



ASSOCIATED GENERAL CONTRACTORS OF MISSOURI, INC.

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December 9, 2008

Dear AGC Member:

AGC of Missouri opposed the passage of HB 1549 (the "Omnibus Immigration Bill"). HB 1549 reflects federal law regarding prohibitions against employers hiring persons who are unauthorized to work in the United States to which AGC has no objection. However, HB 1549 also imposes additional state requirements on public contractors and certain other employers which AGC believes were disproportionate to any problem regarding public works projects. HB 1549 imposes the strictest requirements and penalties on public contractors and business entities receiving loans or tax credits from public funds. Certain affidavits and contract clauses will be required of public contractors and such business entities, and their subcontractors, which are not required from other Missouri employers.

Since passage of HB 1549, AGC of Missouri has been working toward providing resources to members which will allow individual companies to decide on approaches to compliance which exhibit the "Skill, Integrity and Responsibility" of AGC members. Our goal is to provide guidance to members which treats everyone fairly, is as practical in application as possible, presents as few obstacles as possible to normal conduct of business, and which also keeps members out of the legal jeopardy of being in violation of contracts, having their business licenses suspended or revoked by local governments or having construction contracts terminated and/or having contractors suspended or debarred due to violations.

On July 8, the day after HB 1549 was signed, AGC of Missouri sent a letter to the Attorney General posing certain questions regarding requirements of HB 1549 and requesting clarifications through a rule required to be promulgated by the Attorney General. On August 26, AGC met with the Attorney General's staff for a very helpful discussion of these issues. However, we were advised that a rule will not be proposed until after the November 4 Election, when the new Attorney General who will enforce the employer provisions of HB 1549 can provide input. It is very unlikely a rule giving official guidance will be in place before employer requirements take effect on January 1, 2009.

Therefore, in early September we engaged the law firm of Armstrong Teasdale LLP to assist in preparation of the enclosed Guidance and legal documents required by "employer immigration" provisions of HB 1549. That task has been made more difficult because many provisions in relevant sections of HB 1549 are very poorly drafted. In an October 8 "opinion letter" to AGC, J. Kent Lowry of Armstrong Teasdale's Jefferson City office commented:

“ . . . there are provisions in House Bill 1549 which lack clarity, or are inconsistent with other provisions. The best we can do in those circumstances is predict what we believe a court would say if faced with the task of interpreting the statute. As you are well aware, predicting how a court properly applying the law in a properly presented case would interpret a statute is an uncertain endeavor.”

The attached Guidance should be viewed with that caveat – it is the best advice AGC can give with a very competent attorney’s help at this point in time. However, with the **effective date of the employer provisions of HB 1549 quickly approaching on January 1, 2009**, AGC members and other affected business entities must take immediate action to comply.

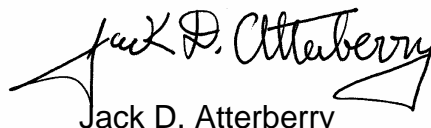
Each company must make individual decisions as to how they will meet the new requirements. You are certainly welcome to consult your own attorney on matters of compliance. The attached Guidance is simply AGC of Missouri’s best effort to make compliance with the new requirements as painless as possible for member companies.

Please note that the attached Guidance and some attachments are copyrighted by AGC. The information is provided to AGC members at no cost. However, they have been prepared at a cost to AGC and may not be copied and transmitted to others without AGC’s written permission. Of course, feel free to copy and distribute the Guidance to multiple individuals within your own company.

AGC did not want these provisions enacted because we do not believe there is a significant problem in Missouri with employment of unauthorized aliens on public works projects. However, the will of the Missouri General Assembly was to impose these requirements on your company and other Missouri businesses.

We trust the enclosed is helpful.

Sincerely,



Jack D. Atterberry
Vice President, Governmental Relations