



AMERICAN SOCIETY OF NOTARIES

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Security Concerns for the Sole Proprietor Notary

By Nicholas Tulve Jr., ASN Chairman

Many of ASN's members are working as self-employed mobile notaries public. These notaries have become increasingly concerned about the amount of information that potential contractors are asking them to submit before job assignments will be awarded. For example, companies have been routinely asking for photocopies of a notary's bond and/or E&O policy, notary stamp or seal, driver's license, social security card, and a W-9. Just recently I had a company ask for a copy of my auto insurance policy to be added to this ever-increasing list.

My initial thoughts are that requests for this information appear to be unreasonable. First, many companies erroneously view the notary bond and the E&O policy as being synonymous. They are not! As we notaries know, the bond (required by some states) protects the consumer, not the notary. However, the notary can still be held liable by the bond company if the bond company pays a claim on the notary's behalf. The real protection for the notary is, of course, the E&O policy that is not required by any state statute. By my way of thinking, since these companies don't understand what these policies are and who they protect, they really don't know why they want these copies. It just seems to be something to add to the list to make the company feel as though they are legitimizing their use of the subcontractor. Also, if a notary's state requires a bond, that notary must secure a bond to have a valid commission.

The next major item to leap off this list is the request for an impression of the notary's stamp or seal. This further illustrates how little these companies really know and understand about notary law. I know of at least one state that explicitly forbids a notary from using his/her stamp or seal in any manner other than for an official notarial act. To do so is illegal! In some other states this illegality is implied. ASN recommends that you use your stamp or seal judiciously. Your stamp or seal should be safeguarded and should only be used in an official capacity.

I'm really not certain why companies want a copy of a driver's license from an independent contractor. The only time I have ever had to provide some form of ID for employment was when I worked as an employee not as a contractor. The request for a copy of the notary's social security card is redundant with the submission of a W-9 and not necessarily required. I prefer to use an Employee Identification Number (EIN) and therefore do not have to provide my social security number to anyone (see the "Tip" at left).

I can't find any law that requires the employer of an independent contractor to ask for such documentation nor can I find any law that prevents them from asking for such information. I am not an attorney and cannot give you any legal advice but it does appear to me that once you have given a company private information, they must protect that information or else assume a liability if they divulge this information without your permission. I do feel that as an independent contractor you have the right to ask the company you are potentially contracting with how your information will be safeguarded and who in their company will have access to your information. I also feel that you have the right to refuse to work for any company that will not provide you with the answers to these questions. Each of you will have to make your own decision as to how you want to deal with companies that make such requests and decide if you wish to work for them.

Companies could save both themselves and you a lot of back-and-forth dickering by simply creating a form or document whereby the potential notary contractor answers a series of questions, then signs the document affirming that the providing of false information is an act of perjury, much like when you sign your tax return. The company could even take this a step further and have you swear or affirm your answers in front of a notary.

As has been stated in other ASN documents, we as notaries public have the responsibility to safeguard privacy information we have received from our clients. We also have the responsibility to safeguard our own private information. There have been at least two documented cases of a notary's identity being compromised by an employee of a signing company when that company did not properly safeguard the notary's information. •