

Wyoming Administrative Rules

Workforce Services, Department of

Labor Standards

Chapter 4: Certification of Resident Contractors and Suppliers

Effective Date: 04/24/2019 to Current

Rule Type: Current Rules & Regulations

Reference Number: 053.0024.4.04242019

CHAPTER 4

CERTIFICATION OF RESIDENT CONTRACTORS AND SUPPLIERS

Section 1. Authority. This Chapter is promulgated by the authority of Wyoming Statute § 16-6-120(a).

Section 2. Purpose. This Chapter is adopted to aid and ensure compliance with the residency requirements for Wyoming Public Works and Contracts as specified in Wyoming Statute §§ 16-6-101 through -121.

Section 3. Definitions.

(a) “Contractor” means an individual or business entity engaged in construction, major maintenance, renovation, or improvement of any public work.

(b) “Labor Standards” means a program within the Department of Workforce Services.

(c) “Residency Preference” means the five percent bid preference awarded pursuant to Wyoming Statute § 16-6-203(a) of the Wyoming Preference Act of 1971.

(d) “Supplier” means an individual or business entity engaged in supplying products, goods, materials, or services to the state, any department thereof, or any county, city, town, school district, community college district, or other public corporation of the state.

Section 4. Application and Eligibility.

(a) A contractor or supplier may apply to Labor Standards to be certified as a resident at any time. A contractor or supplier shall not be certified as a resident until a certificate of residency has been issued by Labor Standards.

(b) All contractors and suppliers seeking to be certified as a resident shall complete and submit all documents and affidavit(s) required by Labor Standards. Upon request by Labor Standards, applicants and certified residents shall submit any additional information or documentation that Labor Standards may deem necessary to determine residency status.

(c) All applications for resident certification shall be accompanied by an application fee, payable to Labor Standards.

(i) The application fee for resident certification filed under Wyoming Statute § 16-6-101(a)(i)(J) shall be one-hundred dollars (\$100.00).

(ii) The application fee for all other resident certifications shall be forty dollars (\$40.00).

(d) Prior to issuing a certificate of residency, Labor Standards may conduct an on-site inspection of the Employer's principal office and principal place of business to verify eligibility.

(e) No residency preference shall be granted to any contractor or supplier who has not been certified as a resident by Labor Standards.

(f) No certificate of residency shall be issued to any contractor who has not participated in the prevailing wage survey as required by Wyoming Statute § 27-4-405(a). Prevailing wage survey participation is not required to qualify as a resident supplier.

(g) No certificate of residency shall be issued to any contractor or supplier required to register with the Wyoming Secretary of State's office who has not so registered or whose standing is delinquent.

(h) No certificate of residency shall be issued to any contractor or supplier who is delinquent with premium payments or employment wage contributions to Wyoming Workers' Compensation Division or Wyoming Unemployment Insurance Program as required by Wyoming Statute §§ 27-14-202 and 27-3-503, as applicable.

Section 5. Annual Renewal.

(a) A certified resident's certificate of residency shall be valid for a period of one (1) year from the date issued.

(b) Prior to the expiration date noted on the certificate of residency, a certified resident may apply to Labor Standards for an annual renewal of its certified resident status. Labor Standards shall issue a new certificate of residency upon the certified resident's submission of the following to Labor Standards:

(i) The current certificate of residency;

(ii) Any documents required by Labor Standards to verify the certified resident's continued resident status; and

(iii) A renewal fee, payable to Labor Standards.

(A) The renewal fee for resident certification filed under Wyoming Statute § 16-6-101(a)(i)(J) shall be one-hundred dollars (\$100.00).

(B) The renewal fee for all other resident certifications shall be forty dollars (\$40.00).

Section 6. Notification of Changes. A certified resident shall notify Labor Standards in writing and complete new affidavits, as required, within thirty (30) calendar days of any of the following changes:

(a) For a Sole Proprietorship: any change in the name or mailing address or street address of the owner of the sole proprietorship; any change of ownership of the sole proprietorship; and any change in the business address of the sole proprietorship.

(b) For a Partnership or Association: any change in the name or mailing address or street address of any partner of the partnership or member of the association; any change of partners of the partnership or members of the association; and any change in the business address of the partnership or the association.

(c) For a Limited Partnership: any change in the name or mailing address or street address of any of the general partners of the limited partnership; any change of the general partners of the limited partnership; and any change in the business address of the limited partnership.

(d) For a Registered Limited Liability Partnership: any change in the name or mailing address or street address of any of the members of the registered limited liability partnership; any change in the membership of the registered limited liability partnership; and any change in the business address of the registered limited liability partnership.

(e) For a Limited Liability Company: any change in the name or mailing address or street address of any of the managing members or appointed managers of the limited liability company; any change in the managing members or appointed managers of the limited liability company; and any change in the business address of the limited liability company.

(f) For a Corporation: any change in the name or mailing address or street address of the president of the corporation; any change of the president of the corporation; and any change of the business address of the corporation.

Section 7. Principal Office and Principal Place of Business. The principal office and principal place of business of any certified resident shall be permanently and physically located within the State of Wyoming.

Section 8. Investigation.

(a) Labor Standards shall investigate an applicant or certified resident to determine compliance with Wyoming Statute §§ 16-6-101 through -121 if there is reason to suspect noncompliance or upon receipt of a complaint. Investigation may include, but is not limited to, conducting an on-site inspection of the Employer's principal office and principal place of business.

(b) In determining whether an Employer's key business functions are performed in Wyoming, Labor Standards may consider evidence concerning the Employer's operation, marketing, finance, and human resources functions, including but not limited to, manufacturing, provision of services, sales, advertising, product design, business administration, financial management, contracting, recruiting, and training.

(c) Upon completion of its investigation, Labor Standards shall make a determination as to whether the applicant or certified resident is in compliance with the provisions of Wyoming Statute §§ 16-6-101 through -121.

Section 9. Notice of Determination.

(a) Labor Standards shall notify the subject applicant or certified resident in writing of its determination.

(b) Where the investigation was initiated by a complaint, Labor Standards shall notify the complainant of its determination if the complainant is known to Labor Standards.

(c) Where Labor Standards makes a determination that the applicant or certified resident is not in compliance with either Wyoming Statute §§ 16-6-101 or 16-6-108, Labor Standards shall include in its determination a notification of its intent to deny or revoke the certificate of residency. Labor Standards shall also inform the applicant or certified resident of the opportunity to request a hearing regarding the determination.

Section 10. Request for Hearing.

(a) A request for a hearing shall be in writing and received by Labor Standards within thirty (30) days of the applicant's or certified resident's receipt of Labor Standards' determination.

(b) Where the applicant or certified resident does not request a hearing within thirty (30) days, Labor Standards shall either deny or revoke the certificate of residency.

Section 11. Independent Hearing Officer. Upon receipt of a timely submitted written request for hearing, Labor Standards shall contract with an independent hearing officer to conduct a hearing on the matter.

Section 12. Hearing Procedure. The hearing officer shall conduct the hearing in accordance with the Wyoming Administrative Procedures Act, Wyoming Statute §§ 16-3-107 through -115, and the Wyoming Office of Administrative Hearings' rules for Contested Case Proceedings, which are hereby incorporated by reference and can be found at: <https://rules.wyo.gov/>

(a) The rules for Contested Case Proceedings were adopted by the Wyoming Office of Administrative Hearings and in effect on July 20, 2017.

(b) No later amendments to the rules for Contested Case Proceedings are incorporated by reference.

Section 13. Recommended Decision.

(a) Within thirty (30) days of the close of the hearing, the hearing officer shall issue a recommended decision and send a copy to each party and to Labor Standards.

(b) Any party to the hearing may file, either together or separately, an exception to the hearing officer's recommended decision and a brief in support thereof, with Labor Standards within thirty (30) days of the issue date of the recommended decision. Exceptions and supportive briefs not timely received shall not be reviewed or considered.

Section 14. Final Agency Decision.

(a) Labor Standards shall issue its final agency decision within thirty (30) days from the end of the exception filing period.

(b) In its final agency decision, Labor Standards may accept, reject, or modify the hearing officer's recommended decision. The final agency decision shall constitute Labor Standards' final agency action.

(c) Labor Standards shall notify all parties by certified mail of its final agency decision.