

## **Avoiding Licensing Pitfalls**

Approximately 30% of workers in the U.S. workforce are required to receive some sort of occupational licensing. That population includes everything from doctors and lawyers to florists, travel agents, and of course, contractors. States are taking significant steps to crack down on nefarious, unlicensed contracting, implementing everything from sting operations and construction site sweeps to consumer hotlines that may be contacted to help identify unqualified or fraudulent operators. However, professional, licensed contractors, who are trying to follow all the rules, can also be cited for unlicensed practice due to innocent mistakes and quirks made during state licensing processes.

Contractors face some of the most complicated and time-consuming licensing requirements of all regulated industries. With each state, and sometimes each city, having separate requirements, there are seemingly endless documents to assemble and amounts of information to be provided, and it becomes very easy to make an error on a form or to complete a step out of order. Unfortunately, when that happens, the state just rejects the application, kicking it back to you and starting the process all over again. This process of revising and resubmitting an application can take up valuable time. Waiting to submit a proposal; playing catch-up on the licensing for a job you've bid on or won (a serious mistake); or experiencing a license lapse in the midst of a project can result in major disruptions and financial losses. The following are areas that frequently cause licensing challenges for contractors and best practices to reduce your risk.

### **1. Experience Documentation**

One of the most frequent causes of rejections is a lack of specifics in the contractor's experience documentation. States generally require certification and verification of 5 to 10 years of consecutive experience, and this verification has to come from people, associates, and/or customers the contractor has worked with. Very often, contractors will submit a summary stating that work was completed for a certain person, on a certain project or during a certain period of time, and that, unfortunately, will not be specific enough. Instead, the state wants more: like the scope of the work, what specific tasks were completed, and what role the contractor played in those tasks.

This creates a challenge for contractors because the state wants to see a specific period of continuous experience. Contractors cannot verify their own experience, and it can be difficult to find a client or contractor who can speak about their previous work with precision. But it's essential that contractors pay close attention to those requirements and provide detailed descriptions of their work to avoid a rejected application.

If you are routinely facing challenges in this area, start by creating a working document (going as far back as necessary) with pertinent information regarding completed projects, how you were involved, and relevant contact information. This will take some time up front, but will be worth it later on. As time goes on, add new projects to your list and continue to update the document as required. That way, when you are again embroiled in the licensing process, you will have a one stop shop for relevant experience documentation.

## 2. Workers' Compensation

Workers' compensation is another aspect of licensing that can be unnecessarily confusing and cause problems for contractors. Often, contractors aren't aware of the compliance or exemption requirements. They submit the license application, it gets rejected, and only then do they realize they have to double back and file this lengthy exemption application first. Without knowing the requirements, exemptions, and nuances of the process in each state, it's hard for contractors to anticipate the timing and plan accordingly. Contractors are also frequently unaware that workers' compensation exemptions generally need to be renewed.

## 3. Bonds & Insurance Policies

Contractors are frequently tripped up by bond requirements. In many states, bonds must include language specific to the state. For example, the bond might need to note that it covers work done within the state of Texas. If a contractor submits a license package with a bond that doesn't include the precise wording, the entire package may come back rejected. The same happens with insurance policies. When submitting a bond or insurance policy, be sure to thoroughly review the requirements of the jurisdiction, which takes less time than dealing with a rejected application.

## 4. Testing Requirements

Another major cause of rejections and delays is failure to follow testing and licensing steps in the correct order. In some states, the contractor has to get approval from a board to take the test; in

others, the test comes first. If you're used to working in a state where things are done one way, and then you start the application process the same way in a new state, you may wind up with a rejection, losing precious weeks on a project. The only remedy for this is to thoroughly research requirements of the state's contractors board and the secretary of state side by side before beginning any filings.

#### 5. Competing Out of Scope

Another common cause of unlicensed activity is simply bidding or completing projects that fall outside of your license classifications and licensed specialties. Acting as a general contractor when you have only a specialty contractor license, or vice versa, is a common cause of citations. Ensure that you have qualifiers licensed in all specialties of work you are performing. With different requirements in each jurisdiction, it's important to do your research and be certain that your license meets the requirements for the prospective project within that jurisdiction. If you are working with subcontractors, it's also critical to ensure that their licenses are active, since, in many jurisdictions, contracting with an unlicensed subcontractor carries the same penalty as operating without a license yourself. If you're bidding in a new territory, your licenses generally need to be active before you advertise or submit proposals for work.

Since unlicensed contracting is a violation of the law, subject to criminal charges in many states, bidding without a license where one is required is not a risk worth taking. Licenses (and citations) are a matter of public record, and your competition can easily see if you are licensed to bid on an upcoming project. In fact, many citations result from whistleblower reports submitted by competing contractors.

#### 6. Name Requirements

Contractors sometimes fail to realize that their company name in contracts, licenses and other documents needs to be exactly the same as their legal name on file with the secretary of state. Using a variation of the name can lead to charges that the business entity is unlicensed.

Contractors know it's always faster and better to build something right the first time, and your licensing is no different. By taking time to research and meet regulatory requirements where you bid and provide services, you lay a strong foundation for your business's future success.