



STANDARD PROCEDURE No. 001

TITLE: **Contractor Compliance with the Arizona Legal Workers Act**

REVISION: **Number 7**

DATE(s): Current Version: **12/10/2021** | Previous Version: November 1, 2013

I. Description

1. The purpose of this procedure is to establish a process for verification of employment records of contractors and subcontractors to ensure 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 as required under Arizona Revised Statutes (A.R.S.) § 41-4401(B).
2. This procedure applies to the Arizona State Procurement Office (SPO) and Arizona state agencies with delegated procurement authority from the State Procurement Administrator (SPA) to solicit and award formal contracts of more than \$100,000.
3. Arizona state agencies not covered by this procedure may choose to follow this procedure or establish their own procedures as allowed under A.R.S. § 41-4401(B).

II. Standard Procedure

1. ROLES AND RESPONSIBILITIES

- 1.1 SPO Compliance shall:
 - 1.1.1 Select agencies at random and/or as directed by the SPA;
 - 1.1.2 Send annual notification in July to selected agencies to create randomly selected lists of contracts to be verified by each Agency, as applicable; Notify the selected agencies via e-mail to complete verification of employment records of contractors and subcontractors;
 - 1.1.3 Ensure that selected agencies submit the State Contractor Employment Verification Form (Attachment 2) verification activities results to SPOCompliance@azdoa.gov within 90 days of notification pursuant to Section 1.1.2;
 - 1.1.4 Provide consultation to contractors and Agency personnel regarding questions relating to employment verification requirements and A.R.S. § 41-4401;
 - 1.1.5 Perform follow-up actions to ensure completion of and compliance with verification requirements; and
 - 1.1.6 File and maintain all completed copies of Attachment 2 in the appropriate agency file.
 - 1.2 Agency Chief Procurement Officers (ACPO) responsibilities shall:
 - 1.2.1 Follow the steps in this standard procedure (SP 001) when prompted by SPO Compliance;
 - 1.2.2 Issue notices to the selected contractors or subcontractors on Agency letterhead with language provided in Compliance - Arizona Legal Workers Act Verification Cover Letter (Attachment 1);
 - 1.2.3 Follow the Schedules and Random Sample section;
 - 1.2.4 Track responses to the notices and maintain records at Agency's filing;
-

- 1.2.5 Submit a report of verification activities results to SPOCompliance@azdoa.gov on the State Contractor Employment Verification Form (Attachment 2) no later than March 31st of each year.

2. RANDOM SAMPLE OF CONTRACTS BY AGENCY

- 2.1 Agency shall select a random sample of active contracts for services each fiscal year. "Services" are defined in accordance with A.R.S. § 41-4401(5) as "the furnishing of labor, time or effort in this state by a contractor or subcontractor. Services include construction or maintenance of any structure, building or transportation facility or improvement of real property."
- 2.2 Contracts selected for random sample review shall represent 3% of active contracts or a total of ten (10) contracts (whichever is greater).
- 2.3 Sample review of contracts may represent a smaller or larger percentage based on the following:
- 2.3.1 Time availability and staff resources;
 - 2.3.2 The need to maintain a statistical level of confidence; or
 - 2.3.3 As directed by the SPA or SPO Compliance.
- 2.4 Agency shall randomly select contracts subject to the following verification process:
- 2.4.1 Export all of Agency's open contracts from the State's e-Procurement System into Google Sheets or Microsoft Excel by selecting "Contracts", "Browse Contracts", right clicking on "Label", and choosing "Download in Excel format";
 - 2.4.2 Clear contents from column A and name the header in cell A1 as "Random Sample";
 - 2.4.3 Enter the =RAND() formula into cell A2 and press Enter;
 - 2.4.4 Drag the formula from cell A2 down to the last row;
 - 2.4.5 Highlight all of Column A "Random Sample" and press Ctrl + C to copy the contents;
 - 2.4.6 With Column A "Random Sample" still highlighted, right click Column A "Random Sample" and choose Paste Special and then Paste values only;
 - 2.4.7 Highlight the entire tab/worksheet and sort by column A "Random Sample" from lowest to highest; and
 - 2.4.8 Starting from cell B2, select as many contracts as needed to gather 3% of the total open service contracts or a total quantity of ten (10) (whichever is greater).

3. TEMPLATES AND DIRECTIONS FOR COMPLETING FORMS (Agency or Contractor/Subcontractor Responsibilities)

- 3.1 Agency shall use the following forms when notifying selected contractor(s):
- 3.1.1 Attachment 1: Cover Letter (Compliance - Arizona Legal Workers Act Verification)
 - 3.1.1.1 Cut and paste the letter onto the agency letterhead and add the address block;
 - 3.1.1.2 On the RE: line, indicate whether this is the First (21 days), Second (35 days), or Third Notice (49 days); and
 - 3.1.1.3 Insert the date that a response is due back from the contractor. For the first notice, allow 21 days; for second notice, allow an additional 14 days, for a total of 35 days; for the third 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 contract and may be subject to penalties up to and including termination of the contract.

3.1.2 Attachment 2: State Contractor Employment Record Verification Form

3.1.2.1 In the first box, write the agency name, agency contact, and agency contact phone number. In the second box, insert the required contractor information.

3.1.3 Attachment 3: Employee Verification Worksheet

3.1.3.1 The contractor shall list all the contractor's and subcontractor's employees performing work under this contract. By doing so and signing Attachment 2, the contractor is attesting to compliance.

3.2 When the contractor returns Attachment 2 and Attachment 3 to the Agency, the Agency shall submit them to SPOCompliance@azdoa.gov.

4. AGENCY DOCUMENTATION

The Agency shall:

- 4.1 Send a letter (21-day notice) with Attachment 2 and Employee Verification Worksheet (Attachment 3) to each of the contractors identified on the randomly selected 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;
- 4.2 Keep a log of the dates that verification forms are sent to contractors;
- 4.3 Keep a log of contractor response dates when received;
- 4.4 Prepare, log, and, send all second and final notices to non-responding contractors (within 5 days of notice deadlines);
- 4.5 File completed Attachment 2 and Attachment 3 in procurement files (Agency's file) within 10 days of receipt; and
- 4.6 Take appropriate action with non-compliant contractors and so note on Attachment 2.

5. ADDRESSING ISSUES OF CONTRACTOR NON-RESPONSE OR NON-COMPLIANCE

The Agency shall review incoming documents from randomly selected contractors and determine the following;

- 5.1 If a contractor fails to respond to a letter/notice, the Agency shall:
 - 5.1.1 Note such failure on Attachment 2;
 - 5.1.2 If the contractor fails to respond to all three letters/notices, the ACPO shall, at a minimum, complete a vendor performance report (VPR);
 - 5.1.3 May take additional action, up to and including termination of the contract as, as the Agency deems to be in the best interest of the State;
- 5.2 If a contractor's response on Attachment 2 or Attachment 3 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:
 - 5.2.1 Complete a VPR;
 - 5.2.2 Submit the report and copies of the contractor's Attachment 2 and Attachment 3 to the

Arizona Attorney General's Administrative Law Section, Financial Division and SPOCompliance@azdoa.gov; and

- 5.2.3 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.

III. Effective

This Standard Procedure is hereby authorized and effective Dec 10, 2021 unless otherwise revised or repealed.



[ED Jimenez \(Dec 10, 2021 11:11 MST\)](#)

Ed Jimenez, State Procurement Administrator



**Attachment 1
Compliance - Arizona Legal Workers Act
Verification Cover Letter**

Arizona Department of Administration
State Procurement Office
100 N 15th Ave.
Phoenix, AZ 85007

NOTICE - PLACE ON AGENCY LETTERHEAD

Subject: Contract Number

Subject: 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; and 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]** or **[insert physical address]**.

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]**. We look forward to your response and thank you for your compliance with this legal requirement for state contractors.

Respectfully,

cc: Procurement file



**Attachment 2
State Contractor Employment Record
Verification Form**

Arizona Department of Administration
State Procurement Office
100 N 15th Ave.
Phoenix, AZ 85007

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

Agency Name:	
Agency Contact:	
Agency Contact Phone Number:	

A.R.S. § 41-4401 requires verification of compliance as a condition of your contract 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:	
Contractor Name (as listed on the contract):	
Street Name and Number:	
Address:	
City, State, Zip Code:	
Contractor Email:	
Contractor Phone:	

I hereby attest that:

1. The contractor complies with the 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 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 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)	
Notes:	

