

60-13-3. Definition; contractor.

As used in the Construction Industries Licensing Act [[60-13-1](#) NMSA 1978], "contractor":

A. means any person who undertakes, offers to undertake by bid or other means or purports to have the capacity to undertake, by himself or through others, contracting. Contracting includes constructing, altering, repairing, installing or demolishing any:

- (1) road, highway, bridge, parking area or related project;
- (2) building, stadium or other structure;
- (3) airport, subway or similar facility;
- (4) park, trail, bridle path, athletic field, golf course or similar facility;
- (5) dam, reservoir, canal, ditch or similar facility;
- (6) sewerage or water treatment facility, power generating plant, pump station, natural gas compressing station or similar facility;
- (7) sewerage, water, gas or other pipeline;
- (8) transmission line;
- (9) radio, television or other tower;
- (10) water, oil or other storage tank;
- (11) shaft, tunnel or mining appurtenance;
- (12) leveling or clearing land;
- (13) excavating earth;
- (14) air conditioning, conduit, heating or other similar mechanical works;
- (15) electrical wiring, plumbing or plumbing fixture, consumers' gas piping, gas appliances or water conditioners; or
- (16) similar work, structures or installations which are covered by applicable codes adopted under the provisions of the Construction Industries Licensing Act;

B. includes subcontractor and specialty contractor;

C. includes a construction manager who coordinates and manages the building process; who is a member of the construction team with the owner, architect, engineer and other consultants required for the building project; and who utilizes his skill and knowledge of general contracting to develop schedules, prepare project construction estimates, study labor conditions and advise concerning construction; and

D. does not include:

- (1) any person who merely furnishes materials or supplies at the site without fabricating them into, or consuming them in the performance of, the work of a contractor;
- (2) any person who drills, completes, tests, abandons or operates any petroleum, gas or water well; or services equipment and structures used in the production and handling of any product incident to the production of any petroleum, gas or water wells, excluding any person performing duties normally performed by electrical, mechanical or general contractors; or who performs geophysical or similar exploration for oil, gas or water;
- (3) a public utility or rural electric cooperative that constructs, reconstructs, operates or maintains its plant or renders authorized service by the installation, alteration or repair of facilities, up to and including the meters, which facilities are an integral part of the operational system of the public utility or rural electric cooperative; provided that the construction of a building by a public utility or rural electric cooperative or the installation or repair of any consumer gas or electrical appliance not an integral part of the operational system makes a public utility or rural electric cooperative a contractor for that purpose;

(4) a utility department of any municipality or local public body rendering authorized service by the installation, alteration or repair of facilities, up to and including the meters, which facilities are an integral part of the operational system of the utility department of the municipality;

(5) any railroad company;

(6) a telephone or telegraph company or rural electric cooperative that installs, alters or repairs electrical equipment and devices for the operation of signals or the transmission of intelligence where that work is an integral part of the operation of a communication system owned and operated by a telephone or telegraph company or rural electric cooperative in rendering authorized service;

(7) a pipeline company that installs, alters or repairs electrical equipment and devices for the operation of signals or the transmission of intelligence where that service is an integral part of the operation of the communication system of that pipeline company and is not for hire or for the use of the general public, or any pipeline company which installs, alters or repairs plumbing fixtures or gas piping where the work is an integral part of installing and operating the system owned or operated by the pipeline company in rendering its authorized service;

(8) any mining company, gas company or oil company that installs, alters or repairs its facilities, including plumbing fixtures or gas piping, where the work is an integral part of the installing or operating of a system owned or operated by the mining company, gas company or oil company; provided the construction of a building by a mining company, a gas company or an oil company is required to be done in conformity with all other provisions of the Construction Industries Licensing Act and with orders, rules, regulations, standards and codes adopted pursuant to that act;

(9) a radio or television broadcaster who installs, alters or repairs electrical equipment used for radio or television broadcasting;

(10) an individual who, by himself or with the aid of others who are paid wages and who receive no other form of compensation, builds or makes installations, alterations or repairs in or to a single-family dwelling owned and occupied or to be occupied by him; provided that the installation, building, alteration or repair is required to be done in conformity with all other provisions of the Construction Industries Licensing Act [[60-13-1](#) NMSA 1978] and with the orders, rules, regulations, standards and codes adopted pursuant to that act;

(11) a person who acts on his own account to build or improve a single-family residence for his personal use, including the building or improvement of a free standing storage building located on that residential property; provided that the construction or improvement is required to be done in conformity with all other provisions of the Construction Industries Licensing Act and with the orders, rules, regulations, standards and codes adopted pursuant to that act; and provided further that he does not engage in commercial construction;

(12) a person who, by himself or with the aid of others who are paid wages and receive no other form of compensation, builds or makes installations, repairs or alterations in or to a building or other improvement on a farm or ranch owned, occupied or operated by him, or makes installations of electrical wiring that are not to be connected to electrical energy supplied from a power source outside the premises of the farm or ranch owned, occupied or operated by him; provided that the state codes and any local codes adopted pursuant to Subsection F of [Section 60-13-44](#) NMSA 1978 shall not require any permits or inspections for such construction on a farm or ranch except for electrical wiring to be connected to a power source outside the premises;

(13) an individual who works only for wages;

(14) an individual who works on one undertaking or project at a time that, in the aggregate or singly, does not exceed seven thousand two hundred dollars (\$7,200) compensation a year, the work being casual, minor or inconsequential, such as handyman repairs; provided that this exemption shall not apply to any undertaking or project pertaining to the installation, connection or repair of electrical wiring, plumbing or gas fitting as defined in [Section 60-13-32](#) NMSA 1978 and provided:

(a) the work is not part of a larger or major operation undertaken by the same individual or different contractor;

(b) the individual does not advertise or maintain a sign, card or other device which would indicate to the public that he is qualified to engage in the business of contracting; and

(c) the individual files annually with the division, on a form prescribed by the division, a declaration substantially to the effect that he is not a contractor within the meaning of the Construction Industries Licensing Act [[60-13-1](#) NMSA 1978], that the work he performs is casual, minor or inconsequential and will not include more than one undertaking or project at one time and that the total amount of such contracts, in the aggregate or singly, will not exceed seven thousand two hundred dollars (\$7,200) compensation a year;

(15) any person, firm or corporation that installs fuel containers, appliances, furnaces and other appurtenant apparatus as an incident to its primary business of distributing liquefied petroleum fuel;

(16) a cable television or community antenna television company that constructs, installs, alters or repairs facilities, equipment, cables or lines for the provision of television service or the carriage and transmission of television or radio broadcast signals;

(17) any weatherization project not exceeding two thousand dollars (\$2,000) that has been approved and is administered by a federal or state agency; or

(18) a person who performs work consisting of short-term depreciable improvements to commercial property to provide needed repairs and maintenance for items not covered by building codes adopted by the construction industry commission if the total amount paid the person for the work on a single undertaking, including materials, services and wages of those who work for him, does not exceed the sum of five thousand dollars (\$5,000).

History: 1953 Comp., § 67-35-3, enacted by Laws 1978, ch. 66, § 1; 1979, ch. 46, § 1; 1979, ch. 49, § 1; 1986, ch. 107, § 1; 1987, ch. 283, § 1; 1989, ch. 6, § 4; 1997, ch. 181, § 2; 1997, ch. 235, § 1; 1999, ch. 130, § 1.