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DEPARTMENT OF JUSTICE
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Opinion 13-0014

Ms. Stephanie B. Laborde
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90-A-1 PUBLIC FUNDS & CONTRACTS

La. Rev. Stat. 37:2157

Act 107 of the 2011 Regular Session repealed the federal funding exemption to the Louisiana Contractor Licensing Law. Accordingly, a contractor must obtain a license pursuant to La.Rev.Stat. 37:2163 before submitting a bid unless there are applicable federal laws and/or regulations that specifically provide that no contractor shall be required by law, regulation, or practice to obtain a license before submission of a bid or before the bid may be considered for award of a contract.

Dear Ms. Laborde:

Your opinion request has been assigned to me for research and reply. On behalf of the Louisiana State Licensing Board for Contractors ("Board"), you have asked for our opinion on certain matters related to the Contractor Licensing Law, La.Rev.Stat. 37:2150, *et. seq.* Specifically, your request references La.Rev.Stat. 37:2157(A)(6), which prior to 2011, provided the following exemption from the application of the Contractor Licensing Law:

Persons bidding work partially funded by the federal government if a federal regulation or law prohibits the requirement of said license; however, the successful bidder shall apply for a license and meet all requirements of the law and rules and regulations of the board prior to commencement of work.

As indicated in your opinion request, the Board has historically interpreted this provision as allowing unlicensed contractors to submit a bid on projects funded by the federal government and subject to a regulation or law prohibiting the requirement of a license. However, if the unlicensed contractor was the successful bidder on that project, then the contractor must be fully compliant with the Contractor Licensing Law, including becoming properly licensed to perform that work, prior to the commencement of work on that project. Your request further indicates that the Board promulgated §1107 of its Rules and Regulations to implement and further explain this provision.

However, you go on to indicate that La.Rev.Stat. 37:2157(A)(6) was repealed by Act 107 of the 2011 Regular Session ("Act 107"). You state that since this provision was deleted, with no substitute language provided, the Board is of the opinion that the former exemption provided for federal projects has been

removed. As such, all projects are now subject to the general provisions of the Contractor Licensing Law, meaning that a contractor must be properly licensed prior to submitting a bid, whether the project is funded in part by the federal government or not.

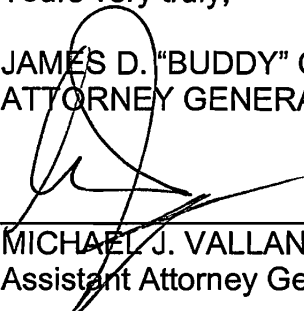
Our review of Act 107 likewise fails to reveal any substitute or replacement language for the former La.Rev.Stat. 37:2157(A)(6). As such, since the exemption contained in the former La.Rev.Stat. 37:2157(A)(6) has since been repealed, it is the opinion of this office that the exemption is no longer applicable. Nevertheless, as indicated in your opinion request, we are aware of various federal regulations that specifically provide that for certain projects, no contractor shall be required by law, regulation, or practice to obtain a license before submission of a bid or before the bid may be considered for award of a contract. It is also the opinion of this office that for those certain projects, the provisions of a particular federal regulation would supersede any state law or regulation to the contrary. As such, any potential bidder on those certain projects would not be required to possess or otherwise obtain a license as a condition of bidding. With the repeal of the exemption, it is our belief that it is now the responsibility of a potential bidder to identify and particularly point out a specific federal law, rule, or regulation which prohibits the possession of a license as a condition of bidding for a particular project.

We trust this adequately responds to your request. However, if our office can be of further assistance, please do not hesitate to contact us.

Yours very truly,

JAMES D. "BUDDY" CALDWELL
ATTORNEY GENERAL

BY:


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