

Small Business Impact Statement

Proposed Regulation T002-19

1.0 Overview

The Nevada State Contractors Board (NSCB) proposes amendments to portions of the Administrative Code regarding the regulation of contractors in Nevada. The first amendments are intended to expand and clarify the types of experience documentation necessary for an applicant to become a licensed contractor. The second amendments are intended to define “employer” and “employee” as those terms are used in the statutes and regulations to remove ambiguity.

The Nevada State Contractors Board has determined that the proposed amendments should not have a negative financial impact upon a small business. The proposed regulations are not expected to negatively impact the formation, operation, or expansion of a small business in Nevada.

2.0 Authority

This small business impact statement is made pursuant to NRS 233B.0608 (3) and complies with the requirements of NRS 233B.0609. As required by NRS 233B.0608(3), this statement identifies the methods used by the agency in determining the impact of the proposed regulation on a small business and provides the reasons for the conclusions of the agency in section 4.8 below followed by the certification by the person responsible for the agency.

3.0 Background

The Nevada State Contractors Board recognizes that it is important to reduce unwarranted barriers to licensure and to increase the portability of licensure. While affirmative steps have been made toward these goals, additional regulatory change is a transparent mechanism to broaden the class of persons positively affected by the paired goals of barrier reduction and portability ease. Thus, the regulatory changes are expected to expand and clarify the types of experience documentation necessary for an applicant to become a licensed contractor.

Additional language seeks to resolve conflict among various statutory schemes that can be reconciled and clarified with defining the employer-employee relationship as used in NRS Chapter 624. Thus, the regulatory changes are expected to harmonize the statutory and regulatory scheme in a transparent and consistent manner.

4.0 Survey of Small Business

Pursuant to NRS 233B.0608(2)(a), the Nevada State Contractors Board requested input from its licensees, interested parties, and the public.

- 4.1 A description of the manner in which comment was solicited from affected small businesses, a summary of their responses, and an explanation of the manner in which other interested persons may obtain a copy of the summary.

A Small Business Impact Questionnaire was provided along with a copy of the proposed regulation change to approximately 9,400 licensees and interested persons via the agency's newsletter and the Nevada Contractors Board's web site. The response period for the Questionnaire was from December 11, 2018 until January 14, 2019. The Questionnaire asked:

- 1) How many employees are currently employed by your business?
- 2) Will a specific regulation have an adverse economic effect upon your business?
- 3) Will the regulation(s) have any beneficial effect upon your business?
- 4) Do you anticipate any indirect adverse effects upon your business?
- 5) Do you anticipate any indirect beneficial effects upon your business?

No responses were received for this survey.

Any other persons interested in obtaining a copy of the summary may mail in a request to:

Nevada State Contractors Board
c/o Public Information Officer
2310 Corporate Circle, Suite 200
Henderson, NV 89074

- 4.2 Describe the manner in which the analysis was conducted.

The analysis was comprised of stakeholder feedback compiled by the Nevada State Contractors Board. The overall feedback was accepting of the proposed regulation changes and was in agreement that the proposed regulation changes did not have a negative impact upon small businesses.

- 4.3 The estimated economic effect of the proposed regulation on the small business that it is to regulate including, without limitation: a) both adverse and beneficial effects; and b) both direct and indirect effects.

No adverse economic effects were identified because the proposed regulation changes either expand the types of experience documentation that may allow an applicant to become a contractor or clarify the employer-employee relationship to match the traditional understanding of that relationship as modified by Nevada law. These changes directly benefit applicants and existing licensees by improving and clarifying standards that may act as impediments to lawful contracting in Nevada.

- 4.4 Describe the methods that the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of those methods.

The Nevada State Contractors Board considered making no changes to the regulations in favor of the single form of experience documentation. This approach was rejected as overly restrictive in lieu of other similarly effective and readily available methods of proof that could be used in support of the experience requirements under NRS 624.260. Regulations regarding the employer-employee relationship were accepted as a way to reconcile traditional notions regarding the employer-employee relationship with statutory language. This need is compounded by the statutory concept of “qualified individual” embedded in NRS Chapter 624. Traditionally, this natural person is an employee of the licensee and can be identified and held accountable for a licensee’s conduct. By adopting the proposed regulations, licensees will more completely understand the relationships among these employment rubrics.

- 4.5 The estimated cost to the agency for enforcement of the proposed regulation.

The Nevada State Contractors Board estimates that there will be no cost to the agency for the enforcement of the proposed regulations. Instead, the agency, its applicants and licensees, as well as the public should avoid costs related to inconsistent interpretation of existing statute and regulations regarding applicants and licensees.

- 4.6 If the proposed regulation provides a new fee or increases an existing fee, the total annual amount the Agency expects to collect and the manner in which the money will be used.

The Nevada State Contractors Board proposes no new fees nor does it propose a fee increase; therefore, there will be no new money to collect or use.

- 4.7 If the proposed regulation includes provisions that duplicate or are more stringent than federal, state, or local standards regulating the same activity, an explanation of why such duplicative or more stringent are necessary.

There are no federal, state, or local provisions regarding the licensing of contractors; therefore, there is no duplicative or more stringent provisions to consider.

- 4.8 The reasons for the conclusions of the Agency regarding the impact of the regulation on small business.

As a licensing agency, the Nevada State Contractors Board seeks to enforce Nevada’s public policies regarding its contractors through the mechanism of effective and cost-conscious regulations that do not establish unnecessary roadblocks to the creation and continuation of small business. These proposed regulation changes expand the forms of supporting documentation the

Nevada State Contractors Board may consider when evaluating an applicant's relevant training and experience; therefore, the proposed regulation is consistent with the goal of reducing burdens upon small business. The proposed regulatory changes regarding the employer-employee relationship are intended to reduce ambiguity and to clarify obligations under the regulatory scheme. Thus, the proposed change will enable licensees to evaluate hiring practices to achieve business models that are compliant with NRS Chapter 624's requirements for qualified individual responsibility.

5.0 Certification by Person Responsible for the Agency

I, Margi Grein, Executive Officer of the Nevada State Contractors Board, certify to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and the information contained in this statement was prepared properly and is accurate.

Signature _____ Date _____