, sec. 1, p. 85.]

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.

[54-4512, added 1998, ch. 410, sec. 1, p. 1272; am. 2014, ch. 132, sec. 3, p. 369.]

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.

[54-4513, added 1998, ch. 410, sec. 1, p. 1272; am. 2000, ch. 318, sec. 4, p. 1076.]

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.

[54-4514, added 1998, ch. 410, sec. 1, p. 1272; am. 2017, ch. 122, sec. 9, p. 291.]