

MEMORANDUM

From the desk of: Faye Robertson CAP/CCA - Assistant County Administrator
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To: All Departments
Date: January 26, 2012
Subject: Requirements for becoming a Vendor with the Calhoun County Commission

Effective Date: Immediately

Due to the newly enacted Alabama Immigration Law (copy of excerpt from act is attached) and changes to the instructions for completing an IRS W-9 Form, the following procedures must be followed in order to establish a new vendor who wishes to do business with Calhoun County:

All vendors **must** submit a **December 2011 W-9 Form** completed according to the instructions included with the form. This form complete with instructions is attached. A copy can also be downloaded at www.irs.gov

Businesses:

1. Must present an ORIGINALLY SIGNED December 2011 W-9 form to Accounting Department.
2. Must present a valid Calhoun County Business License (may apply online at www.calhouncountyal.org)
3. Must present a signed and notarized Affidavit of Immigration/Citizenship Status for a business (copy attached).
4. Documentation as required in Item 2 of Affidavit (can be the signature page of the Memorandum of Understanding between the business and e-Verify)

BEFORE A VENDOR NUMBER CAN BE ASSIGNED, THESE STEPS MUST BE FOLLOWED. PURCHASE ORDERS WILL NOT BE ISSUED TO A VENDOR WHO HAS NOT PROVIDED THE ABOVE MENTIONED AFFIDAVIT.

Individuals:

It is assumed that if an individual enters a Social Security number on a W-9 form, the individual has no employees and an affidavit is not required. If at any time that individual does have employees, he/she becomes subject to the requirements for a business as stated above. To become a vendor as an individual, the following must be presented:

1. Must come in person to Accounting Department to file a December 2011 W-9 form.
2. Must present picture ID and Social Security Card. These will be copied and placed with the W-9 form. Name on W-9 form must match name on Social Security Card.

BEFORE A VENDOR NUMBER CAN BE ASSIGNED, THESE STEPS MUST BE FOLLOWED. PURCHASE ORDERS WILL NOT BE ISSUED TO A VENDOR WHO HAS NOT PROVIDED THE ABOVE MENTIONED DOCUMENTS.

We realized this will slow down the process in assigning new vendors, but we must make every effort to comply with the new requirements.

If you have any questions, please feel free to contact Faye Robertson at extension 2808, Sandra Angle at extension 2810, Shasta Platt at extension 2812, or Teresa Lott at extension 2822.

Thank you for your cooperation.

Faye Robertson

ACT NO. 2011-535

Section 9

(a) As a condition for the award of any contract, grant, or incentive by the state, any political subdivision thereof, or any state-funded entity to a business entity or employer that employs one or more employees, the business entity or employer shall not knowingly employ, hire for employment, or continue to employ an unauthorized alien and shall attest to such, by sworn affidavit signed before a notary.

(b) As a condition for the award of any contract, grant, or incentive by the state, any political subdivision thereof, or any state-funded entity to a business entity or employer that employs one or more employees, the business entity or employer shall provide documentation establishing that the business entity or employer is enrolled in the E-Verify program. During the performance of the contract, the business entity or employer shall participate in the E-Verify program and shall verify every employee that is required to be verified according to the applicable federal rules and regulations.

(c) No subcontractor on a project paid for by contract, grant, or incentive by the state, any political subdivision thereof, or any state-funded entity shall knowingly employ, hire for employment, or continue to employ an unauthorized alien and shall attest to such by sworn affidavit signed before a notary. The subcontractor shall also enroll in the E-Verify program prior to performing any work on the project and shall attach to the sworn affidavit documentation establishing that the subcontractor is enrolled in the E-Verify program.

(d) A contractor of any tier shall not be liable under this section when such contractor contracts with its direct subcontractor who violates subsection (c), if the contractor receives a sworn affidavit from the subcontractor signed before a notary attesting to the fact that the direct subcontractor, in good faith, has complied with subsection (c) with respect to verifying each of its employee's eligibility for employment, unless the contractor knows the direct subcontractor is violating subsection (c).

(e)(1) Upon the first violation of subsection (a) by any business entity or employer awarded a contract by the state, any political subdivision thereof, or any state-funded entity the business entity or employer shall be deemed in breach of contract and the state, political subdivision thereof, or state-funded entity may terminate the contract after providing notice and an opportunity to be heard. Upon application by the state entity, political subdivision thereof, or state-funded entity, the Attorney General may bring an action to suspend the business licenses and permits of the business entity or employer for a period not to exceed 60 days, according to the procedures described in Section 15.

The court shall order the business entity or employer to file a signed, sworn affidavit with the local district attorney within three days after the order is issued by the court stating that the business entity or employer has terminated the employment of every unauthorized alien and the business entity or employer will not knowingly or intentionally employ an unauthorized alien in this state. Before a business license or permit that has been suspended under this subsection is reinstated, a legal representative of the business entity or employer shall submit to the court a signed, sworn affidavit stating that the business entity or employer is in compliance with the provisions of this act and a copy of the Memorandum of Understanding issued to the business entity or employer at the time of enrollment in E-Verify.

(2) Upon a second or subsequent violation of subsection (a) by any business entity or employer awarded a contract by the state, any political subdivision thereof, or any state-funded entity the business entity or employer shall be deemed in breach of contract and the state, any political subdivision thereof, or any state-funded entity shall terminate the contract after providing notice and an opportunity to be heard. Upon application by the state entity, political subdivision thereof, or state-funded entity, the Attorney General may bring an action to permanently revoke the business licenses and permits of the business entity or employer according to the procedures described in Section 15.

(f)(1) Upon the first violation of subsection (c) by a subcontractor, the state or political subdivision thereof may bar the subcontractor from doing business with the state, any political subdivision thereof, any state-funded entity, or with any contractor who contracts with the state, any political subdivision thereof, or any state-funded entity after providing notice and an opportunity to be heard. Upon application by the state entity or political subdivision thereof, or state-funded entity, the Attorney General may bring an action to suspend the business licenses and permits of the subcontractor for a period not to exceed 60 days, according to the procedures described in Section 15. The court shall order the subcontractor to file a signed, sworn affidavit with the local district attorney within three days after the order is issued by the court stating that the subcontractor has terminated the employment of every unauthorized alien and the subcontractor will not knowingly or intentionally employ an unauthorized alien in this state. Before a business license or permit that has been suspended under this subsection is reinstated, a legal representative of the subcontractor shall submit to the court a signed, sworn affidavit stating that the subcontractor is in compliance with the provisions of this act and a copy of the Memorandum of Understanding issued to the subcontractor at the time of enrollment in E-Verify.

(2) Upon a second or subsequent violation of subsection (c) by a subcontractor and upon application by the state entity or political subdivision thereof, or state-funded entity, the Attorney General may bring an action to permanently suspend the business licenses of the business entity or employer according to the procedures described in Section 15. The determination of a violation shall be according to the procedures described in Section 15.

(g) A business entity or employer that complies with subsection (b) shall not be found to be in violation of subsection (a). A subcontractor that is enrolled in the E-Verify program during the full period of performance of the subcontract shall not be found to be in violation of subsection (c).

(h) The Secretary of State shall adopt rules to administer this section and shall report any rules adopted to the Legislature.

(i) Compliance with this section may be verified by the state authorities or law enforcement at any time to ensure a contractual agreement as provided for in this section is being met.

(j) The suspension of a business license or permit under subsection (e)(1) and (f)(1) shall terminate one business day after a legal representative of the business entity, employer, or subcontractor submits a signed, sworn affidavit stating that the business entity, employer, or subcontractor is in compliance with the provisions of this act to the court.

Section 26

(a)(1) The Alabama Department of Homeland Security shall establish and maintain an E-Verify employer agent service for any business entity or employer in this state with 25 or fewer employees to use the E-Verify program to verify an employee's employment eligibility on behalf of the business entity or employer. The Alabama Department of Homeland Security shall establish an E-Verify employer agent account with the United States Department of Homeland Security, shall enroll a participating business entity or employer in the E-Verify program on its behalf, and shall conform to all federal statutes and regulations governing E-Verify employer agents. The Alabama Department of Homeland Security shall not charge a fee to a participating business entity or employer for this service.

(2) The Alabama Department of Homeland Security E-Verify employer agent service shall be in place within 90 days after the effective date of this act. The service shall accommodate a business entity or employer who wishes to communicate with the Alabama Department of Homeland Security by internet, by electronic mail, by facsimile machine, by telephone, or in person, provided that such communication is consistent with federal statutes and regulations governing E-Verify employer agents.

(b) On or after January 1, 2012, before receiving any contract, grant, or incentive by the state, any political subdivision thereof, or any state-funded entity, a business entity or employer shall provide proof to the state, political subdivision thereof, or state-funded entity that the business entity or employer is enrolled and is participating in the E-Verify program, either independently or through the Alabama Department of Homeland Security E-Verify employer agent service.

(c) Every three months, the Alabama Department of Homeland Security shall request from the United States Department of Homeland Security a list of every business entity or employer in this state that is enrolled in the E-Verify program. On receipt of the list, the Alabama Department of Homeland Security shall make the list available on its website.

(d) A business entity or employer that is enrolled in the E-Verify program and that verifies the employment eligibility of an employee in good faith pursuant to this section, and acts in conformity with all applicable federal statutes and regulations is immune from liability under Alabama law for any action by an employee for wrongful discharge or retaliation based on a notification from the E-Verify program that the employee is an unauthorized alien.

STATE OF ALABAMA

COUNTY OF CALHOUN

AFFIDAVIT

Before me, the undersigned authority, personally appeared _____ (affiant) who, being by me first duly sworn, doth depose and say as follows:

I, _____ (name), on behalf of _____ (business entity), and with lawful authority to act in its behalf, attest to the following from personal knowledge:

1. _____ (business entity) does not knowingly employ, hire for employment, or continue to employ any unauthorized aliens in the State of Alabama; and
2. _____ (business entity) is enrolled in the E-Verify Program as shown by the attached documentation.
3. _____ (business entity) does and will utilize the E-Verify Program to verify the employment status of employees and potential employees according to federal rules and regulations.
4. _____ (business entity) shall acquire from its subcontractors notarized affidavits that they will not knowingly employ, hire for employment or continue to employ unauthorized aliens, that they will enroll in the E-Verify Program before performing any contract work or providing any product, and that they shall attach to the affidavits, documentation establishing their enrollment in E-Verify as required by Act No. 2011-535.

Signature of Affiant

I, the undersigned Notary Public, in and for said County and State, hereby certify that _____ whose name is signed to the foregoing Affidavit, and who is known to me, acknowledged before me on this date, that being informed of the contents of the above and foregoing affidavit he/she as an officer of _____ (business entity) and with full authority, executed the same voluntarily for and as the act of said company on the day the same bears date.

Given under my hand and official seal of office this ___ day of _____, 201__.

Notary Public
My Commission Expires: _____