



MARINE CONTRACTORS LICENSING BOARD
c/o Maryland Department of the Environment

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MARINE CONTRACTORS LICENSING BOARD

Meeting Minutes – January 10, 2022

Location: Virtual Meeting via Google Meet

BOARD MEMBERS PRESENT

Milton Rehbein, Chairman
 Robert Murtha, SoMD Contractor Rep
 Tammy Roberson, MDE Representative
 Lester Kelly Wright, DNR Representative
 Douglas Suess, At Large Representative
 Chris McCabe, At Large Representative

OTHERS PRESENT

Mike Eisner, Board Administrator
 Matt Standeven, Board Counsel

CALL TO ORDER

The meeting was called to order by Mr. Rehbein at 10:03 am using the virtual platform Google Meet. Six Board members were present, as well as the Board's administrator and legal counsel.

AGENDA REVIEW

The Board reviewed and approved the agenda for the meeting which included: update of licensing activities, update on finances, discussion of the January 7, 2022 closed working session on the Board's intent to advance the proposed tiered system of licensing and promulgation of supporting regulations, an update on a planned training module to be developed by Maryland Environmental Services (MES), and a review of a new 'Entity' application.

REVIEW OF PRIOR MEETING MINUTES

Board Members reviewed and approved by vote the draft meeting minutes from December 13, 2021. However, this approval was conditional on the Board's legal counsel's review of the draft minutes addressing the Board's enforcement activity. Update: the Board's legal counsel reviewed these minutes and suggested some language changes. Those changes were made on January 19, 2022, and with that – the minutes of December 13, 2021 are now approved.

Board Activities and Financial/Budget Report

The Board's Administrator gave an overview of licensing activities. Eighty-nine license renewal application packages were mailed on October 28, 2021 for those licenses expiring December 31, 2021. As of the date of this meeting, 32 licenses have been renewed for 2 years, 25 applications for renewal had been received that were not yet complete, and 5 licensees are either out of business, intend not to renew, or the licensee could not be contacted via email and telephone. Applications that are incomplete are mainly due to renewal license fees not having been received and/or continuing education not being completed or documented. In addition, not having the Marine Contractors Licensing Board as the 'Certificate Holder,' is a common mistake. The Board's Administrator stated that he has been proactive in contacting licensees via email and telephone, who have incomplete applications, or licensees who have yet to submit a renewal application.

The Board's Administrator gave an update of the Board's present income/expense situation through November 2021. The Licensing Board is well funded at this point. Revenue is currently increasing primarily due to fees received for licenses expiring December 31 2021. Revenue received since the beginning of FY 2022 (July 1, 2021) through the end of November is \$18,450. The Board's administrator received a new computer with funding allocated in FY22 (\$2,095). As of this meeting date, these funds still appear as available. There is also \$6,308.75 in FY21 funds allocated to the Maryland Environmental Service (MES). About half of these funds are for code review and migration to MDE Servers, of code developed for the existing MCLB 6 credit hour 'Safety' Training Modules. These modules are now online and available for use by licensees. The remainder of these funds (about \$3,000) will be used for development of a new training module (see below).

Discussion moved to a review of the closed working session that was held virtually on January 7, 2022. This working session was dedicated to furthering the Board's agreed goal of developing a 'Tiered' license system for marine contractors, and promulgating regulations that will support this Tiered system. At the closed working session, it was decided the most efficient way to proceed, was for the Board's legal counsel to put the existing outline for a Tiered system, into the appropriate and required regulatory format. The Board will then have draft regulations to work with to achieve their intended goal. At the closed working session the Board confirmed that its intent, is as discussed in the December 13, 2021 Board meeting. That is, an essential component of these regulations will be a specificity of skill sets needed for each Tier class, and better defining 'similar contractor experience' for any proposed license Tier.

Discussion then moved to a suggestion made at the closed working session, that a new Tier also be created for contractors who may need the marine contractor's license, but for a single project, and one with a likely time limit for completion such work. The example was given of directional drilling projects. This type of work is a specialty, and the contracting expertise often comes from outside of Maryland. Legal counsel stated that the Board's Statutory authority does not allow for deviation from the construct of a 2 year marine contractor's license. It was stated that with large projects, 'big' firms can't bid and be awarded a contract without the marine contractor's license. MDE's representative stated that in her experience, she has not had complaints on this issue. There was also related discussion of the concept of a lower Tier for 'incidental' type of work. It was suggested that for this to be viable, there would need to be specified an experience skill set that would be different from the skill set, that will be developed for the current proposed lower Tier.

A related idea was discussed. Could there be a category in the regulations for the types of work that don't require a marine contractor's license? In essence, this would be a category of those types of jobs around tidal waters, that would be exempt. Legal Counsel stated that the Board doesn't have authority to exempt an activity, but could make a determination that the work does not qualify as marine contractors work. He further stated that perhaps an approach could be to create a type of form letter response for activities the Board determines is not marine contracting work. To date, this has been done on a case-by-case basis.

Discussion then moved to the development of 1 or 2 new training modules by MES. These modules will be available to licensees for credit towards their continuing education renewal requirements. The Board's Administrator put on the record, that at the January 7 working session, the Board had a quorum and voted unanimously to approve MES's development of a new training module, termed Module 1. The topic agreed to had been suggested by Theresa Foye of MES, and shared with the Board at their December 13, 2021 meeting. In short, this will be a 'big picture' look at permits and environmental regulation that are potentially relevant to a Marine Contractors. Questions that will likely be addressed include: Why are there regulations and which ones are relevant for a Marine

Contractor, and why are there environmental permits and a Marine Contractor License? The Board does have FY21 funding available for Module 1, but there was no funding allocated in FY22 for additional training development. MDE's representative stated that funding may be available in the FY23 budget for further training development. The Board's Administrator will find out if there is FY23 funding allocated for training. The Board's Chairman stated that these modules could also be used as part of training and testing requirements for new license applicants. Several Board members stated interest in funding further training, if the money becomes available.

Review of Current Pending License Applications

New business at this meeting commenced with the application by Encompass Enterprise for a new 'Entity' license. Eugene Benton has applied to be the 'representative' for this business. An application for this company was first reviewed by the Board at our November 7, 2021 meeting. At that time the Board requested more detailed information on his experience in marine contracting. The documents that the Board reviewed for this meeting was Mr. Benton's updated submittal about his marine contracting experience. There was a quorum present, and the vote was unanimous that Mr. Benton has not demonstrated in his updated application, that he meets the required minimum qualifications for a marine contractor. Mr. Benton has the option to get more marine contracting experience himself, or have Encompass Enterprises reapply, with another applicant to be their 'Representative,' and one who will meet the required minimum marine contracting experience requirements. The Board's Administrator stated that in an earlier conversation with Mr. Benton, he expressed a desire to have a meeting with the Board. It was stated by several Board members that Mr. Benton is certainly welcome to attend any monthly Board meeting, but that the process to demonstrate that an applicant meets the required minimum qualifications to be a marine contractor, is via his application and submitted documentation, not via a personal interview.

A Board member brought up 'similar experience' and suggested that included should be experience obtained by US service personnel, such as in the Seabees. Several Board members expressed agreement. It was suggested that the Military Occupational Specialty (MOS) may be useful in determining what types of work in the military could qualify as marine contracting 'similar experience.'

ADJOURNMENT

The Board voted and approved adjournment at 10:48 AM. The next monthly Board meeting is scheduled for February 14, 2022 at 10 AM. This planned meeting will be via Virtual via Google Meet.