STATE OF ALABAMA
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Office of the State Comptroller

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February 7, 2012

MEMORANDUM

To: All State Agencies

From: Thomas L. White, Jr.
State Comptroller

Michael A. Jones
State Purchasing Director

Re: Immigration Law Clarification

For the purpose of transactions with State Purchasing and the Comptroller's Office, the following information is provided as a means of clarification to questions related to compliance with the Beason-Hammon Alabama Taxpayer and Citizen Protection ACT (Act 2011-535). This clarification does not replace previous memorandum guidance dated January 6, 2012. We highly recommend you contact your legal staff for additional guidance concerning agency requirements to comply with the new law. We can only provide limited guidance.

Every "business entity" or "employer" as those terms are defined in Section 31-13-3, Code of Alabama, 1975, as amended, must comply with Section 31-13-9(a) and (b), Code of Alabama, 1975, as amended, to be eligible for an award of a contract, grant or incentive even if that entity is not present within the State of Alabama.

For a payment voucher to be processed, the Comptroller requires proof of compliance with Section 9(a) and (b) in the manner prescribed in the section of this document labeled "Payment Voucher Requirement Clarification". All other political subdivisions of the State including local governments and any state-funded entity are required to comply with Section 9(a) and (b) as a condition of the award of a contract, grant or incentive.

The Finance Department has enrolled in E-Verify. It's MOU and a Section 9(a) affidavit will be posted on it's website.

State Purchasing will modify its forms to inform suppliers of the E-Verify MOU and Section 9(a) affidavit as required by law for bids and requisitions. If an agency uses the ITB process, State Purchasing will collect and maintain the required Section 9 (a) and (b) compliance documents. For purchases less than $7,500, phone authorizations or items not previously bid, an agency must certify on the requisition or phone authorization that Section 9 compliance documentation was obtained and will reside with the requisitioning agency. If an agency declares an emergency as defined in Section 41-16-23 Code of Alabama, obtaining the required Section 9 compliance documentation shall be the responsibility of the declaring agency.

All Professional Services Contracts, including contracts between State agencies, state funded entities, local governments or other governmental units within the state, sent to the Comptroller's Office; or Personal Services contracts sent to State Personnel must have the Section 9 affidavit and E-Verify MOU attached to the contract.

The term "award" is understood to be the authorizing of the purchase of goods or services from a business entity or employer, as the result of a procurement process that is required by statute or through a required administrative process. These processes include Invitations to Bid, Requests for Proposals, Sole Source or Emergency procurement and procurements through State Purchasing or under the purchasing authority of an agency.

Payment voucher requirement clarification:

- The payments below are REQUIRED to have the following certification statement on the payment voucher verifying that the immigration laws have been met.

  The undersigned hereby certifies that the transaction under which this payment is requested is subject to the requirements of §31-13-9(a) and (b), Code of Alabama, 1975, as amended and the proper documentation is on file in the agency.

  1. Grants and/or incentives. Generally these are paid under object 1100.
  2. Contracts that go through an award process but are NOT entered in to the Contract Subsystem or SNAP. This includes Capital Outlay purchases, contracts that agencies enter into outside of the Contract Subsystem and any similar type contracts.

- The payments below are REQUIRED to have the following certification statement on the payment voucher certifying that the payment is NOT subject to the immigration laws.

  The undersigned hereby certifies that the transaction under which this payment is requested is not subject to the requirements of §31-13-9(a) and (b), Code of Alabama, 1975, as amended.

  1. Payments not referencing or related to an award process.
  2. Payments that do not reference Contracts and/or Purchase Orders.
  Note: Generally these are payments less than $500.00 but not limited to this amount.

- The following payments are NOT REQUIRED to have any certification on the face of the payment voucher.

  1. Payments on Contracts for Professional Services and Personal Services and/or Purchase Orders
  3. Payments for travel to Individuals
  4. Payments for Utilities that are not competitively bid.
  5. Leases of personal property

Any payment situation not referenced above can be evaluated on an individual basis. As more clarification or documentation becomes available we will let you know.

If you have any questions related to payment voucher processing call or email Jeanne Kennedy at (334) 242-7061 or Jeanne.kennedy@comptroller.alabama.gov or Kathleen D. Baxter at (334) 242-4857 or Kathleen.baxter@comptroller.alabama.gov. For questions related to contract, call or e-mail Pam Harris at 334-242-4225 or pam.harris@comptroller.alabama.gov. For questions related to Purchasing requirements please contact Jaeri Ellis at 334-(242-7250) or Jaeri.Ellis@Purchasing.Alabama.Gov.

TLWjr.