



**STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
BOARD FOR LICENSING CONTRACTORS**

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**MASONRY CONTRACTORS AND REVISED BIDDING INSTRUCTIONS
2010 LEGISLATION**

The following information is a summary of three (3) law changes from the 2010 Legislative Session. It is encouraged for all current masonry contractors with a BC-9 or BC license classification to apply for a license revision prior to **January 1, 2011** by taking the newly implemented masonry examination (*available after September 1, 2010*) in order to bid on projects \$100,000 or more (*includes materials and labor*). In addition, many masonry contractors primarily acting as a subcontractor and their monetary limit on the license has not been an issue, these contractors may want to apply for a monetary limit increase (*see revision forms on the "Forms and Downloads"*). Special revision forms to add the LMC license classification to the license will soon be available to assist in making this transition.

Summary

- Effective July 1, 2010, the one performing the masonry must be listed on the outside of the bid envelope when the masonry portion is \$100,000 or more (*including materials and labor*). This is in addition to the current requirements for listing the license information of the prime and their electrical, plumbing, and HVAC contractors, performing work \$25,000 or more.
- Effective January 1, 2011, a masonry subcontractor must be licensed with an "LMC" classification in order to bid or to be listed on the outside of bid envelope as a Licensed Masonry Contractor (LMC) when the masonry portion is \$100,000 or more (*including materials and labor*). The BC-9 or BC will not be acceptable.
- Contractors currently licensed with the Board will need to apply for a license revision by January 1, 2011 to add the LMC classification to their license and must pass the newly developed masonry exam (*available after September 1, 2010*). The law prohibits having a grandfather clause to waive the trade exam, therefore, current licensed masonry contractors, such as those with a BC-9 and BC classification) will be required to take the LMC exam. (*The BC-9 or BC will allow performing masonry work less than \$100,000.*)
- The following forms will be available from our website to obtain a revised license:
 - Revision Form – Add Classification (*Licensed Masonry Contractor – LMC*)
 - Revision Form – Increase (*may be needed for those with a smaller limit*)
 - Hardship Request Form (*to obtain the revision prior to the Board meeting*)
 - Exam Information – Candidate Information Bulletin (*After September 1, 2010*)

- The BC-9 (masonry) classification will not be acceptable after January 1, 2011 to be listed on the outside of the bid envelope or to bid or perform masonry projects over \$100,000.
- The BC (commercial) classification will not be acceptable after January 1, 2011 to be listed on the outside of the bid envelope or to bid or perform masonry projects over \$100,000.

General Information

Law changes from the 2010 legislative session have revised license and bid requirements. For projects \$25,000 or more, T.C.A. §62-6-119 requires the **Prime** (general) contractor to list their contractor license information on the outside of the bid envelope (*or electronic bid*), with the **Name, License Number, Expiration Date** and the **Classification** applying to the bid. In addition to the prime listing, the contractor license information must also be included for the **Electrical, Plumbing, and HVAC** contractors, unless the project is less than *\$25,000. Effective July 1, 2010, the amendment to Public Chapter 768 now requires the **Masonry** contractor to also be listed, unless the masonry portion is less than \$100,000 (*including materials and labor*). While it may not be required by the Board's current law, many awarding authorities may also require more information to be listed, such as the monetary limit; as well as the geothermal TDEC well-driller information. Therefore, it is very important to follow the bidding instructions and to supply the prime contractor with a copy of your license.

**Projects \$25,000 and more require the license information to be listed; masonry is required to be listed if \$100,000 or more (including materials and labor).*

The following is a detailed summary of legislative changes with the effective date:

Public Chapter 768

Effective **July 1, 2010**, this legislation adds the requirement in T.C.A. §62-6-119 to now require all bidders to list the **masonry** contractor **on the outside of their bid envelope**, when the value of the masonry work is in excess of \$100,000, including materials and labor. (*See Public Chapter 950 for license requirements in effect for January 1, 2010.*)

Public Chapter 801

This bill primarily clarifies the acceptance of electronic bids and was effective the date of passage (**April 5, 2010**), by requiring the same license information to be included on electronic bids as on the outside of the bid envelope. It also prohibits awarding authorities from requiring information to be supplied for subcontractors prior to the bid date. (*Note: This amendment also deleted the requirement to list the TDEC geothermal subcontractor's license information on the bid; however, this may be reinstated during the 2011 legislative session. Awarding authorities may continue to require this information; however, it would not be considered a law violation under the Board's law if it is not listed.*)

Public Chapter 950

This law amends T.C.A. § 62-6-111(a)(1)(B), by requiring the Board to develop a masonry competency exam by **September 1, 2010**. This exam will be required for a contractor to obtain a license classification as a Licensed Masonry Contractor (LMC), in order to be listed on the outside of the bid envelope after ***January 1, 2011**. In addition, the law prohibits grandfathering current licensed masonry contractors, those with a "BC-9" classification. Therefore, current licensees must also take the exam and apply for a license revision to obtain a LMC license classification before they may be listed on the outside of the bid envelope to perform projects \$100,000 or more (*including materials*

and labor). Current masonry contractors may want to also consider obtaining a license revision to increase their monetary limit.

**Effective date requiring masonry “subcontractors” to be licensed is January 1, 2011*

This Public Chapter also amends T.C.A. §62-6-102 which requires masonry subcontractors to be licensed effective **January 1, 2010** and would also require their **name, license number, classification** and **expiration date** to be listed on the outside of the envelope, as stated in Public Chapter 768 in T.C.A. §62-6-119. Any bid without this information on the envelope should not be opened and disqualified. *(Note: It is encouraged to supply the prime contractor with a copy of your license certificate or a printed copy from the “License Search” of the website at: <http://verify.tn.gov/> to ensure the license information is listed correctly, as required in Rule 0680-1-.24 and 25. Failing to list properly would be a violation of the law, T.C.A. §62-6-120 and Rule 0680-1-.18*

Additional Resources

»See the complete Public Chapter amendments on pages 4 – 5.

»Rules and laws relative to bidding are listed on page 6 – 7.

»All laws and rules are in the process of being updated to incorporate changes. You may review more information from the “Laws, Rules and Regulations” link of the Board’s website at:

<http://tn.gov/commerce/boards/contractors/>

»Licensed Masonry Contractor (LMC) exam is in the process of being developed utilizing the 2006 IBC and “Modern Masonry” publications. The exam will be available with PSI after September 1, 2010.

PUBLIC CHAPTER AMENDMENTS

PUBLIC CHAPTER NO. 768 – Effective July 1, 2010

SECTION 1. Tennessee Code Annotated, Section 62-6-119(b), is amended by inserting the language “masonry contract where the total cost of the masonry portion of the construction project exceeds one hundred thousand dollars (\$100,000), materials and labor,” in the first sentence between the language “and, for the” and the language “electrical,”.

SECTION 2. Tennessee Code Annotated, Section 62-6-119(b), is further amended by inserting the language “the masonry portion of the construction project which exceeds one hundred thousand dollars (\$100,000), materials and labor,” in the fourth sentence between the language “to perform” and the language “the electrical,”.

SECTION 3. This act shall take effect **July 1, 2010**, the public welfare requiring it.

PASSED: March 31, 2010

PUBLIC CHAPTER NO. 801 – Effective July 1, 2010

SECTION 1. Tennessee Code Annotated, Section 62-6-119, is hereby amended by deleting the section in its entirety and substituting the following in lieu thereof.

62-6-119.(a) Any person or entity preparing plans, specifications or any other documentation for inclusion in an invitation to bid or comparable bid document including any electronic bidding documents, shall reference this chapter in such documentation and a specific statement informing the invited bidder that it is necessary for such bidder to provide evidence of compliance with the applicable provisions of this chapter before such bid may be considered.

(b) The person or entity involved in the preparation of the invitation to bid or comparable bid documents including any electronic bid documents shall direct that the name, license number, expiration date thereof, and license classification of the contractors applying to bid for the prime contract and for the electrical, plumbing, heating, ventilation, and air conditioning contracts, appear on the outside of the envelope containing the bid or in the submission of an electronic bid except when the bid is in an amount less than twenty-five thousand dollars (\$25,000). Only one (1) contractor in such classification may be listed. Prime contractor bidders who are to perform the electrical, plumbing, heating, ventilation and air conditioning must be so designated upon the outside of the envelope or in the electronic bid. Failure of any bidder to comply therewith shall void such bid and such bid shall not be considered. It is the duty and responsibility of the awarding person or entity who received the envelope containing the bid or the electronic bid to verify only the completeness of the required licensure information. Prior to the opening of the envelope or acceptance of an electronic bid, the names of all contractors listed thereon or therein shall be read aloud at the official bid opening and incorporated into the bid. Prior to awarding a contract, the awarding person or entity and its authorized representatives shall verify the accuracy, correctness and completeness of the information required hereby. The failure of any bidder to comply with all of the provisions hereof shall automatically disqualify such bid. However, bids administered by the Tennessee department of general services shall require that the information be furnished within the bid or bid document only. When the bid is less than twenty-five thousand dollars (\$25,000), the name of the contractor only may appear on the outside of the envelope containing the bid or in the electronic bid document, and upon opening the envelope or review of the electronic bid, if such bid is in excess of twenty-five thousand dollars (\$25,000), the same shall automatically be disqualified. (c) No invitation to bid may require that: (1) Any subcontractor be identified, listed or designated until the final bid submission by the prime contractor; and (2) Any prime contractor accept the bid of any subcontractor until the final bid submission by the prime contractor. (d) Any person or entity, public and private, failing to observe this section shall be penalized in the same manner as any person under §62-6-120 who accepts a bid from a person who is not licensed in accordance with the provisions of this chapter.

(e) Notwithstanding the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, relative to the amount of civil penalties that may be imposed, the board may impose a civil penalty not to exceed five thousand dollars (\$5,000) for any violation of this section.

SECTION 2. This act shall take effect **upon passage**, the public welfare requiring it.

PASSED: April 5, 2010

PUBLIC CHAPTER NO. 950 – Effective September 1, 2010 and January 1, 2011

SECTION 1. Tennessee Code Annotated, Section 62-6-102, is amended by adding the following language as a new, appropriately designated subdivision: () “Licensed masonry contractor” means a contractor who builds structures from individual units of brick, stone, or concrete and glass block laid in and bound together by mortar, where the total cost of the masonry portion of the construction project exceeds one hundred thousand dollars (\$100,000), materials and labor, and who is required to obtain a license as a licensed masonry contractor by the board;

SECTION 2. Tennessee Code Annotated, Section 62-6-102(4)(A)(i), is amended by adding the following language at the end of the subdivision: provided, however, with respect to a licensed masonry contractor, such term means and includes the masonry portion of the construction project, the total cost of which exceeds one hundred thousand dollars (\$100,000), materials and labor;

SECTION 3. Tennessee Code Annotated, Section 62-6-102(4)(A)(ii), is amended by adding the following language at the end of the subdivision: and licensed masonry contractor;

SECTION 4. Tennessee Code Annotated, Section 62-6-102(4)(D)(ii), is amended by inserting the language “licensed masonry subcontractors” between the language “electrical subcontractors,” and the language “mechanical subcontractors”.

SECTION 5. Tennessee Code Annotated, Section 62-6-102(4), is further amended by inserting the following language as a new subdivision (E): (E) No contractor shall be authorized to perform contracting work as a licensed masonry contractor unless the contractor is licensed as a masonry contractor in accordance with this part.

SECTION 6. Tennessee Code Annotated, Section 62-6-111(a)(1)(B), is amended by designating subdivision (B) as subdivision (B)(i) and by adding the following language to be designated as subdivision (B)(ii): (ii) Notwithstanding any reciprocity for contractors which may otherwise exist between states, any person desiring to be perform contracting services in this state as a licensed masonry contractor whether residing in this state or another state shall not be authorized to perform any such services unless the person takes and passes the masonry examination required pursuant to subsection (a)(2) of this section.

SECTION 7. The state board for licensing contractors shall charge a licensing fee in an amount sufficient to cover all costs associated with issuing a license to persons performing contracting services in this state as a licensed masonry contractor, as this term is defined in Section 1 of this act.

SECTION 8. For purposes of establishing a masonry examination for issuing a license to a masonry contractor, this act shall take effect upon becoming a law, the public welfare requiring it. For purposes of accepting applications for and administering the masonry examination, this act shall take effect **September 1, 2010**, the public welfare requiring it. For all other purposes this act shall take effect **January 1, 2011**, the public welfare requiring it.

PASSED: May 6, 2010

Published Rules *(Will be modified to incorporate masonry law and electronic bid changes)*

0680-01-.13 MONETARY LIMITATIONS.

Subject to such tolerance, no contractor shall engage, or offer to engage, in any project of which the cost (including all material and labor furnished by or through another source other than the owner) would exceed the monetary limitation placed on his license. If a contractor holds a license with more than one classification with different monetary limit, the monetary limits shall not be combined to bid a project. There is a 10% bid tolerance.

0680-01-.24 BIDDING PROCEDURES.

(1) Pursuant to T.C.A. §§ 62-6-119(b), electrical, plumbing, heating ventilation and air conditioning subcontractors bidding to a prime contractor shall furnish evidence of a license with appropriate classification and monetary limit, regardless of how the bid is transmitted; provided however failure to comply with this rule shall not require nonconsideration of the LICENSING subcontractor's bid if appropriately licensed, but said subcontractor shall be subject to discipline by the Board. (2) Any prime contractor submitting a bid pursuant to T.C.A. § 62-6-119(b) shall list only one electrical contractor, one plumbing contractor, and one heating, ventilation air conditioning contractor with appropriate classification and monetary limit or the bid shall not be considered. Award of the subcontract to one not listed on the base bid envelope in violation of T.C.A. § 62-6-119 will be subject to review and disciplinary action by the Board.

0680-01-.25 CONTRACTING IN CORRECT NAME.

Upon receiving certificate of licensure from this Board, the licensee has an affirmative responsibility to enter into contracts and operate its related contracting business under the name in which it is licensed in order to notify and prevent confusion on the part of the public at large of an entity's licensure status. Contracting in a name different than that in which an entity is licensed by this Board is considered a violation of this chapter, and will be subject to discipline accordingly.

62-6-111. License and examination — Transfer of license —

(d) A contractor may bid on a contract requiring work in a classification or classifications other than the one in which the contractor is licensed if and only if the contractor has a **commercial** building contractor's license or if such contractor's license will permit the contractor to perform at least sixty percent (**60%**) of the bid amount or price of the work for the project being bid or priced. However, such contractor may not actually perform any work in excess of twenty-five thousand dollars (\$25,000) or in the case of a limited licensed electrician where the amount of work is less than twenty-five thousand dollars (\$25,000) in any classification unless the contractor has a license to perform work in such classification.

- Note: A Commercial (BC) contractor could not bid without listing a properly licensed subcontractor for: Electrical, Plumbing, HVAC, Mechanical, or Masonry.
- While many mechanical or electrical license classifications may not be required to be listed on the bid envelope, there remains a license requirement for subcontractors performing projects over \$25,000 such as: **Fire Sprinklers; Gas Piping; Boiler Construction; **Alarm Systems; Telephone Lines; Cabling; Fire Detection Systems, etc.

**See the classification outline for other agency license requirements at:

<http://tn.gov/commerce/boards/contractors/documents/ClassificationOutlineWeb.pdf>

Published Law *(Does not incorporate published changes from 2010)*

62-6-119. Bid documents — Required disclosures by bidders —

(a) Any person or entity preparing plans, specifications or any other documentation for inclusion or consideration in an invitation to bid or comparable bid document shall include a copy of this chapter, at least by reference and a specific statement informing the invited bidder that it is necessary for such bidder to provide evidence of a license in the appropriate classification before such bid may be considered.

(b) Any person or entity involved in the preparation of the invitation to bid or comparable bid documents shall direct that the name, license number, expiration date thereof, and license classification of the contractors applying to bid for the prime contract and for the [masonry over \$100,000] electrical, plumbing, heating, ventilation, and air conditioning contracts, and for each vertical closed loop geothermal heating and cooling project, the company name, Tennessee department of environment and conservation license number, classification (G, L or G,L) and the expiration date, appear on the outside of the envelope containing the bid except when the bid is in an amount less than twenty-five thousand dollars (\$25,000) [masonry over \$100,000]. When the bid is less than twenty-five thousand dollars (\$25,000), the name of the contractor only may appear on the outside of the envelope containing the bid, and upon opening the envelope, if such bid is in excess of twenty-five thousand dollars (\$25,000), the same shall automatically be disqualified. Only one (1) contractor in each classification may be listed. Prime contractor bidders who are to perform the electrical, plumbing, heating, ventilation and air conditioning or the geothermal heating and cooling must be so designated upon the outside of the envelope. Failure of any bidder to comply therewith shall void such bid and the envelope containing such bid shall not be opened or considered. It is the duty and responsibility of the awarding person or entity who received the envelope containing the bid to verify only the completeness of the required licensure information prior to the opening of the envelope. Prior to the opening of the envelope, the names of all contractors listed thereon shall be read aloud at the official bid opening and incorporated into the bid. Prior to awarding a contract, the awarding person or entity and its authorized representatives shall verify the accuracy, correctness and completeness of the information required hereby.

The failure of any bidder to comply with all of the provisions hereof shall automatically disqualify such bid. However, bids administered by the Tennessee department of general services shall require that the information be furnished within the bid or bid document and need not appear on the envelope.

(c) Any person or entity, public and private, failing to observe this section shall be penalized in the same manner as any person under § [62-6-120](#) who accepts a bid from a person who is not licensed in accordance with the provisions of this chapter. [Public Chapter 801 – Prohibits requiring information to be provided prior to the bid date for electronic bidding].

62-6-120. Penalties

(a)(1) Any person, firm or corporation who engages or offers to engage in contracting without a license as required by § [62-6-103](#), or who violates the terms and conditions of any license or renewal granted by the board pursuant to this chapter, commits a Class A misdemeanor. The penalties imposed by this subdivision shall not apply to a person who engages a contractor without a license for the purpose of constructing a residence for the use of such person.

(2) Any person, firm or corporation who engages or offers to engage in contracting without a license as required by § [62-6-103](#) is ineligible to receive such license until six (6) months after a determination by the board that a violation has occurred. Additionally, no such person, firm or corporation shall be awarded any contract for the project upon which it engaged in contracting without a license or permitted to participate in any rebidding of such project.

(b) Any person, firm or corporation who accepts a bid in excess of twenty-five thousand dollars (\$25,000) from a contractor who is not licensed, with appropriate classifications and sufficient monetary limitations, or in the case of a limited licensed electrician where the amount is less than twenty-five thousand dollars (\$25,000), in accordance with the provisions of this chapter, commits a Class A misdemeanor.

(c) (1) No official of the state other than of the department of transportation shall issue a permit or contract work order to any applicant therefore, to engage in contracting, unless the applicant holds a license as a contractor with appropriate classifications and sufficient monetary limitations, in accordance with the provisions of this chapter.

(2) Any official violating this subsection (c) commits a Class A misdemeanor.

(d) Any individual or entity that fails to pay a civil penalty assessed by the board pursuant to the terms of a final order entered by the board after a contested case hearing against the individual or entity pursuant to the Uniform Administrative Procedures Act, compiled in title [4](#), chapter 5, may be referred to a collection agency.

(e) Failure to pay any civil penalty assessed by the board shall subject the individual or entity to suspension or revocation of a license issued pursuant to this part.

See <http://www.michie.com/> for the complete published law (2010 changes have not been incorporated as of 8/4/2010)

Most Common Reasons for Bid Rejection

The following are the most frequent inquiries we receive as to law violations for rejection or protests by another bidder:

- Bid in name other than as licensed
- Owner of the licensed entity bid in the name of a separate unlicensed subsidiary business
- Bid as a corporation or LLC and licensed as a sole proprietor
- Prime contractor listed a subcontractor's name other than as licensed
- Prime contractor listed an improperly or unlicensed subcontractor
- Bid in excess of their contractor's license monetary limit over 10%
- Bid prior to the license getting renewed (must wait until license is approved for issuance)
- Bid a 3 to 5 year contract with a total cost over their monetary limit
- Bid over limit by not including profit or the cost of land in the total contract

When submitting a bid, it would be best to always supply the prime contractor with a copy of your license showing the name as licensed, license ID#, classification, and expiration date. You may also supply them with a print-out of your license information from our "License Search" of the website at: <http://verify.tn.gov/>