



STANDARD PROCEDURE

DESCRIPTION

Title: Contractor Compliance with the Arizona Legal Workers Act **Effective:** November 1, 2013

No. SP 001 **Revision:** 6

The purpose of this procedure is to establish a process for random verification of employment records of contractors and subcontractors to assure that contractors are complying with State and Federal laws regarding the hiring of individuals who are not authorized to work in the United States of America.

This procedure applies to the Arizona State Procurement Office (SPO) and Arizona governmental agencies with delegated procurement authority from the State Procurement Administrator and which meet the definition of Government Entity.

This procedure applies to all delegated agencies with delegations to solicit and award formal contracts of more than \$100,000. This procedure does not apply directly to agencies with limited delegations of \$100,000 or less for which SPO establishes the contracts and will provide the necessary information.

STANDARD PROCEDURE

1. SCHEDULES AND RANDOMLY SELECTED LISTS

- 1.1 The State Procurement Office (SPO) will identify one set of random reviews per fiscal quarter. Schedules may be modified by the State Procurement Administrator.
- 1.2 Contracts selected for random review shall represent 10 percent of active contracts extended in the immediate prior fiscal quarter and whose dollars spent to date is \$100,000 or more.
- 1.3 Contracts shall be randomly selected from contract lists compiled by SPO each quarter.
- 1.4 Contracts may represent a smaller or larger percentage based on:
 - 1.4.1 Time availability and staff resources;
 - 1.4.2 The need for additional contracts to assure that all agencies are fairly represented;
 - 1.4.3 The need to maintain a statistical level of confidence; or
 - 1.4.4 As directed by the State Procurement Administrator.
- 1.5 SPO randomly selects contracts to be subject to the verification process using the online random number generator, Research Randomize, located at <http://www.randomizer.org/form.htm>.

NOTICE: This Standard Procedure is provided as a resource to the Procurement Officers of the Agencies, Boards and Commissions of the State of Arizona. While this Standard Procedure is an example of a legally compliant, procedurally efficient and fiscally prudent process, it is not intended to represent the only such process allowable under the Arizona Procurement Code, ARS 41 § 41-2501, et. seq. Depending on the circumstances surrounding a given procurement, deviation from this Standard Procedure may be necessary and/or preferable. Procurement Officers should consult with their Agency Chief Procurement Officer and/or the State Procurement Office if they have any questions regarding the application of this Standard Process.

2. ROLES AND RESPONSIBILITIES

2.1 State Procurement Office (SPO) staff responsibilities:

2.1.1 SPO shall be responsible for the overall process of verifying and reporting contractor assurances of compliance with their contractual warranties regarding legal employment.

2.1.2 SPO shall:

2.1.2.1 Compile a comprehensive list of quarterly random selections of active state contracts from ProcureAZ (See paragraph 1.2);

2.1.2.2 Create and distribute the outgoing randomly selected contracts to be verified to each Agency;

2.1.2.3 Follow up with state agencies verification activities and track progress and receipt of contractors' verification responses;

2.1.2.4 Perform follow up actions to ensure completion of verification requirements;

2.1.2.5 Submit a quarterly report to the State Procurement Administrator no later than 45 days after the end of each fiscal quarter;

2.1.2.6 Provide consultation to contractors and Agency personnel regarding questions relating to employment verification requirements and A.R.S. § 41-4401.

2.1.2.7 File and maintain all completed correspondence, data and reports in appropriate employment verification files; and

2.1.2.8 File relevant correspondence in Agency files.

2.1.3 Agency Chief Procurement Officers (CPO), or designee, shall be responsible for tracking, reporting and following-up or taking action with non-compliant contractors as detailed below.

2.1.3.1 Each Agency shall receive a list of contracts selected by SPO for random review by the Agency in the fiscal quarter;

2.1.3.2 Issue notices to the selected contractors or subcontractors on Agency letterhead with language provided in Attachment 1;

2.1.3.3 Track responses to the notices;

2.1.3.4 Submit a report of verification activities results to SPO on the "State Contractor/Subcontractor Employment Verification Form".

3. STATE CONTRACTOR/SUBCONTRACTOR EMPLOYMENT VERIFICATION FORM

- 3.1 SPO shall process, track, report, and maintain a centralized record of contractor employment verifications on the *State Contractor/Subcontractor Employment Verification Form*.
- 3.2 The *State Contractor/Subcontractor Employment Verification Form* shall be the basis of communicating lists of contractors to be verified by agencies and reporting verification status to the State Procurement Administrator.
- 3.3 Within 45 days after the end of each fiscal quarter, SPO sends the randomly selected comprehensive list of contracts to the agencies.

4. AGENCY DOCUMENTATION**4.1 The Agency shall:**

- 4.1.1 Send a letter (21 day notice) with verification forms to each of the Agency's contractors identified on the randomly selected comprehensive list. The initial 21 day notice shall be followed by a second letter (35 day notice) and third and final (49 day notice) if a contractor has not complied with previous letters. (**Note:** *The first notice allows 21 days for a contractor response; the 2nd notice allows an additional 14 days for the contractor to respond, for a total of 35 days; the 3rd notice allows yet another 14 days for a total of 49 days for the contractor to respond to all three notices.*);
- 4.1.2 Log the dates that verification forms are sent to contractors in appropriate sections;
- 4.1.3 Log contractor response dates in appropriate section (on dates received);
- 4.1.4 Prepare, log, and, send all second and final notices to non-responding contractors (within 5 days of notice deadlines);
- 4.1.5 Print and file contractor *State Contractor Employment Record Verification Form* and completed *Employee Verification Worksheet* in contract files (within 10 days of receipt);
- 4.1.6 Take appropriate action with non-compliant contractors and so note on the *State Contractor/Subcontractor Employment Verification Form*; and

5. ADDRESSING ISSUES OF CONTRACTOR NON-RESPONSE OR NON-COMPLIANCE**5.1 The Agency shall review incoming documents from contractors and;**

- 5.1.1 If a Contractor fails to respond to a letter/notice, the Agency shall note such failure on the *State Contractor/Subcontractor Employment Verification Form*;
- 5.1.2 If the contractor fails to respond to all three letters/notices the CPO shall, at a minimum, complete a vendor deficiency report.
- 5.1.3 The Agency may take additional action, up to and including termination of the contract as is appropriate for the situation.

- 5.1.4 If a contractor's response on the contractor *State Contractor Employment Record Verification Form* or the completed *Employee Verification Worksheet* indicates non-compliance with State and Federal laws regarding the hiring of individuals who are not authorized to work in the United States of America, the Agency shall:
- 5.1.4.1 Complete a vendor deficiency report; and
 - 5.1.4.2 Submit the report and copies of the contractor's *State Contractor Employment Record Verification Form* or the completed *Employee Verification Worksheet* to the Arizona Attorney General's Administrative Law Section, Financial Division.
 - 5.1.4.3 The Agency may take additional action, up to and including termination of the contract, as the Agency deems to be in the best interest of the State.

6. TEMPLATES AND DIRECTIONS FOR FILLING OUT FORMS

6.1 These are the forms to use when notifying a selected contractor:

- 6.1.1 Attachment 1 is the cover letter.
- 6.1.1.1 Cut and paste the letter onto your own letterhead and add the address block for your agency.
 - 6.1.1.2 On the RE: line, indicate whether this is the *First (21 days)*, *Second (35 days)*, or *Third Notice (49 days)*.
 - 6.1.1.3 Insert the date that a response is due back from the contractor. For first notice allow 21 days; for 2nd notice allow additional 14 days, for a total of 35 days; for 3rd notice allow yet another 14 days for a total of 49 days for the contractor to respond. A contractor who fails to comply with this State audit process shall be deemed in material breach of the contract and may be subject to penalties up to and including termination of the contract.
- 6.1.2 Attachment 2 is the Verification Form.
- 6.1.2.1 The agency should fill out the first block of information. In the first box, write the Contract Number, the State Agency, and the Division, if appropriate. On the next line insert the name of the contractor and the contact person for the contractor. The address of the contact person is provided in the next two lines.
 - 6.1.2.2 The contractor should fill out the next block.

6.1.2.3 The verification form continues with an **Employee Verification Worksheet** upon which the contractor is to list all the contractor's and subcontractor's employees performing work under this contract. By so doing, and signing the Verification Form, the contractor is attesting to compliance.

6.2 When the contractor returns the Verification form and Worksheet to your agency, the agency should retain the forms. Do not submit them to the State Procurement Office unless requested to do so.

7. Effective

This Standard Procedure is hereby authorized and effective this 1st day of November, 2013, unless otherwise revised or repealed.



Jean A. Clark, FNIGP, CPPO, C.P.M., CPPB, CPM
State Procurement Administrator

Attachment 1: Compliance – Arizona Legal Workers Act verification cover letter**NOTICE – PLACE ON AGENCY LETTERHEAD**

Sub: Contract Number

Sub: State Contractor Employment Record Verification Requirement - A.R.S. § 41-4401

Re: ***{Note whether this is the First (21 days), Second (35 days), or Third Notice (49 days).}***

Dear **<Contact Name>**:

The Arizona Procurement Code, Employee Sanctions, A.R.S. § 41-4401 requires compliance with Federal immigration laws by State employers, State contractors, and State subcontractors.

In order to comply with those portions of A.R.S §41-4401 that pertain to State contractors and subcontractors, we request that you complete and return the attached State Contractor Employment Record Verification Form and Employee Verification Worksheet no later than ***(insert due date. For first notice allow 21 days; for 2nd notice allow additional 14 days, for a total of 35 days; for 3rd notice allow yet another 14 days for a total of 49 days for the contractor to respond.)***

Completed forms may be sent via mail to ***(insert your mail address)*** at the address above or via facsimile to: ***(insert your fax number)***. If electing to fax, please also mail the original documents.

Failure to comply with this State audit process to randomly verify the employment records of contractors and subcontractors shall be deemed a material breach of the contract and the contractor may be subject to penalties up to and including termination of the contract.

Questions concerning this requirement should be directed to ***(insert contact name and telephone number)*** (xxx-xxx-xxxx). We look forward to your response and thank you for your continued support of the State's Procurement Program.

Respectfully,

cc: Contract file

Attachment 2: Compliance – Arizona Legal Workers Act verification form**State of Arizona****State Contractor Employment Record Verification Form and
Employee Verification Worksheet**

Complete and return within 30 days of receipt or as specified in cover letter to:

Agency Name:	
Agency Address:	

A.R.S. § 41-4401 requires as a condition of your contract verification of compliance by the contractor and subcontractors with the Federal Immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23-214 related to the immigration status of its employees.

By completing and signing this form and attached Employee Verification Worksheet the contractor shall attest that it and all subcontractors performing work under the cited State contract meet all conditions contained herein. Failure to complete and submit this form and attached worksheet on or before the request date to the above cited address and/or the falsification of any information provided herein shall be considered a material breach of the contract.

Contract Number:	State Agency:	Division:
Name (as listed in the contract):		
Street Name and Number:		
City:	State:	Zip Code:

I hereby attest that:

1. The contractor complies with the Federal Immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23-214 related to the immigration status of those employees performing work under this contract;
2. All subcontractors performing work under this contract comply with the Federal Immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23--214 related to the immigration status of their employees; and
3. The contractor has identified all contractor and subcontractor employees who perform work under the contract on the attached Employee Verification Worksheet and has verified compliance with Federal Immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23-214.

Signature of Contractor (Employer) or Authorized Designee:	
Printed Name:	
Title:	
Date: (month/day/year)	

