

MOBILE COUNTY, ALABAMA
CONTRACTOR FELONY INVESTIGATION POLICY

EFFECTIVE DATE: December 1, 2007

PURPOSE: To aid the Mobile County Commission in determining the lowest responsible bidder on certain County contracts, and in order to safeguard public funds, and enhance the security of the County's physical resources, Mobile County shall, consistent with requirements of the law and prudent practices, obtain felony investigations on contractors and/or management officials of all contractors under final consideration for the award of a County contract for the provision of labor, materials or supplies for or in the prosecution of a public works contract or any other contract which results from an invitation to bid issued at the request of or on the recommendation of the Engineering or Road & Bridge departments.

This policy sets out guidelines for the use of such felony investigations. It is in addition to, and not in lieu of, any other policy or provision of law applicable to County contractual activities.

EXEMPTIONS: This policy shall not apply to contracts having a value of less than \$50,000.00; those contracts excepted from the competitive bid law by §41-16-51, *Code of Alabama (1975)*; contracts for the provision of goods or services purchased from the state, National Association of Counties or Association of County Commissions of Alabama bid lists; emergency contracts entered pursuant to the authority of §41-16-53, *CODE OF ALABAMA (1975)*; or any contract not resulting from an invitation to bid issued at the request of or on the recommendation of the Engineering or Road & Bridge departments.

DEFINITIONS: As used in this policy,

Contractor means a natural person or business entity of any kind or nature which submits a response to an invitation to bid for a County contract for the provision of labor, materials or supplies for or in the prosecution of a public works contract or any other contract resulting from an invitation to bid issued at the request of or on the recommendation of the Engineering or Road & Bridge departments.

Conviction means a judgment or finding of guilt of a felony offense by a court of competent jurisdiction, whether entered upon a verdict or plea, including pleas of

nolo contendere but not including convictions for which pardon has been granted.

Felony investigation means information collected about a contractor or management official consisting of identifiable descriptions and notations of felony convictions.

Management official means a natural person who is a sole proprietor or business owner or a shareholder, officer, member, employee or partner who controls a business entity of any kind and directs its day-to-day operations.

INFORMATION REQUIRED TO BE SUBMITTED: When the contractor submitting the lowest responsible bid is otherwise determined, the contractor (if a natural person) or its management official shall submit a completed Felony Investigation Questionnaire and Consent in order that the County may obtain a felony investigation. Should the contractor be disqualified hereunder, the contractor submitting the next lowest responsible bid shall complete a questionnaire and consent and the County shall obtain a second felony investigation.

USE OF CONSENT: The County shall use consents only for the purpose of obtaining felony investigations.

AUTOMATIC DISQUALIFICATION: A contractor whose bid is otherwise deemed the lowest responsible bid shall be disqualified from the award of a County contract upon a finding:

(1) That the contractor, or the contractor's management official, has been convicted of any of the following felony offenses; such disqualification shall relate, however, only to the County contract then under consideration:

Treason

Sedition

Espionage

Terrorism

Hate crimes

Extortion

Unlawful possession, use, sale, distribution or manufacture of an explosive, weapon, or weapon of mass destruction

Kidnaping or hostage taking

Bribery

Arson

Destruction or vandalism to public buildings or property

Fraud in connection with a governmental contract

Misstatements in connection with a governmental contract

Conveying false information or threats

Any felony offense involving use, possession, possession with intent to distribute, manufacture, or trafficking in any controlled substance

(2) That the contractor and/or its management official is presently debarred, removed from or prohibited from bidding or contracting with any federal, state or local governmental entity.

OTHER DISQUALIFICATIONS: A contractor whose bid is otherwise deemed the lowest responsible bid may be disqualified from the award of a County contract upon a finding that:

(1) The contractor and/or its management official have been convicted of any felony not itemized in the preceding section; upon such a finding the following, non-exclusive factors shall be considered in determining the lowest responsible bidder: The nature of the criminal offense; whether the behavior giving rise to the conviction was recent; the age of the individual at the time of the conduct leading to the conviction; and whether the conviction was voluntarily included on the completed Consent;

(2) The contractor and/or its management official have in the past been debarred, removed from or prohibited from bidding or contracting with any federal, state or local governmental entity; or

(3) The contractor or its management official fails to provide a completed Felony Investigation Questionnaire and Consent form, fails to provide any information required thereby, or misstates a fact determined by the County, in its sole discretion, to be material.

COST OF FELONY INVESTIGATIONS: Contractors to whom a County contract is awarded shall reimburse the County for the cost of all felony investigations required in connection with its bid. The County shall bear the cost of felony investigations the results of which disqualify a contractor from the award of a County contract.

CONFIDENTIALITY OF RESULTS OF CRIMINAL BACKGROUND INVESTIGATIONS:

The results of felony investigations, including conviction information contained therein, will be maintained as confidential as may be required by law and will not be communicated or released to any person except as authorized or provided by law. Social Security numbers will not be released.

PROCEDURES: The County Administrator, in conjunction with the County Attorney, may establish procedures for the implementation of this policy which may include, but shall not be limited to, procedures for obtaining and processing felony investigations, standardizing information to be included in solicitations issued by the County, and notifying contractors of the requirements of this policy.

POLICY NON-EXCLUSIVE: Nothing in this policy shall be construed as prohibiting or preventing the County from conducting any other background screening the County may lawfully undertake or from considering any other matter relevant to the determination of the lowest responsible bidder.