NEBRASKA
AdministrativeServices
Dave Heineman, Governor

Carlos Castillo, Jr.
Director

DATE: July 21, 2009

TO: All Agencies, Boards, and Commissions

FROM: Carlos Castillo, Jr., Director CCCJ
Administrative Servies

RE: LB 403 Implementation

On April 8, 2009, the Governor signed into law Legislative Bill 403 (LB 403), which will require the verification of lawful presence in the United States for recipients of public benefits, public contractors, and public employees. A copy of LB 403 is attached for your information. This memo is intended to assist State agencies in understanding the requirements of the new law and planning for its October 1, 2009, implementation on the effective date.

The law impacts state agencies in three ways: 1) when providing public benefits; 2) when hiring new employees; and 3) when issuing public contracts:

**Public Benefits.** For the purposes of the law, public benefits are defined to mean "any grant, contract, loan, professional license, commercial license, welfare benefit, health payment or financial assistance benefit, disability benefit, public or assisted housing benefit, postsecondary education benefit, food assistance benefit, or unemployment benefit or any other similar benefit" provided by a governmental agency. There are limited exceptions in the law for certain benefits such as emergency health care services, short term noncash disaster relief, and life safety services. You should carefully read the law to determine if the benefits your agency provides fit one of the exceptions. If your agency provides public benefits that are not exempt from the law, beginning October 1, 2009, your agency is required to do the following:

1. Have each applicant for public benefits attest that he or she is a U.S. citizen or a qualified alien. This must be done using the format prescribed by the Department of Administrative Services. Attached you will find an attestation form developed by the Department of Administrative Services for this purpose. You may use this form (which is attached hereto and available on the Department of Administrative Services' website at www.das.state.ne.us) or you may take the language from this form and place it in other forms or documents used by your agency to process applications for public benefits.

***If, in step 1, the applicant indicates he or she is an alien, then complete step 2 as follows:***

2. Verify his or her lawful presence in the United States using the SAVE (Systematic Alien Verification for Entitlements) Program operated by the U.S. Department of Homeland Security. To

utilize the SAVE program, your agency must collect certain information from the applicant for public benefits which he or she has received from the U.S. Citizenship and Immigration Service. Your agency must apply to the U.S. Department of Homeland Security in order use the SAVE Program and to determine the information required to be gathered from public benefit applicants (see www.uscis.gov). Although the effective date of the law is October 1, 2009, registering for SAVE is something your agency can, and should, start immediately.

Please direct your staff's questions regarding the attestation format to Laura Peterson at (402) 471-4436 or laura.peterson@nebraska.gov.

**Public Employees.** The law requires public employers (defined to include, but not be limited to, all state agencies, boards, and commissions) to register with, and use, a federal immigration verification system (E-Verify) to determine the work eligibility status of new employees hired on or after October 1, 2009, who will be physically performing services within the State of Nebraska.

All new hire employee verifications required by LB 403 will be administered by the State Personnel Division of the Department of Administrative Services using a centralized process. A description of this process is attached for your information and will be distributed to agency HR contacts in the near future.

The process described on the attachment is expected to be a temporary solution to meet the requirements of LB 403. The Department of Administrative Services is currently working on an electronic solution to make this process easier and more efficient.

Please direct your staff's questions regarding the state employee verification portion of LB 403 to Dovi Mueller at (402) 471-4465 or dovi.mueller@nebraska.gov.

**Public Contracts.** All agency contracts awarded after October 1, 2009, must contain a provision requiring the public contractor to use a federal immigration verification system (E-Verify Program) or other equivalent federal program to determine the work eligibility status of new employees physically performing services within the State of Nebraska. If the contract is with an individual, the agency must obtain the attestation form described under the public benefits section of this memo and, if on the attestation form the contractor indicates he or she is an alien, the agency must verify the contractor's lawful presence in the United States using the SAVE (Systematic Alien Verification for Entitlements) Program operated by the US Department of Homeland Security.

The Department of Administrative Services has drafted contract language which will be used in all contracts bid through Materiel Division (this language is attached for your information). Your agency may use this language. If other contract language is utilized then your agency must ensure that your contracts require your contractors to verify their new employees' status and that your agency provides for verification of individuals/sole proprietors with whom you contract.

Please direct your staff's questions regarding the public contracting portion of LB 403 to Laura Peterson at (402) 471-4436 or laura.peterson@nebraska.gov.