

**Q&A for Implementation of CRS 24-76.5-101 et. seq.
HB 06S-1023**

**Public Contracts with Natural Persons
Restrictions on Benefits**

August 2, 2006 original; last updated June 10, 2008

1. What are the basic differences between CRS 8-17.5-101 & 102 (HB 06 1343) and CRS 24-76.5-101 to 103 (HB 06S 1023)?

CRS 8-17.5-101 & 102 applies to public contracts for services entered into on and after August 7, 2006, and as amended by SB 08-193 for procurements for services entered into on and after May 13, 2008.

CRS 24-76.5-101 et. seq. applies to contracts with natural persons (sole proprietors) entered into on and after August 1, 2006. It also applies to natural persons over the age of 18 who apply for a public benefit on and after August 1, 2006 under existing contracts where a contractor/vendor administers such applications.

Under both statutes, contracts are defined broadly to include any agreement including written contracts, purchases orders, grants, and other acceptable forms of agreement.

2. Does CRS 24-76.5-101 et. seq. apply to both people and entities contracting with the State or political subdivision to provide services to that entity?

CRS 24-76.5-102 defines a public benefit by reference to 8 U.S.C. 1611 and 1621, which in turn, defines a public benefit as including any "contract." CRS 24-76.5-103, however, applies only to "natural persons" over the age of eighteen. A natural person is a human being, not a corporation, partnership, or any other entity. Therefore, the requirements of CRS 24-76.5-101 et. seq. shall be applied to any natural person contracting with the State or a political subdivision. This would include sole proprietors.

3. Does CRS 24-76.5-101 et. seq. apply to benefits provided by State agencies or political subdivisions through third-party intermediaries?

Yes. CRS 24-76.5-103 requires each agency or political subdivision of the state to verify the lawful presence in the United States of each natural person eighteen years of age or older who applies for state or local public benefits or for federal public benefits. In some circumstances, public benefits are administered by a non-governmental third-party intermediary or grantee rather than directly by a state agency or political subdivision. In general, the requirements of CRS 24-76.5-101 et. seq. applies to these benefits. The term "public benefit" is defined to

include both benefits “provided by” the federal, state and local government and benefits provided “by appropriated funds” of the federal, state and local government. 8 U.S.C. § 1611(c)(1) and § 1621(c)(1). Therefore, the definition of “public benefits” includes both programs administered by government agencies and programs administered by non-governmental organizations with public funds, and are covered by CRS 24-76.5-101 et. seq. if the benefits flow directly to natural persons.

CRS 24-76.5-101 et. seq. imposes no duty on non-governmental agencies to verify an applicant’s lawful presence in the United States. That duty is imposed solely on State agencies and political subdivisions. Each agency and subdivision must determine how it will comply with the requirements of CRS 24-76.5-101 et. seq. for those programs administered by private third-party intermediaries. An agency may comply with the requirements either by requiring the third party (by contract or otherwise) to perform the required verification or by performing the verification itself.

4. What are the exceptions to CRS 24-76.5-101 et. seq. ?

State agency or political subdivision of the state is not required to verify the lawful presence in the United States of natural persons applying for benefits in the following situations:

1. CRS 24-76.5-101 et. seq. applies to “applicants” for public benefits. If a non-governmental organization provides publicly funded benefits to persons without an individualized application process, the persons who receive the benefits are not “applicants” and the requirements of CRS 24-76.5-101 et. seq. do not apply.
2. The requirements do not apply to programs or services that are exempt from the definition of “federal public benefit” or “state and local public benefit” under federal law.
3. CRS 24-76.5-101 et. seq. does not apply to benefits that are exempted from verification requirements under either federal law or the terms of CRS 24-76.5-103, including:
 - a. For any purpose for which lawful presence in the United States is not required by law, ordinance, or rule,
 - b. For obtaining health care items and services that are necessary for the treatment of an emergency medical condition of the person involved and are not related to an organ transplant procedure,
 - c. For short-term, noncash, in-kind emergency disaster relief,
 - d. For public health assistance for immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases whether or not such symptoms are caused by a communicable disease,

- e. For programs, services, or assistance, such as soup kitchens, crisis counseling and intervention, and short-term shelter specified by federal regulation that: 1) Deliver in-kind services at the community level, including services through public or private nonprofit agencies, 2) Do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources, and 3) Are necessary for the protection of life or safety
- f. For pregnant women, or
- g. For individuals over age of eighteen years and under the age of nineteen years who continue to be eligible for medical assistance programs after their eighteenth birthday.

5. Does CRS 24-76.5-101 et. seq. apply retroactively to existing benefit recipients, or just new applicants?

No; verification of existing beneficiaries is not required. The state agency or political subdivision is required to verify the lawful presence in the United States of each natural person eighteen years of age or older "who applies" for State or local public benefits or for federal public benefits.

6. How does the state agency or political subdivision verify the lawful presence in the United States of each applicant eighteen years of age or older for federal public benefits or state or local public benefits?

See the Rules for Lawful Presence, which include acceptable identification documents, issued by the Department of Revenue:

http://www.revenue.state.co.us/EDO_dir/wrap.asp?incl=LawfulPresenceRules