

AROUND THE BLOCK

By Nancy Snyder - Rocky Mountain Masonry Institute

Immigration is still the hot topic in Colorado, both from a legislative standpoint and because of several high-profile, but unrelated, murders committed by illegal aliens, some of whom worked in the construction industry.

Adding to that, in September, federal immigration agents arrested 120 suspected illegal workers from Mexico and Central America who were helping build military housing at Buckley Air Force Base in Aurora, Colorado. The general contractor, Texas-based Hunt Building Co., a leading provider of military housing including facilities at Guantanamo Bay, Cuba, denied any knowledge of their workers not being authorized to work in the United States. Federal agents are working with military special investigations officials to determine if the general contractor, subcontractors or others are responsible for the illegal workers.

Colorado's new immigration laws hold general contractors and subcontractors responsible for verifying their workers' ability to work in this country, regardless of where the GC or subs are based. Like any other law, it doesn't matter if you're from out of town and don't know the rules, ignorance of the law is not a defense.

It really should not be that hard to comply with Colorado's new immigration laws, if employers follow a few basic steps and act in good faith, according to attorneys Larry Marquess of the Denver division of Littler Mendelson and Rod Malpert of Littler Mendelson's Global Corporate Migration Practice Group in Arizona.

House Bill 1343, which is already in

Ignorance of Colorado Laws is Not a Defense



Concrete judge from a Quebec, Canada building

effect, is being applied to contractors on public projects, and their subcontractor relationships. While the law does not state that subs are required to verify the work eligibility of new hires, the state is interpreting the law that way, Malpert said.

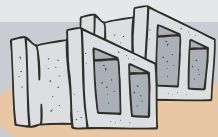
To comply with 1343, the easiest method is to register with the Federal Pilot Program at <https://VIS-DHS.com/employerregistration> and use it to verify the name, birth date and Social Security number of any new hire at the same time that the Federal I-9 check is done. Malpert said employers can do the Pilot Program check and the I-9 before an individual is drug tested and goes through the HR process, as long as it is after a valid employment offer is extended and that all hires are consistently handled in the exact same manner.

Under the new law, subs also have to certify to their GC that they are not knowingly employing unauthorized alien workers, and will have to sign a provision in the contract that states they will not hire any unauthorized alien workers (at any and all job sites anywhere) while performing work on the public contract.

"Knowing" that a person is an unauthorized worker (illegal immigrant) is a touchy matter because not hiring a worker because of an unconfirmed suspicion can be actionable discrimination, Marquess said.

If a suspected illegal employee leaves a job and later returns seeking employment but presents different documentation or a different name, the situation could be used

Continued on page 49



AROUND THE BLOCK

Continued from page 37

to prove a worker is illegal – therefore, the employer cannot hire them under Colorado immigration law. However, because the employer does not know why or how the documents or name changed, it could constitute discrimination if the employer does not re-hire. Marquess said discrimination

employee file, but be prepared to separate them into different files if audited by either agency – so the federal auditors wouldn't see the state documents and vice versa. The documents must be retained for the entirety of the individual's employment.

Employers will also be required to sign



poses a greater threat of lawsuit or penalty than does violating the immigration law.

The way around the situation is to have a misrepresentation clause in a personnel policy which states that presenting false information when applying for a job or while working is grounds for termination and no rehire.

Colorado's other new immigration law, HB 1017, goes into effect Jan. 1, 2007. It also applies to verifying work eligibility of all new hires.

The law requires that employers keep a copy of the documents presented by the worker for the Federal I-9 check. Marquess and Malpert suggested that employers should keep the documents in the same

an affirmation that they inspected the documents and did not alter or falsify them. The law does not give an example of what the affirmation should say.



**Rocky Mountain
MASONRY
INSTITUTE**
686 Mariposa
Denver, CO 80204
303-893-3838
www.rmimi.org



Continued from page 8

managing" cost the firm an extra \$185,000 a year.

A few other no-brainers that happened around that office:

Once my boss wanted to send a fax to our head office, but she was afraid someone else would read it besides the President. So I told her to put it in an "envelope" before she faxed it. She did!

After a recent Human Resources survey, it was clear that my salary was well below the industry average for Art Directors. To correct the situation, my Boss simply changed my job title.

One day (at a different company) my Boss noticed that we used a luxury brand of toilet paper - and the supply was running low. So he took the initiative to buy (10 cases of 96 rolls each) of recycled, el cheapo, sandpaper-style paper, which he proudly boasted cost 25% less than the luxury brand. He made sure everyone knew about his cost saving exercise.

Later that day the President showed my Boss the maintenance contract. Our cleaning service buys all cleaning supplies including toilet paper.

In Closing I remember a comment from one of my past Bosses: "Don, it seems you're just an over-achiever and that's simply not good for the team here."

So, what kind of a boss are you? Will let your workers do their job to their best ability or micro-manage everything?

Don Allen
Publisher

Comments to this
months Insider can be sent to:
DonAllen@concretetoday.com