



**Rules of
Elected Officials
Division 60—Attorney General
Chapter 15—Unauthorized Alien Workers**

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Title 15—ELECTED OFFICIALS

Division 60—Attorney General

Chapter 15—Unauthorized Alien Workers

15 CSR 60-15.010 Definitions

PURPOSE: This rule defines terms used in section 285.525, RSMo Supp. 2008.

(1) The terms used in Title 15, Division 60, Chapter 15 of the *Code of State Regulations* bear the same meaning in the rules pertaining to unauthorized alien workers as they do in section 285.525, RSMo Supp. 2008, as amended.

(2) The following definitions further clarify terms used in section 285.525, RSMo Supp. 2008, and Title 15, Division 60, Chapter 15 of the *Code of State Regulations*:

(A) “Business entity”—in addition to the definition as used in section 285.525(1), RSMo Supp. 2008, business entities include limited liability companies (LLCs);

(B) “Contract or grant”—does not include a permit or license issued by any political subdivision, county, or municipality;

(C) “Contractor”—does not include a person, employer, or business entity providing bonding or insurance products to employees of the state, a political subdivision, county, or municipality;

(D) “Identity information”—includes a copy of the Form I-9 completed by the employer and employee including copies of documents presented by the employee establishing identity and employment eligibility or, alternatively, an E-Verify case verification number and a copy of any documents received from the Social Security Administration or U.S. Department of Homeland Security regarding the employment eligibility of the employee or employees;

(E) “State-administered or subsidized tax credit, tax abatement, or loan”—includes credits provided under section 99.845.4-.12, RSMo 2000; and

(F) “Subcontractor”—does not include a business entity that merely supplies goods or materials to a contractor or subcontractor hired by the contractor to perform services to perform a contract with the state, a political subdivision, municipality, or county.

AUTHORITY: section 285.540, RSMo Supp. 2008. Emergency rule filed March 2, 2009, effective March 12, 2009, expired Sept. 7, 2009. Original rule filed March 2, 2009, effective Aug. 30, 2009.*

**Original authority: 285.540, RSMo 2008.*

15 CSR 60-15.020 Form of Affidavit

PURPOSE: This rule prescribes the form of affidavit to be submitted by business entities or employers who fall under the provisions of section 285.530, RSMo Supp. 2008.

(1) Any bid or response to a request for proposal (RFP) for the award of any contract for services or grant in excess of five thousand dollars (\$5,000) by the state or by any political subdivision of the state to a business entity, or application by any business entity to receive a state-administered or subsidized tax credit, tax abatement, or loan from the state, shall be accompanied by an affidavit containing the following:

(A) A statement that the business entity has enrolled in, and is currently participating in, E-Verify, a federal work authorization program, or any other equivalent electronic verification of work authorization program operated by the United States Department of Homeland Security under the Immigration Reform and Control Act of 1986 (IRCA);

(B) A statement that the business entity does not knowingly employ any person who is an unauthorized alien in conjunction with the contracted services; and

(C) A notarized signature of the registered agent, legal representative of the business entity, or a corporate officer, including, but not limited to, the human resources director of the business entity or their equivalent.

(2) A subcontractor must provide a similar affidavit to its contractor or subcontractor at the time the subcontractor is hired.

(3) A contractor or subcontractor is not required to perform an electronic verification check described above on an employee hired before January 1, 2009.

(4) Any business entity having a contract or grant in excess of five thousand dollars (\$5,000) from the state, a political subdivision, municipality, or county awarded before the effective date of this law is not required to complete the affidavit described above until the grant or contract is renewed but is not relieved from compliance with the provisions of section 285.530(1), RSMo Supp. 2008.

(5) Any business entity that has received a state-administered or subsidized tax credit, tax abatement, or loan from the state prior to the effective date of this law is not required to complete the affidavit described above but is not relieved from compliance with section 285.530(1), RSMo Supp. 2008.

(6) Any business entity that merely provides goods or products to the state or a political subdivision with no services is not required to file the affidavit described above.

(7) The attorney general may make available a form of affidavit that will satisfy the requirements of section 285.530, RSMo Supp. 2008.

AUTHORITY: section 285.540, RSMo Supp. 2008. Emergency rule filed March 2, 2009, effective March 12, 2009, expired Sept. 7, 2009. Original rule filed March 2, 2009, effective Aug. 30, 2009.*

**Original authority: 285.540, RSMo 2008.*

15 CSR 60-15.030 Complaints

PURPOSE: This rule prescribes procedures for filing complaints that a business entity or employer has knowingly employed, hired for employment, or continued to employ an unauthorized alien to perform work in Missouri in violation of section 285.530, RSMo Supp. 2008.

(1) State officials, business entities, or any state resident may file a complaint in writing and under oath with the Missouri Attorney General’s Office that a business entity or employer has knowingly employed, hired for employment, or continued to employ an unauthorized alien to perform work in Missouri in violation of section 285.530, RSMo Supp. 2008.

(2) Persons wishing to file a complaint may request a complaint form from the Missouri Attorney General’s Office, PO Box 899, Jefferson City, MO 65102; or may download and print the form from the Missouri Attorney General’s website at www.ago.mo.gov.

(3) The form must be completed in its entirety, and the person submitting a complaint must:

(A) Provide information about the business entity or employer alleged to be violating the statute;

(B) Provide their contact information;

(C) Verify that they are either: a Missouri resident, an official of the state, a political subdivision or municipality, or a registered agent, corporate officer, or legal representative of a business entity;

(D) A detailed description of the violation, including reasonably specific information about the alleged alien worker;



(E) A declaration under the penalty of perjury that the complaint is true and correct to the best of their knowledge and belief; and

(F) A notarized signature.

(4) Complaints cannot allege a violation solely or primarily on the basis of national origin, ethnicity, or race.

(5) Completed complaint forms should be returned to the Missouri Attorney General's Office, PO Box 899, Jefferson City, MO 65102.

AUTHORITY: section 285.540, RSMo Supp. 2008. Emergency rule filed March 2, 2009, effective March 12, 2009, expired Sept. 7, 2009. Original rule filed March 2, 2009, effective Aug. 30, 2009.*

**Original authority: 285.540, RSMo 2008.*

15 CSR 60-15.040 Investigation of Complaints; Failure to Respond to Attorney General Request for Identity Information

PURPOSE: This rule describes the process related to investigating valid complaints authorized by section 285.535, RSMo Supp. 2008.

(1) Upon the receipt of a valid complaint, the Missouri Attorney General's Office shall, within fifteen (15) days, request by certified mail that the business entity provide identity information regarding person(s) alleged to be unauthorized alien workers.

(2) The business entity shall provide the "identity information" within fifteen (15) days of the receipt of the request. If the business entity fails to do so, the attorney general shall direct any applicable state agency, political subdivision, and municipal or county governing body to suspend any licenses or permits of the business entity effective fifteen (15) days from the receipt of notice by the applicable state agency, political subdivision, county, or municipality from the attorney general unless the business entity submits to the attorney general evidence of one (1) of the following within that time:

(A) That the business entity has terminated the individual, or is attempting to terminate the individual and is being challenged in court or other administrative proceeding; or

(B) That the business entity, after acquiring additional information from the employee, has requested a secondary or additional verification by the federal government of the employee's authorization.

AUTHORITY: section 285.540, RSMo Supp. 2008. Emergency rule filed March 2, 2009, effective March 12, 2009, expired Sept. 7, 2009. Original rule filed March 2, 2009, effective Aug. 30, 2009.*

**Original authority: 285.540, RSMo 2008.*

15 CSR 60-15.050 Notification by Federal Government that Individual is Not Authorized to Work

PURPOSE: This rule describes the process to be utilized when the federal government notifies the Missouri Attorney General's Office that an individual is not authorized to work and the duties required of the employer by section 285.535, RSMo Supp. 2008.

(1) Upon notification from the federal government to the Missouri Attorney General's Office that an individual is not authorized to work, and the employer participates in a federal work authorization program, the Missouri Attorney General's Office shall notify the employer to comply with section 285.535.6, RSMo Supp. 2008.

(A) The employer shall, through its legal representative as noted in subsection (1)(B) below, submit evidence of one (1) of the following within thirty (30) days:

1. The business entity has terminated the individual, or is attempting to terminate the individual and is being challenged in court or other administrative proceeding; or

2. The business entity, after acquiring additional information from the employee, has requested a secondary or additional verification by the federal government of the employee's authorization.

(B) The legal representative of the business entity shall submit a sworn affidavit to the Missouri Attorney General, PO Box 899, Jefferson City, MO 65102, stating the violation has ended and provide:

1. Evidence of the specific measures taken to end the violation, which shall, at a minimum, include a notarized affidavit, from the human resources director or other officer of the business entity whose duties include terminating the employment of employees, etc., describing the events surrounding the termination of employment;

2. The name, address, and all identifying information available to the business entity concerning the unauthorized alien(s) related to the complaint; and

3. Evidence that the business entity has enrolled in, and is currently participating in, E-Verify, a federal work authorization program, or any other equivalent electronic verification of work authorization program operated by the United States Department of Homeland Security under the Immigration Reform and Control Act of 1986 (IRCA).

(2) Enforcement Actions by Attorney General if Business Entity Employs an Unauthorized Worker.

(A) If the federal government notifies the attorney general that a business entity has employed an unauthorized worker and the business entity has failed to correct the violation as set forth herein, the attorney general shall bring an action in the Circuit Court of Cole County if the attorney general reasonably believes the business entity knowingly employed or continued to employ an unauthorized worker in violation of section 285.530.1, RSMo Supp. 2008. In such action, the attorney general may ask the circuit court to direct any applicable state agency, political subdivision, and municipal or county governing body to suspend any business permits or license of the business entity until the entity complies with subsection 6. of 285.535, RSMo Supp. 2008.

(3) Additional Penalties for Business Entity Having a Contract or Grant with State, Political Subdivision, County, or Municipality.

(A) In addition to the penalties that may be assessed by a court for violation of the provisions of section 285.530.1, RSMo Supp. 2008, upon the first violation by any business entity awarded a contract or grant by the state, a political subdivision, municipality, or county or receiving a state-administered tax credit, tax abatement, or loan or loan guarantee from the state, the business entity shall be deemed in breach of contract and the state, political subdivision, municipality, or county may terminate the contract. Upon such termination, the state, political subdivision, municipality, or county may withhold up to twenty-five percent (25%) of the total amount due to the business entity. The state, political subdivision, municipality, or county shall notify the attorney general of any such termination. Upon receipt of notice of such termination of a contract or grant or a violation of section 285.530.1, RSMo Supp. 2008, by the recipient of a state-administered tax credit, tax abatement, or loan or loan guarantee from the state, the attorney general shall suspend or debar the business entity from doing business with any state, political subdivision, municipality, or county for a period of three (3) years.



(B) Upon the second or subsequent violation by any business entity awarded a contract or grant by the state, a political subdivision, municipality, or county or receiving a state-administered tax credit, tax abatement or loan or loan guarantee from the state, the business entity shall be deemed in breach of contract and the state, political subdivision, municipality, or county may terminate the contract. Upon such termination, the state may withhold up to twenty-five percent (25%) of the total amount due to the business entity. Upon receipt by the attorney general of notice of a second or subsequent violation, the attorney general shall permanently suspend or debar the business entity from doing business with the state.

(4) The attorney general shall maintain on his website a list of all business entities suspended or debarred under this section.

AUTHORITY: section 285.540, RSMo Supp. 2008. Emergency rule filed March 2, 2009, effective March 12, 2009, expired Sept. 7, 2009. Original rule filed March 2, 2009, effective Aug. 30, 2009.*

**Original authority: 285.540, RSMo 2008.*