

## Frequently Asked Questions

- 1) Is a contractor or subcontractor, who does not perform work on a public works contract, required to comply with the Pennsylvania Public Works Employment Verification Act 127 of 2012?

**ANSWER:** No. Act 127 only applies to contractors or subcontractors that have been awarded a public works contract or subcontract.

- 2) If the prime contract was fully executed prior to January 1, 2013, are subcontracts executed with that prime contractor, after January 1, 2013, subject to Act 127 of 2012?

**ANSWER:** No. The prime contract was fully executed before 1/1/13; therefore all subcontracts with that prime are not subject to Act 127.

- 3) If a public works contract, on a project in excess of \$25,000, was fully executed in 2012 but the majority of the work will not be completed until mid-2013, does the contractor have to comply with Act 127 of 2012 for any new employees hired on or after January 1, 2013?

**ANSWER:** No. The date of execution, not the date of performance, determines if the contract is subject to Act 127. In this scenario, the contractor would not be subject to Act 127.

- 4) Suppose an owner decides to expand the business and wins the bid on a public works contract next year, 2014, on a project over \$25,000. How far back does the owner have to look when deciding which employees need to be verified?

**ANSWER:** All employees hired after January 1, 2013 must be verified, regardless of what projects those employees are working on (public work or not) and regardless of whether they were working on-site or off-site. If your company has a public works contract, all employees hired after January 1, 2013 must be verified.

- 5) How much time does a contractor/subcontractor have to verify new hires?

**ANSWER:** All employees hired after January 1, 2013 must be verified within 5 business days of their start date.

- 6) Does the contractor/subcontractor have to submit a new Verification Form with each new contract?

**ANSWER:** Yes. A Public Works Employment Verification Form must be submitted to the contracting public body as a precondition to award for each contract.

7) Will the submission address for the Verification Form change with each contract?

**ANSWER:** Possibly. The Verification Forms are always submitted to the contracting public body pursuant to the address provided by the public body in each project's bidding documents.

8) I am an attorney and have legal questions. To whom do I direct those questions?

**ANSWER:** Office of Chief Counsel  
Department of General Services  
603 North Office Building  
Harrisburg, PA 17125  
Phone: (717)787-1284

9) What are the requirements for a public body under Act 127 of 2012?

**ANSWER:**

During the bidding phase, the public body should:

- Ensure that the bidding documents (Instructions to Bidders and/or Notice to Bidders) inform contractors if Act 127 is applicable to a particular project. Any public works project with a total value \$25,000 or more is subject to Act 127.
- Ensure that the contract documents (General Conditions of the Contract) require the prime contractors to notify all subcontractors, of every level, in their subcontracts, that Act 127 applies to the project and that the Verification Form must be submitted to the contracting public body.

Prior to awarding any contracts on the project, the public body must:

- Obtain a completed Verification Form (with no alterations or changes of any type) from each successful bidder who will be awarded a contract.
- Be able to show (if audited) the date of the bids, the date they received the Verification Form from each contractor and the date of the award of contract

During construction, the public body:

- Will be receiving Verification Forms from subcontractors of every level.
- The public body should have knowledge of all subcontractors performing work on the public work.

10) How will Act 127 impact employers with an international foot print? Will employees that never work in the U.S. need to be verified?

**ANSWER:** Act 127 defines employee as “[an] individual hired by a public works contractor or subcontractor for whom a public works contractor or subcontractor is required by law to file a Form W-2 with the Internal Revenue Service.” If an employer with an international base is performing work on a public work in the Commonwealth, the general rule is that all employees must be verified. However, if the employer employs persons for which a Form W-2 is not required because he or she does not work in the United States, such employees fall outside the definition of employee under the Act and do not need to be verified.

11) Is the general contractor liable if the subcontractor does not comply with Act 127?

**ANSWER:** No, as long as the general contractor has included language in the subcontract informing the subcontractors of Act 127 and the steps needed to comply. It is the responsibility of the subcontractor to complete the Verification Form and submit it to the contracting public body.

12) If audited, how will the public body know all the subcontractors working on a particular project?

**ANSWER:** The Verification Forms submitted with the corresponding contract/project number will show what subcontractors are performing work on a particular project.

13) How long does a subcontractor have to submit the Verification Form?

**ANSWER:** Subcontractors must submit the Verification Form to the contracting public body prior to beginning either onsite or offsite work on a public works contract.

14) Is an emergency procurement exempt from Act 127 of 2012?

**ANSWER:** No. Act 127 does not provide an exemption for an emergency procurement. If the project is a public work, as defined under Section 2 of the act of August 15, 1961 (P.L. 987, No. 442) (Prevailing Wage Act), then it is subject to Act 127 of 2012.