



DEPARTMENT OF MANAGEMENT
SERVICES

The Koger Center • 2737 Centerview Drive • Knight Building • Tallahassee, Florida 32399-0950

LAWTON CHILES, GOVERNOR

WILLIAM H. LINDNER, SECRETARY

July 21, 1995

MEMORANDUM NO.: 1 (95-96)

To: Marvin Williams

TO: All State Agencies and Political Subdivisions

FROM: George C. Banks, CPPO
Director, Division of Purchasing

SUBJECT: Public Entity Crime Information Statement

Section 287.133, Florida Statutes, was revised by deleting the requirement for vendors to file a public entity crime statement prior to the issuance of a purchase order or contract having a value in excess of the Threshold for Category Two.

All invitations to bid as defined by Section 287.012(11), Florida Statutes, requests for proposals as defined by Section 287.012(16), Florida Statutes, and any contract document described by Section 287.058, Florida Statutes, shall contain a statement informing persons of the provisions of paragraph (2)(a) of Section 287.133, Florida Statutes, which reads as follows:

“A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.”

We have developed some questions and answers which may be directed to you regarding this revision.

1) How will public entities be informed of convictions?

Answer. Information can be reported or received in written form such as a news release, newspaper articles, or copies of convictions. Oral or telephone reports should be reduced to memorandum when forwarded to the Division of Purchasing.

2) What about the sworn statements on file before or since the statute revision?
Answer. Those vendors with statements on file for the calendar year will not need to submit sworn statements for any current purchase order or contract document.

3) How will a public entity report possible convicted vendors to the Division of Purchasing since the sworn statement form has been deleted?
Answer. Any documentation which comes to the attention of a public entity should be photocopied and sent to this office along with any other pertinent information.

4) Will the Convicted Vendor List still be published each quarter in the Florida Administrative Weekly?
Answer. Yes, and any name added to the list between publications will be distributed by numbered memorandum from this office.

If you have any additional questions please contact Buddy Barker at (904) 488-8131 or Suncom 278-8131.

Gcb/hpb



DEPARTMENT
SEL

Post-It® Fax Note	7671	Date	# of pages ▶
To	Sue Clausen	From	DMS
Co./Dept.		Co.	
Phone #		Phone #	488-7313
Fax #	312-944-7021	Fax #	488-5498

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LAWTON CHILES, GOVERNOR

July 21, 1995

MEMORANDUM NO.: 1 (95-96)

Post-It® Fax Note	7671	Date	8/17/01	# of pages ▶
To	Dale Hackle	From	LaSanga	
Co./Dept.		Co.	DMSU	
Phone #		Phone #	487-9957	
Fax #	973-1688	Fax #	487-2442	

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Gcb/hpb

July 10, 1995 ¹⁴

*Draft
H/B*

*OK
Banks*

MEMORANDUM NO. 1 (95-96)

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GCB
Geb/hpb

July 12, 1995

INTERNAL MEMORANDUM

TO: Buddy Barker, Chief
Bureau of Procurement

FROM: Terry A. Stepp
Staff Attorney

SUBJECT: Review of Public Entity Crime Information Statement

I have reviewed the proposed public entity crime information statement.

My suggested additions and editing, have been made directly on the document.

Please let me know if any further assistance is needed.

TAS:

Attachment

G:\USR\GCOSHA\PEC-INFO.MEM

*****Linda-Please make a copy of the marked up attachment for our file copy.**

RECEIVED

JUL 11 1995

**General Council
Dept. of Management Services**

July 10, 1995

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> 1) How will public entities be informed of conviction?

Bold Answer: Information can be received in written form such as a news release, ^s or newspaper article, ^s or copies of conviction ^{reported on}

> Oral or telephone reports should be reduced to a memorandum when forwarded to DMS, DOP.

2) What about ~~the~~ ^S sworn statement on file before or since the statute revision?

Bdd → Answer Those vendors with statements on file for the calendar year will not need to ~~receive~~ ^{submit} the above ^{sworn} statement for any currently ^S issued purchase order ~~and~~ ^{or} contract document.

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Gcb/hpb

controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.

(b) "Convicted" or "conviction" means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.

(c) "Convicted vendor list" means the list required to be kept by the department pursuant to paragraph (3)(d).

(d) "Department" means the Department of Management Services.

(e) "Person" means any natural person or any entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity.

(f) "Public entity" means the State of Florida, any of its departments or agencies, or any political subdivision.

(g) "Public entity crime" means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or with the United States, including, but not limited to, any bid or contract for goods or services, any lease for real property, or any contract for the construction or repair of a public building or public work, involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.

(2)(a) A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

time of the commission of a public entity crime resulted in that person being placed on the convicted vendor list shall accept any bid from, award any contract to, or transact any business with any other person who is under the same, or substantially the same, conviction as the person whose name appears on the convicted vendor list so long as that person's name appears on the convicted vendor list.

(3)(a) Prior to entering into a contract with a public entity for the provision of goods or services, the purchase of real property, or the construction or repair of a building or public work, in excess of the threshold amount provided for in s. 287.017 for CATEGORY TWO, a person shall file a sworn statement with the chief purchasing officer of that public entity for the calendar year in which the contract is entered into. The department shall adopt by rule a standard sworn statement for use by all public entities in complying with the provisions of this subsection. The form shall include the following:

1. The name of the person.

2. The business address of the person.

3. A statement of whether the person, or an affiliate of that person, was convicted of a public entity crime after July 1, 1989, unless a determination has been made pursuant to either paragraph (e) or paragraph (f) that it is not in the public interest for the name of that person or affiliate to appear on the convicted vendor list.

4. Notice that the person is required to inform the department of any change affecting the correctness of the information contained in the sworn statement.

(b) Any person must notify the department within 10 days after a conviction of a public entity crime or the placement of that person or to an affiliate of that person on the convicted vendor list of any public entity which receives information that a person has been convicted of a public entity crime shall submit that information to the department in writing within 10 days.

(c) If the department has reason to believe that a person or an affiliate has been convicted of a public entity crime, the department may issue a subpoena demanding that person or affiliate, concerning such conviction or affiliation, to appear and be examined under oath, to answer interrogatories under oath, to produce documents or other tangible evidence for inspection and copying. The department shall conduct any such inquiry in accord with applicable provisions of the Florida Rules of Civil Procedure.

(d) The department shall maintain a list of the names and addresses of those who have been disqualified from the public contracting and purchasing process under this section. The department shall publish an initial list on January 1, 1990, and shall publish an updated list of the list quarterly thereafter. The initial list and