



STATE OF ARKANSAS
THE ATTORNEY GENERAL
DUSTIN MCDANIEL

Opinion No. 2009-160

November 23, 2009

Richard A. Weiss, Director
Department of Finance & Administration
1509 West Seventh Street, Suite 401
Post Office Box 3278
Little Rock, Arkansas 72203-3278

Dear Mr. Weiss:

I am writing in response to your request for an opinion on three questions related to Attorney General Opinion 2009-057. You have asked:

1. May the Office of State Procurement [OSP] award the contract to the an out-of-state motor vehicle dealer who is not registered as a motor vehicle dealer in Arkansas [Foreign Vendor], if the Foreign Vendor has a temporary permit at the time of the bid submission, which temporary permit expires prior to the contract award?
2. If OSP awards the contract to a Foreign Vendor who possesses a temporary permit at the time of the award, does Arkansas law require the Foreign Vendor to have a temporary permit at the time that the vehicles are delivered?
3. How is the answer to question (2) affected by a vehicle delivery period that may span several months when a temporary permit is only valid for one week?

RESPONSE

These questions assume, consistent with the discussion in Op. Att'y Gen. 2009-057, that any foreign vendor who wishes to bid on a state contract for the purchase of new motor vehicles will be able to obtain a temporary permit for that purpose.

Upon further review, however, I believe it is clear that the “temporary permit” option is limited to *Arkansas auto shows*. The relevant subsection defines “temporary permit” as follows:

‘Temporary permit’ means a license issued for one (1) week or less to a motor vehicle dealer who is licensed in another state for the purpose of displaying, offering to sell, selling, and soliciting the sales of motor vehicles at the time and place designated by the commission *and only at an approved motor vehicle show in this state*[.]

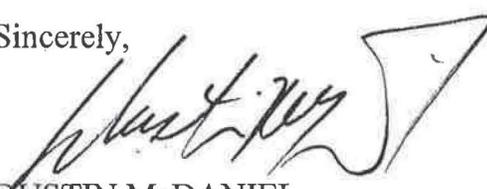
A.C.A. § 23-112-103(29) (Supp. 2009) (emphasis added).

This would appear to render the above questions moot, as I assume you are not inquiring regarding a state contract involving vehicles displayed at an auto show. I will note, however, that questions concerning the availability of temporary permits, and the application of such permits under particular circumstances, must ultimately be decided by the Arkansas Motor Vehicle Commission, as the issuing authority.

Although Op. 2009-057 did not specifically declare that temporary permits were available to foreign vendors wishing to become licensed in order to bid on any state contract for motor vehicle purchases, the possibility was certainly suggested. That suggestion was in error, and the opinion is hereby superseded to that extent. As noted, this would appear to moot your questions.

Deputy Attorney General Elisabeth A. Walker prepared the foregoing opinion, which I hereby approve.

Sincerely,



DUSTIN McDANIEL
Attorney General

DM:EAW/cyh