



Indiana's Immigration Reform: Your Obligations as a County

By Tami Earnhart and Jenifer Brown, *Ice Miller LLP*

Indiana's immigration reform bill (SB 590) became effective on July 1, 2011. As you may know, the new law contains several obligations about which Indiana counties must be aware and with which Indiana counties must comply.

Most significantly, as a political subdivision of the State, Indiana counties are required to enroll in E-Verify, a free, Internet-based system operated by the Department of Homeland Security in partnership with the Social Security Administration. This system requires enrolled employers to verify online the employment eligibility of new hires after the employee has completed the mandatory Form I-9 for employment verification. If a county has not already done so, it should enroll in E-Verify and verify future new hires through that system.

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The immigration reform bill also contains several additional provisions – some more burdensome than others – that are applicable to Indiana counties, both as employers and as political subdivisions. The list below provides a general summary of some of the additional provisions:

- **Public Contracts:** If a county enters into a new public contract or renews an existing public contract for services after June 30, 2011, it must include language that requires the contractor to enroll in E-Verify and to use the E-Verify system for all new hires. The contract must also contain a provision that states that the contractor is not required to verify employees if E-Verify is no

longer in existence. The contractor must pass these requirements down to any first-tier subcontractors for services covered by the public contract. Further, the contractor must sign an affidavit certifying that the contractor does not knowingly employ an unauthorized alien.

- **Grants:** A county may not award a grant of more than \$1,000 to a business unless the business has signed a sworn affidavit that affirms the entity has enrolled in E-Verify and does not knowingly employ unauthorized aliens and has provided documentation that the business has enrolled in E-Verify.
- **Public Benefits:** Counties also are required to verify the eligibility of individuals applying for public benefits. Individuals seeking public benefits must execute a verification stating that the individual is a U.S. citizen or qualified alien. The county must maintain the verification for five years.
- **Select Law Enforcement-Related Provisions:**
 - **Victims and Witnesses:** Law enforcement officers may not request verification of citizenship or immigration status from individuals who are solely reporting a crime or victims or witnesses of crimes.
 - **Criminal Offenders:** The Department of Correction must verify the citizenship or immigration status of criminal offenders and a court shall consider immigration status when setting and accepting bail and/or release of custody.
 - **Impounding Vehicles:** Law enforcement shall impound a motor vehicle that is used to transport, move, conceal, harbor or shield from detection an illegal alien for private or commercial gain or in reckless disregard of U.S. immigration law

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- **Notice to Law Enforcement:** Each law enforcement agency must provide its law enforcement officers with written notice regarding their duty to cooperate with state and federal agencies on matters pertaining to immigration.
- **Other "Cooperation" Requirements:** The immigration reform bill contains several requirements that, in essence, prevent a county from interfering or refusing to cooperate with federal officials or the enforcement of the new law.

Although the U.S. District Court for the Southern District of Indiana issued a preliminary injunction preventing certain provisions of the new law from being enforced, the provisions outlined above, among others, are in effect now. If you have not become familiar with and implemented these requirements, you should take steps to do so. •

If you have questions regarding Indiana's Immigration Reform bill, please contact Jenifer Brown at jenifer.brown@icemiller.com or (317) 236-2242 or Tami Earnhart at tami.earnhart@icemiller.com or (317) 236-2235. Ice Miller LLP serves as legal counsel to the Association of Indiana Counties.

AIC NACO REPRESENTATIVE

NOTICE: Pursuant to AIC policy, notice is hereby given that AIC is accepting applications for the position of AIC NACo (National Association of Counties) representative. The AIC NACo representative is selected by the AIC Board of Directors.

The duties of the AIC NACo representative include attending four NACo Board of Directors meetings a year around the country and representing Indiana on the NACo Board of Directors.

The AIC NACo representative will be required to attend AIC Board meetings annually and report to the AIC Board regarding NACo.

Applicants must be members of the AIC. Applicants must be from a county that is a member of NACo.

The term of the AIC NACo representative is three years, and commences January 1, 2012.

This is an unpaid position. AIC will reimburse the AIC NACo representative for all reasonable travel expenses to attend the NACo Board of Directors.

Applications are available on the AIC website at www.indianacounties.org, or by calling the AIC office at (317) 684 3710.

Applications must be received by 1 p.m. on November 1, 2011 at the following address:

Association of Indiana Counties
Attn: David Bottorff, Executive Director
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Indianapolis, IN 46204
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