

April 27, 2001 #67

### **Drug-Free Workplace: Contractor=s Affidavit**

by Donna M. Leydorf  
MTAS Legal Consultant

The General Assembly has amended the Drug-Free Workplace Law, ' ' 50-9-101 through 50-9-113, *Tennessee Code Annotated* (TCA) to require employers contracting with state agencies or units of local government to prepare affidavits certifying compliance with the Drug-Free Workplace Program.

Beginning Jan 1, 2001, a new requirement is in effect for all employers with ~~no~~ less than five (5) employees receiving pay who contract with the state or any local government to provide construction services. Each such employer must submit an affidavit stating that the employer has in place a program for a drug-free workplace that complies with T.C.A ' ' . 50-9-101-113. The statute forbids any local government from entering into any contract or awarding any contract for construction services with any employer who has not provided the affidavit of compliance.

~~An~~Employer under this amendment is defined to be any private company or corporation. The definition does not include any unit of local government or any utility.

Any employer who is found to have violated this provision will be prohibited from contracting with any other local government or state agency until the employer can prove it is in compliance with all the requirements of the Drug-Free Workplace Program. Each additional violation imposes longer time periods of prohibition against contracting with a governmental entity against an employer, up to a period of one year.

The employer=s affidavit that its program provides for a drug-free workplace absolves the local government of any further responsibility for the employer=s compliance or lack of compliance with the requirements of the drug-free workplace program. A model affidavit is attached to this Hot Topic which can be used by contractors seeking construction work with cities.

For more information, please contact the MTAS management consultant in your area.

**Model Affidavit**

(must be attached to bid form upon submission)

STATE OF TENNESSEE  
COUNTY OF \_\_\_\_\_

DRUG-FREE WORKPLACE AFFIDAVIT  
OF PRIME BIDDER

NOW COMES AFFIANT, who being duly sworn, deposes and says:

1. He/She is the principal officer for [ insert name and address of bidding entity];
2. That the bidding entity has submitted a bid to [insert name of city and city department and project number] for the construction of [insert name of project];
3. That the bidding entity employs no less than five (5) employees;
4. That Affiant certifies that the bidding entity has in effect, at the time of submission of its bid to perform the construction referred to above, a drug-free workplace program that complies with ' 50-9-113, *Tennessee Code Annotated*.
5. That this affidavit is made on personal knowledge.

Further Affiant saith not.

\_\_\_\_\_  
AFFIANT

SUBSCRIBED AND SWORN TO before me this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

My commission expires:\_\_\_\_\_