

TITLE 14 HOUSING AND CONSTRUCTION
CHAPTER 6 CONSTRUCTION INDUSTRIES LICENSING
PART 3 CONTRACTOR'S LICENSE REQUIREMENTS

14.6.3.1 ISSUING AGENCY: The Construction Industries Division (CID) of the Regulation and Licensing Department.
[14.6.3.1 NMAC - Rp, 14.6.3.1 NMAC, 3/10/2022]

14.6.3.2 SCOPE: This rule applies to individuals seeking to obtain a license or certificate issued by CID.
[14.6.3.2 NMAC - Rp, 14.6.3.2 NMAC, 3/10/2022]

14.6.3.3 STATUTORY AUTHORITY: Sections 60-13-9, 60-13-12, 60-13-14, 60-13-18, 70-5-6, 70-5-9, 70-5-12, 70-5-17 and 40-5A-1 through 9 NMSA 1978.
[14.6.3.3 NMAC - Rp, 14.6.3.3 NMAC, 3/10/2022]

14.6.3.4 DURATION: Permanent.
[14.6.3.4 NMAC - Rp, Rp, 14.6.3.4 NMAC, 3/10/2022]

14.6.3.5 EFFECTIVE DATE: March 10, 2022, unless a later date is cited at the end of a section.
[14.6.3.5 NMAC - Rp, 14.6.3.5 NMAC, 3/10/2022]

14.6.3.6 OBJECTIVE: The objective of 14.6.3 NMAC is to set forth general provisions governing contractor licensing in New Mexico.
[14.6.3.6 NMAC - Rp, 14.6.3.6 NMAC, 3/10/2022]

14.6.3.7 DEFINITIONS:
[14.6.3.7 NMAC - Rp, 14.6.3.7 NMAC, 3/10/2022]
See Section 60-13-3 NMSA 1978 and 14.5.1.7 NMAC for definitions.

14.6.3.8 LICENSE AND QUALIFYING PARTY REQUIREMENTS.

A. General information.

(1) To act in the capacity of a contractor as defined in Section 60-13-3 NMSA 1978, an entity must be issued a license.

(2) No business entity, the majority of which is owned by an individual who is 17 years of age or younger, is eligible for licensure.

(3) Contractor licenses issued by CID:

(a) Are issued only to qualified business entities which employ or are owned by one or more qualifying parties validly certified by CID to perform the classification of contracting in which the licensee intends to engage;

(b) Grant only the authority to engage in contracting in the classification specified on the license issued to the entity, and on the certificate issued to its qualifying party;

(c) Are not transferable and may not be used by any person other than the entity to which it is issued, and any entity that permits another person to use its license, or knows that its license is being used by another person and fails to promptly notify CID of such use, shall be subject to disciplinary action, up to and including revocation of the license; and

(d) Authorize only the entity as named on the license to engage in contracting and no licensee may engage in contracting using a name other than the name that is shown on the license issued to it.

(4) No license shall be issued to an entity that is using a name containing word(s) identifying a construction or contracting trade, craft, discipline or expertise that is not covered by the classification of license for which the entity is qualified.

(5) In the event a licensee loses its qualifying party, through termination of employment or otherwise, both the licensee and the qualifying party must notify CID or its designee in writing of the separation within 30 days thereof.

(6) CID shall address all written communication with a licensee to its address of record which is the address shown on the application or any different address of which CID has received written notice from the licensee. A licensee shall report in writing to CID or its designee any change of address within 30 days after such change. Failure to do so is cause for disciplinary action.

(7) For additional information regarding journeyman certification, please see 14.6.4 NMAC.

B. Types of entities.

(1) Corporations, limited liability companies (LLC), Limited partnership (LP) and limited liability partnerships (LLP).

(a) Corporations, LLCs, LPs and LLPs are each required to be licensed even though one or more stockholders, members or partners have a license or qualifying party certificate.

(b) Corporations, LLCs, LPs and LLPs must be legally authorized to do business in New Mexico in order to be eligible to apply for, renew or retain a license.

(c) Any license issued to a corporation, LLC, LP or LLP shall automatically cancel when the entity ceases to exist under New Mexico law.

(2) Joint ventures.

(a) No two or more persons shall submit a joint bid or jointly engage in contracting unless operating as a validly licensed joint venture.

(b) To be eligible to apply for, renew or retain a license, each entity comprising the joint venture must hold a valid New Mexico contractor license and be legally authorized to do business in New Mexico.

(c) Any license issued to a joint venture entity shall automatically cancel when the entity ceases to exist under New Mexico law.

(3) Partnerships.

(a) A partnership must be legally authorized to do business in New Mexico in order to be eligible to apply for, renew or retain a license.

(b) Any license issued to a partnership shall automatically cancel when the partnership ceases to exist under New Mexico law.

(4) Sole proprietorships.

(a) A sole proprietorship must be legally authorized to do business in New Mexico in order to be eligible to apply for, renew or retain a license.

(b) On the death of a sole proprietor, the license shall automatically cancel.

C. Proof of financial responsibility.

(1) Upon initial licensure and as a condition of renewal each applicant shall furnish to the division a bond in the amount of ten thousand dollars (\$10,000) underwritten by a corporate surety authorized to transact business in New Mexico.

(2) The date of effectiveness of the bond shall cover the entire period of licensure for initial application and each renewal cycle. Maintaining the bond for the entire period of licensure is a condition of licensure.

(3) Payment from a bond required by Section 60-13-49 NMSA 1978, shall be used to cure division certified code violations caused and not corrected by the licensee.

(4) Claims against the bond shall be made within two years following final inspection or within two years of issuance of a certificate of occupancy, whichever is earlier.

(5) The surety for such a bond shall remain in effect and liable, for the entire term of potential liability, under the provisions of the bond for all obligations of the principal pertaining to bond terms that occur before the bond is canceled, expires or otherwise becomes ineffective.

(6) The bond carrier shall provide to the division and to the licensee thirty days prior written notice of intent to cancel a bond as required pursuant to Section 60-13-49 NMSA 1978. The division shall notify the licensee that a new bond is required. If the licensee has not provided a new bond according to the statute, action shall be taken immediately for cancellation of the license.

D. Application for licensure or certification.

(1) Every application for licensure, certification, and all requests for formal action to be taken on a license or certificate, such as renewal or addition of a classification, must be made on the applicable form issued by CID or its designee and accompanied by the applicable fee as required by 14.5.5 NMAC.

(2) An incomplete or insufficient application shall be rejected and returned to the applicant, with a statement of the reason for the rejection.

(3) All requirements for licensing or certification must be met within six months from the date the application is received by CID or its designee. Any application not completed within the six month period shall expire and any fees paid in connection with the expired application shall automatically forfeit.

(4) An application for licensure or certification may be denied if the applicant has been convicted of a felony enumerated as a disqualifying criminal conviction pursuant to Subsection F of 14.6.3.8 NMAC.

(5) CID may deny an application on the basis of an applicant's conduct to the extent that such conduct violates the Construction Industries Licensing Act, the LP and CNG Act or their accompanying rules, regardless of whether the individual was convicted of a crime for such conduct or whether the crime for which the individual was convicted is listed as one of the disqualifying criminal convictions listed in subsection F below.

E. Qualifying party certificates.

(1) Qualifying party certificates issued by CID:

(a) Are issued only to individuals who are 18 years of age or older;

(b) Grant only the authority for the licensee to engage in contracting in the classification specified on the certificate;

(c) Are not transferable and may not be used by any individual other than the individual to whom it is issued, and any individual who permits another person to use his certificate, or knows that his certificate is being used by another person and fails to promptly notify CID of such use, shall be subject to disciplinary action, up to and including revocation of the certificate.

(2) While validly attached to, and qualifying a license, no qualifying party shall accept or engage in any employment that would conflict with his responsibilities as a qualifying party for, or conflict with his ability to adequately supervise the work performed by, the licensee.

(3) No individual may qualify more than one licensed entity, other than a joint venture, unless there is at least thirty percent common ownership among the qualified entities. CID may require evidence of such ownership that is satisfactory to the director.

(4) A qualifying party may only perform work authorized by the qualifying party certificate while validly attached to a validly licensed entity.

F. Potential denial of licensure based on disqualifying criminal conviction(s).

(1) Pursuant to Section 28-2-4 NMSA 1978, the division may refuse to grant or renew a license or certificate if an applicant has been convicted of a felony and the criminal conviction directly relates to the particular trade, business or profession.

(2) To deny an application for licensure or certification based on a disqualifying criminal conviction the following must be considered:

(a) CID shall not consider an applicant's criminal conviction to deny licensure or certification unless the conviction is one of the disqualifying criminal convictions listed in Paragraph (4) below.

(b) Should an applicant be denied a license or certificate based on a disqualifying criminal conviction, the applicant may submit a written justification providing evidence of mitigation or rehabilitation for reconsideration by the division.

(c) Should CID deny the license or certification after receipt of the written justification stated above, the denial may be appealed and subject to a hearing pursuant to the Uniform Licensing Act to determine whether the denial is properly based upon a disqualifying criminal conviction.

(3) In connection with an application for licensure, the division shall not use, distribute, disseminate, or admit into evidence at an adjudicatory proceeding criminal records of any of the following:

(a) A conviction that has been sealed, dismissed, expunged or pardoned;

(b) a juvenile adjudication; or

(c) a conviction for any crime other than the disqualifying criminal convictions listed in Paragraph 4, subsection F of this rule.

(4) Disqualifying felony criminal convictions that may allow the denial of licensure or certification or the denial of renewal of licensure or certification, whether in New Mexico or their equivalent in any other jurisdiction include:

(a) conviction involving attempts to evade or defeat payment of a tax that is owed or may be lawfully assessed;

(b) conviction involving physical harm to a person or for an attempt, conspiracy or solicitation to commit such crimes;

(c) robbery, larceny, burglary, fraud, forgery, embezzlement, arson, theft of identity, extortion, racketeering or receiving stolen property or for an attempt, conspiracy or solicitation to commit such crimes;

(d) conviction involving bribery of a public officer or public employee or for an attempt, conspiracy or solicitation to commit such crimes.

G. Qualifying party certification process.

(1) Except for individuals seeking expedited licensure as military service members, an individual applying for a qualifying party certificate must provide proof of work experience, as required in the act and Title 14, NMAC, in the classification of contracting for which application is made. Training that is classified as technical training by an accredited college, university, manufacturer's accredited training program, technical vocational institute or an accredited apprenticeship program will be considered in lieu of work experience. Each year of equivalent training shall be applied as one-half year of experience, but in no case shall accredited training exceed one-half of the total work experience requirement.

(2) Examination Procedure.

(a) No applicant for a qualifying party certificate is eligible to take a qualifying examination until providing satisfactory work experience, as to four years within the 10 years immediately prior to application, documentation to the division.

(b) Examinations shall be administered by CID, or its designee.

(c) A passing exam score is seventy-five percent or higher.

(d) An applicant who fails to appear for a scheduled exam or fails to attain a passing score of seventy-five percent or higher may take another regularly scheduled exam, provided the applicant reapplies to take the exam, pays the fee and does not repeat the exam more than twice in any 30-day period.

(e) If CID or its designee determines that an applicant has cheated, the exam shall be deemed invalid, all fees shall be forfeited, and any license or certificate issued on the basis of that exam shall be automatically and immediately voided. The applicant will not be eligible to take any exam administered by CID, or its designee, for one year after the date of such an event.

H. Qualifying party process for expedited certification for military service members.

(1) The applicant shall submit a completed division approved qualifying party application.

(2) In lieu of work experience verification the applicant shall provide the following documentation satisfactory to the division:

(a) Applicant is currently licensed or certified and in good standing in another jurisdiction, including a branch of the United States armed forces;

(b) applicant has met the minimal licensing or certification requirements in that jurisdiction and the minimal licensing requirements in that jurisdiction are substantially equivalent to the certification requirements for New Mexico; and

(c) submit the following documentation:

(i) For military service member: copy of military orders;

(ii) for spouse of military service members: copy of service member's military orders, and copy of marriage license;

(iii) for spouses of deceased military service members: copy of deceased service member's DD214 and copy of marriage license;

(iv) for dependent children of military service members: copy of military orders listing dependent child, or a copy of service member's military orders and one of the following: copy of birth certificate of the dependent child, military service member's federal tax return or other governmental or judicial documentation establishing dependency;

(v) for veterans (retired or separated): copy of DD214 showing proof of honorable discharge.

(3) The certificate shall be issued by the division as soon as practicable but no later than 30 days after a qualified military service member, spouse, dependent child, or veteran files a completed division approved application and provides a background check, if required, for the certification.

(4) Military service members and veterans shall not be charged a fee for the first three years for a license or certificate issued pursuant to this rule. The three-year exemption for licensing fees does not include fees for copies of documents, replacement licenses or other expenses related to a license, which fees shall be charged according to the division's fees currently in effect. A license issued pursuant to this section shall be valid for a three-year period subject to renewal requirements of Subsection I below.

I. License renewals.

(1) CID or its designee shall mail to every licensee a renewal application form at least 30 days prior to the expiration of the license to the current address of record for that licensee. Whether or not the application form is received, it is the sole duty and responsibility of each licensee to timely renew its license.

(2) The filing date of the renewal application shall be the date the envelope is postmarked or, if hand delivered, the date it is received by CID or its designee.

(3) The signatures of all current qualifying parties on each license must appear on the renewal form.

(4) If a renewal application is not timely received, or if received but is rejected for failure to comply with renewal requirements, the license shall be suspended and subject to cancellation pursuant to Subsections E and F of Section 60-13-18 NMSA 1978, of the Act.

(5) An application for renewal of a license or certificate may be denied if the applicant has been convicted of a felony enumerated as a disqualifying criminal conviction pursuant to Subsections F of 14.6.3.8 NMAC.

J. Change of name.

(1) The licensee must submit a written request for a name change accompanied by:
(a) An amended registration certificate from the New Mexico department of taxation and revenue.

(b) A rider from the bonding company;

(c) If a corporation, LLC, LP or LLP, a copy of the New Mexico certificate of amendment or other document issued by the state showing that the name change has been officially recorded.

(2) A change of name is not effective until approved and posted by CID. Conducting business under the new name prior to CID's approval and notification within CID's licensee database may constitute a violation of Subsection K of Section 60-13-23 NMSA 1978, of the Act.

K. Validity of licenses and certificates.

(1) The following events may cause a license or certificate to be, or to become, invalid:
(a) Failure to renew pursuant to Sections 60-13-18 and 60-13-39 NMSA 1978, of the Act.

(b) Failure to maintain proof of financial responsibility pursuant to Section 60-13-49 NMSA 1978, of the Act.

(c) Failure to comply with workers' compensation laws pursuant to Section 60-13-23 NMSA 1978, of the Act.

(d) Failure to comply with the Parental Responsibility Act.

(e) Failure of a license to be qualified by a qualifying party certificate.

(f) Loss of authorization to conduct business in New Mexico.

(g) Death of a sole proprietor.

(h) Revocation or suspension of a license pursuant to Section 60-13-23 NMSA 1978, of the Construction Industries Licensing Act, the Criminal Offender Employment Act or 14.5.8 NMAC.

(i) Revocation or suspension of a certificate pursuant to Section 60-13-24 and 36 NMSA 1978, of the Construction Industries Licensing Act, the Criminal Offender Employment Act or 14.5.8 NMAC.

(2) When a license ceases to be qualified by a qualifying party certificate, the license will be automatically cancelled and the licensee may not bid or commence any new work in that classification. Any bid or new work commenced after a license is cancelled pursuant to this rule shall be considered unlicensed and will subject the licensee to disciplinary action. Work in progress at the time of the cancellation may continue for not more than 120 days. After 120 days, any permit that was issued to the licensee for work in the affected classification shall be automatically cancelled, no inspection shall be conducted pursuant to any such cancelled permit, and any work continued or undertaken shall be deemed to be unlicensed activity and will subject the licensee to prosecution pursuant to Section 60-13-52 NMSA 1978, of the Act.

(3) A qualifying party certificate that is not qualifying a valid license will automatically expire as follows:

(a) A new qualifying party certificate that does not qualify a valid license within 12 months from the date on which the exam score was reported to CID, or its designee, shall automatically expire.

(b) A qualifying party who does not qualify a valid license for any consecutive two - year period shall lose-eligibility as a qualifying party and the certificate shall automatically expire. Any individual who wishes to become recertified in the same classification after the expiration of the certificate pursuant to this rule must apply, retest, and pay all applicable fees. The director may waive the exam requirement for an additional 12

months if the applicant submits documentation of work experience indicating technical and business knowledge equivalent to that indicated by exam scores.

(4) Any work in progress at the time a sole proprietor dies or an entity ceases to exist or be authorized to do business, as described in subpart B. of this rule, may continue for not longer than 120 days provided that CID receives written notice of the death or event that causes the entity to lose its authorization to do business within 30 calendar days thereafter. At the end of the 120 days, all permits issued to the entity shall be cancelled, no inspections on such permits shall be performed, and any work performed thereafter by the entity shall be deemed unlicensed activity and may be prosecuted under Section 60-13-52 NMSA 1978, of the Act. If the licensee, or the licensee's representative fails to notify CID as required in this rule, any work performed after the death of the sole proprietor or the termination of the entity's authorization to do business in New Mexico shall constitute unlicensed activity under the act and may be prosecuted by CID.

L. Compliance with Parental Responsibility Act.

(1) Pursuant to the Parental Responsibility Act (PRA), any person who fails to come into compliance with all court ordered child support obligations within 30 days after receiving notice of non-compliance from CID will be subject to revocation of all licenses and certificates, pursuant to the due process requirements of the Uniform Licensing Act.

(2) The only proof of compliance with the PRA is a certificate of compliance issued to the license or certificate holder by the human services department (HSD certificate).

(3) If a license or certificate has been suspended or revoked pursuant to the requirements of the PRA and this rule, it shall be re-instated upon receipt by CID of an HSD certificate and payment of any fines, fees or other amounts owing to CID, subject to the following conditions:

(a) If more than 90 days have elapsed since the expiration date of a revoked license, the license shall not be reinstated. The respondent will be required to apply for a new license pursuant to the requirements of the act and these rules; provided, however, that the one year waiting period required by Section 60-13-29 NMSA 1978, of the act shall not apply.

(b) If more than 180 days have elapsed since the expiration of a revoked certificate of competence, the certificate shall not be reinstated. The respondent will be required to apply for a new certificate pursuant to the requirements of the act and these rules; provided, however, that the one year waiting period required by Section 60-13-29 NMSA 1978, of the Act shall not apply.

(c) If a more than two years have elapsed since the date of an order revoking a qualifying party certificate, the certificate shall not be reinstated. The respondent will be required to apply for a new certificate pursuant to the act and these rules; provided, however, that the one year waiting period required by Section 60-13-16 NMSA 1978, of the act shall not apply.

(d) Nothing in this rule or the PRA shall require CID to reinstate a license or certificate if cause exists to suspend or revoke the license or certificate on other grounds.

[14.6.3.8 NMAC - Rp, 14.6.3.8 NMAC, 3/10/2022]

14.6.3.9 PAYMENT OF ADMINISTRATIVE PENALTIES.

A. A person whose license or certificate has been suspended or revoked pursuant to Section 60-13-23, 24 or 36 NMSA 1978, of the act shall not be eligible for reinstatement of the license or certificate until all fees and administrative penalties assessed have been paid in full, except as allowed in Subsection B, below.

B. The commission may authorize CID to establish a payment plan for administrative penalties assessed against a licensee. If the licensee demonstrates good faith in making payments, CID may issue a new license or certificate or reinstate a suspended license or certificate before full payment has been made. If a licensee obtains a license or certificate pursuant to this provision, and thereafter fails to remain current on payments, the licensee may be subject to additional disciplinary action, including suspension, revocation of the license or certificate and additional administrative penalties.

C. Nothing in this rule shall enable a person to apply for or be issued a license or certificate if ineligible for licensure under any other provision of the act or Title 14, NMAC.

[14.6.3.9 NMAC - Rp, 14.6.3.9 NMAC, 3/10/2022]

14.6.3.10 [RESERVED]

[14.6.3.10 NMAC - N, 1/1/2010; Repealed, 11/1/2013]

History of 14.6.3 NMAC:

Pre-NMAC History:

Material in this part was derived from that previously filed with the commission of public records - state records center and archives as:

CIC 70-2, General Construction Classifications, filed 11/25/1970;

CIC 72-4, General Construction Classifications, filed 02/16/1972;

CIC 76-2, Rules And Regulations, filed 05/05/1976;

CID 78-2, Rules And Regulations, filed 12/05/1978;

CID 79-1, Rules And Regulations, filed 06/06/1979;

CID 82-1, Construction Industries Rules And Regulations, filed 04/14/1982;

CID 85-1, Construction Industries Rules And Regulations, filed 02/04/1985;

CID 90-1, Construction Industries Rules And Regulations, filed 05/31/1990.

History of Repealed Material:

14 NMAC 6.3, Housing and Construction - Construction Industries Licensing - Contractor's License Requirements (filed 9/2/1997) repealed 12/1/2000.

14.6.3, Housing and Construction - Construction Industries Licensing - Contractor's License Requirements (filed 10/16/2000) repealed 2/01/2006.

Other History:

That portion of CID 90-1, Construction Industries Rules And Regulations, filed 05/31/1990 -- renumbered, reformatted and amended to 14 NMAC 6.3, Housing and Construction - Construction Industries Licensing - Contractor's License Requirements, effective 09/14/1996.

14 NMAC 6.3, Housing and Construction - Construction Industries Licensing - Contractor's License Requirements (filed 09/03/1996) replaced by 14 NMAC 6.3, Housing and Construction - Construction Industries Licensing - Contractor's License Requirements, effective 09/23/1997.

14 NMAC 6.3, Housing and Construction - Construction Industries Licensing - Contractor's License Requirements (filed 09/02/1997) replaced by 14.6.3, Housing and Construction - Construction Industries Licensing - Contractor's License Requirements, effective 12/01/2000.

14.6.3 NMAC, Contractor's License Requirements (filed 10/16/2000) was replaced by 14.6.3, Contractor's License Requirements, effective 2/01/2006.

14.6.3 NMAC, Contractor's License Requirements (filed 2/01/2006) was replaced by 14.6.3, Contractor's License Requirements, effective 3/10/2022.