

MOBILE COUNTY, ALABAMA
U.S. CITIZEN OR LEGAL ALIEN POLICY

EFFECTIVE DATE: October 1, 2009

PURPOSE: To aid the Mobile County Commission in determining the lowest responsible bidder on certain County contracts, and in order to insure the appropriate use of public funds and promote overall efficiency and economy, Mobile County shall, consistent with requirements of the law and prudent practices, require that contractors awarded a County contract for the provision of labor, materials or supplies for or in the prosecution of a public works contract or any other contract which results from an invitation to bid issued at the request of or on the recommendation of the Engineering or Road & Bridge departments, assign only legal aliens or legal citizens of the United States of America to work on such contract work.

This policy is not to be construed as an attempt to preempt federal law. It is in addition to, and not in lieu of, any other policy or provision of law applicable to County contractual activities.

APPLICABILITY: This policy applies to contracts awarded by the County for the provision of labor, materials or supplies for or in the prosecution of a public works contract or any other contract resulting from an invitation to bid issued at the request of or on the recommendation of the Engineering or Road & Bridge departments.

EXEMPTIONS: This policy shall not apply to contracts having a value of less than \$50,000.00; those contracts excepted from the competitive bid law by '41-16-51, *Code of Alabama (1975)*; contracts for the provision of goods or services purchased from the state, National Association of Counties or Association of County Commissions of Alabama bid lists; emergency contracts entered pursuant to the authority of '41-16-53, *CODE OF ALABAMA (1975)*; or any contract not resulting from an invitation to bid issued at the request of or on the recommendation of the Engineering or Road & Bridge departments.

DEFINITIONS: As used in this policy,

Contractor means a natural person or business entity of any kind or nature required by federal or state law to issue a United States Internal Revenue Service form W-2 or form 1099 to report income paid to employed or contracted personnel, which is awarded a contract to which this policy is applicable.

Employee means a person or entity employed by a contractor or subcontractor of the contractor and assigned to work on a contract to which this policy is applicable, to whom a United States Internal Revenue Service form W-2 or form 1099 must be issued.

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Subcontractor means any subcontractor, sub-subcontractor, mechanic, third party contractor or agent working, by agreement with the contractor, on a contract to which this policy is applicable.

Third-party employer means a person or business entity that provides employees for a contractor and includes, but is not limited to, leasing companies and contract employers.

Legal alien means an individual lawfully present and authorized to work in the United States at the time of assignment to work on a contract to which this policy is applicable and for the duration of such assignment, or permanently residing in the United States under color of law at the time of such assignment and for the duration thereof.

ASSIGNMENT TO WORK: Contractor shall assign to work on contracts to which this policy is applicable, only employees who are legal citizens of the United States of America or are legal aliens.

USE OF SUBCONTRACTORS: Contractors shall require that subcontractors working, by agreement with the contractor, on contracts to which this policy is applicable, assign to work on such contracts only employees who are legal citizens of the United States of America or are legal aliens.

BOOKS AND RECORDS: Contractors shall grant the County, its agents and employees, access to such contractor=s books and records relating to its compliance with the provisions of this policy, at any reasonable time during normal business hours, and shall provide in a timely manner all information the County may reasonably request in order to ascertain compliance herewith. In addition, contractors shall require that subcontractors working by agreement with the contractor, agree to grant such access upon request of the County.

VIOLATIONS: A contractor found to have violated the provisions of this policy with respect to three (3) or more persons assigned to work on any one or more contract(s) to which this policy is applicable, shall not for a period of 24 months thereafter be deemed a responsible or responsive bidder in relation to any County bid or contract, whether or not this policy is applicable thereto. Provided, however, this policy shall not be deemed to have been violated in the following instances:

(A) When the person was hired by the contractor through a local, state or federal work program, the State of Alabama Employment Service, or a third party employer which requires verification of such person=s social security number and status as a legal citizen of the United States of America or legal alien; or

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(B) When the contractor utilized the status verification system (the electronic verification of work authorization program of the Illegal Immigration Reform and Immigration Responsibility Act of 1996, Public Law 104-208, Division C, Section 403(a), 8 U.S.C. ' 1324a, and operated by the United States Department of Homeland Security) known as the E-Verify Program, in connection with the hiring of the person.

PROCEDURES: The County Administrator, in conjunction with the County Attorney, may establish procedures for the implementation of this policy which may include, but shall not be limited to, procedures for obtaining assurances and/or certifications of compliance, standardizing information to be included in solicitations by the County, and notifying contractors of the requirements of this policy.

NON-DISCRIMINATION: This policy shall be applied without regard to race, gender, religion, ethnicity, national origin and shall not be utilized to discriminate against an employee, a prospective employee, or any other person in recruiting, hiring or discharging.