

**RULES
OF
GEORGIA DEPARTMENT OF LABOR**

“GEORGIA SECURITY AND IMMIGRATION COMPLIANCE ACT” OF 2006

CHAPTER 300-10-1

**PUBLIC EMPLOYERS, THEIR CONTRACTORS AND SUBCONTRACTORS
REQUIRED TO VERIFY NEW EMPLOYEE WORK ELIGIBILITY THROUGH A
FEDERAL WORK AUTHORIZATION PROGRAM**

RULES OF GENERAL APPLICABILITY

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300-10-1-.01 Definitions.

(1) “Commissioner” means the Commissioner of the Georgia Department of Labor.

(2) “Federal work authorization program” means any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security (USDHS) or any equivalent federal work authorization program operated by the United States

Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603.

(3) “Public employer” means every department, agency, or instrumentality of the state or a political subdivision of the state.

(4) “Subcontractor” includes a subcontractor, contract employee, staffing agency, or any contractor regardless of its tier.

(5) “Georgia Security and Immigration Compliance Act” of 2006 means Senate Bill 529 of the 2006 Georgia General Assembly, enacted as Act 457.

Authority O.C.G.A. 13-10-90.

300-10-1-.02 Public Employers, Their Contractors and Subcontractors Required to Verify New Employee Work Eligibility Through a Federal Work Authorization Program.

(1) Pursuant to O.C.G.A. 13-10-91, every public employer, every contractor of a public employer, and every subcontractor of a public employer’s contractor must register and participate in a federal work authorization program, as follows:

(a) On or after July 1, 2007, every public employer shall register and participate in a federal work authorization program to verify the work eligibility information of all new employees.

(b) No public employer shall enter into a contract for the physical performance of services within this state unless the contractor registers and participates in a federal work authorization program to verify the work eligibility information of all new employees.

(c) No contractor or subcontractor who enters into a contract with a public employer shall enter into such a contract or subcontract in connection with the physical performance of services within this state unless such contractor or subcontractor registers and participates in a federal work authorization program to verify the work eligibility information of all new employees.

(2) In accordance with O.C.G.A. 13-10-91, the requirements of paragraphs (b) and (c) of paragraph (1) shall apply to public employers, their contractors and subcontractors, as follows:

(a) On or after July 1, 2007, to public employers, contractors, or subcontractors of 500 or more employees;

(b) On or after July 1, 2008, to public employers, contractors, or subcontractors of 100 or more employees; and

(c) On or after July 1, 2009, to all other public employers, their contractors, or subcontractors.

(3) As of the date of enactment of O.C.G.A. 13-10-91, the applicable federal work authorization program is the “Employment Eligibility Verification (EEV) / Basic Pilot Program” operated by the U. S. Citizenship and Immigration Services Bureau of the U.S. Department of Homeland Security, in conjunction with the Social Security Administration (SSA). Public employers, contractors and subcontractors subject to O.C.G.A. 13-10-91 shall comply with O.C.G.A. 13-10-91 and this rule by utilizing the EEV / Basic Pilot Program. The EEV / Basic Pilot Program can be accessed from the USDHS U.S. Citizenship and Immigration Services Internet website at <https://www.vis-dhs.com/EmployerRegistration>. Information and instructions regarding EEV / Basic Pilot Program Registration, Corporate Administrator Registration, and Designated Agent Registration can be found at that website address.

(4) All rules, regulations, policies, procedures and other requirements of the EEV / Basic Pilot Program or any other federal work authorization program defined in Rule 300-10-1-.01 and permitted to be used to satisfy the requirements of O.C.G.A. 13-10-91 and these rules, shall be considered additional requirements of this rule.

(5) In accordance with O.C.G.A. 13-10-91, public employers, contractors and subcontractors may utilize any other federal work authorization program operated by the United States Department of Homeland Security or any equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603, as such work authorization programs become available.

(6) A copy of these Chapter 300-10-1 rules, including any forms prescribed or available to administer and effectuate these rules, shall be published on the Georgia Department of Labor’s website.

(7) In accordance with the provisions of O.C.G.A. 13-10-91, these rules in Chapter 300-10-1 do not apply to any contract or agreement relating to public transportation. Rules and forms applicable to any contract or agreement relating to public transportation may be found on the Georgia Department of Transportation’s website.

(8) The rules of Chapter 300-10-1 shall be enforced without regard to race, religion, gender, ethnicity, or national origin.

Authority O.C.G.A. 13-10-91.

300-10-1-.03 Contractor and Subcontractor Evidence of Compliance.

(1) Pursuant to O.C.G.A. 13-10-91, public employers who enter into a contract for the physical performance of services within this state shall include in such contract all of the following provisions:

(a) a provision stating that compliance with the requirements of O.C.G.A. 13-10-91 and Rule 300-10-1-.02 are conditions of the contract;

(b) a provision listing the three statutory employee-number categories of “500 or more employees,” “100 or more employees,” and “fewer than 100 employees,” as identified in O.C.G.A. 13-10-91, with a space provided for the contractor to check, initial or otherwise affirmatively indicate the employee-number category applicable to the contractor; and

(c) a provision stating the contractor’s agreement that, in the event the contractor employs or contracts with any subcontractor(s) in connection with the covered contract, the contractor will secure from the subcontractor(s) such subcontractor(s’) indication of the employee-number category applicable to the subcontractor; and

(d) a provision stating that the contractor’s compliance with the requirements of O.C.G.A. 13-10-91 and Rule 300-10-1-.02 shall be attested by the execution of the contractor affidavit as shown in Rule 300-10-1-.07, or a substantially similar contractor affidavit, which document shall be attached to, and become a part of, the covered contract.

(2) Pursuant to O.C.G.A. 13-10-91, public employers shall include in all covered contracts a provision stating the contractor’s agreement that, in the event the contractor employs or contracts with any subcontractor(s) in connection with the covered contract, the contractor will secure from such subcontractor(s) attestation of the subcontractor’s compliance with O.C.G.A. 13-10-91 and Rule 300-10-1-.02 by the subcontractor’s execution of the subcontractor affidavit shown in Rule 300-10-1-.08 or a substantially similar subcontractor affidavit, and maintain records of such attestation for inspection by the public employer at any time. Such subcontractor affidavit shall become a part of the contractor/subcontractor agreement.

(3) All portions of contracts pertaining to compliance with O.C.G.A. 13-10-91 and these rules, and any affidavits related thereto, shall be open for public inspection in this state at reasonable times during normal business hours.

Authority O.C.G.A. 13-10-91.

300-10-1-.04 Public Employer Certification of Registration and Participation in a Federal Work Authorization Program.

Every public employer shall certify its registration and participation in the EEV / Basic Pilot Program (or other applicable federal work authorization program) by transmitting a copy of all documents required for the public employer’s registration and participation in such program, including a fully executed copy of the required Memorandum of Understanding and the EEV / Basic Pilot Program User Identification Number, to the public employer’s agency head or to an individual designated by the agency head to receive such certification.

Authority O.C.G.A. 13-10-91.

300-10-1-.05 Public Employer Assurance of Compliance with All New Employee Work Eligibility Verification Requirements.

Each public employer subject to O.C.G.A. 13-10-91 shall designate an individual to monitor new employee work eligibility verification required by O.C.G.A. 13-10-91 and these rules. Such public employer shall maintain a file of all written records required under these rules for public inspection. Such records shall be maintained in accordance with the public employer's applicable records retention schedule and applicable federal law. Public employers may implement additional compliance measures as they deem appropriate.

Authority O.C.G.A. 13-10-91.

300-10-1-.06 Conformity with Federal Immigration Law.

The requirements of Chapter 300-10-1 of the Rules and Regulations of the State of Georgia shall be construed in conformity with federal immigration law and requirements including, but not limited to, the Form I-9 provisions of the Employment Eligibility Verification process required pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603.

Authority Ga. L. 2006, p. 105, Section 1.

300-10-1-.07 Contractor Affidavit and Agreement.

Public employers shall use the following affidavit and agreement form, or an affidavit and agreement form that is substantially similar to that provided below, to document a contractor's compliance with the requirements of O.C.G.A. 13-10-91:

Contractor Affidavit and Agreement (Example):

CONTRACTOR AFFIDAVIT AND AGREEMENT

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. 13-10-91, stating affirmatively that the individual, firm, or corporation which is contracting with (name of public employer) has registered with and is participating in a federal work authorization program* [any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or any equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603], in accordance with the applicability provisions and deadlines established in O.C.G.A. 13-10-91.

The undersigned further agrees that, should it employ or contract with any subcontractor(s) in connection with the physical performance of services pursuant to this contract with (name of

public employer), contractor will secure from such subcontractor(s) similar verification of compliance with O.C.G.A. 13-10-91 on the Subcontractor Affidavit provided in Rule 300-10-01-.08 or a substantially similar form. Contractor further agrees to maintain records of such compliance and provide a copy of each such verification to the (name of the public employer) at the time the subcontractor(s) is retained to perform such service.

EEV / Basic Pilot Program* User Identification Number

BY: Authorized Officer or Agent
(Contractor Name)

Date

Title of Authorized Officer or Agent of Contractor

Printed Name of Authorized Officer or Agent

SUBSCRIBED AND SWORN
BEFORE ME ON THIS THE

____ DAY OF _____, 200_

Notary Public

My Commission Expires:

* As of the effective date of O.C.G.A. 13-10-91, the applicable federal work authorization program is the "EEV / Basic Pilot Program" operated by the U. S. Citizenship and Immigration Services Bureau of the U.S. Department of Homeland Security, in conjunction with the Social Security Administration (SSA).

(End of Form)

Authority O.C.G.A. 13-10-91.

300-10-1-.08 Subcontractor Affidavit.

Contractors shall use the following affidavit form, or an affidavit form that is substantially similar to that provided below, to document a subcontractor's compliance with the requirements of O.C.G.A. 13-10-91:

Subcontractor Affidavit (Example):

SUBCONTRACTOR AFFIDAVIT

By executing this affidavit, the undersigned subcontractor verifies its compliance with O.C.G.A. 13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services under a contract with (name of contractor) on behalf of (name of public employer) has registered with and is participating in a federal work authorization program* [any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or any equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603], in accordance with the applicability provisions and deadlines established in O.C.G.A. 13-10-91.

EEV / Basic Pilot Program* User Identification Number

BY: Authorized Officer or Agent
(Subcontractor Name)

Date

Title of Authorized Officer or Agent of Subcontractor

Printed Name of Authorized Officer or Agent

SUBSCRIBED AND SWORN
BEFORE ME ON THIS THE
____ DAY OF _____, 200_

Notary Public
My Commission Expires:

* As of the effective date of O.C.G.A. 13-10-91, the applicable federal work authorization program is the "EEV / Basic Pilot Program" operated by the U. S. Citizenship and Immigration Services Bureau of the U.S. Department of Homeland Security, in conjunction with the Social Security Administration (SSA).

(End of Form)

Authority O.C.G.A. 13-10-91.

300-10-1-.09 Random Audit Program.

(1) The provisions of this rule shall not take effect until necessary funds have been specifically appropriated by the General Assembly for such purposes.

(2) It shall be the duty of the Commissioner to review compliance with the provisions of O.C.G.A. 13-10-91 and these rules by making random audits of public employers, their contractors and subcontractors who are subject to the provisions of O.C.G.A. 13-10-91.

(3) The Commissioner shall have the power and authority to employ such persons, make such expenditures, require such reports, make such investigations, and take such other action as is deemed necessary or suitable to accomplish such audits. The Commissioner of Labor and his duly authorized representatives employed for such audits shall have all the powers referred to in Code Section 34-8-88 with respect to the administration of the unemployment insurance program.

(4) All public employers, their contractors and subcontractors subject to O.C.G.A. 13-10-91 shall provide to such authorized representatives of the Commissioner, upon request, such information and documents regarding each employee hired on or after July 1, 2007 as will permit the Commissioner to verify the employer's compliance with O.C.G.A. 13-10-91 and these rules. All public employers, their contractors and subcontractors subject to O.C.G.A. 13-10-91 shall keep true and accurate records of all documents utilized to accomplish and substantiate such compliance. Such records shall be available for inspection in this state and shall be subject to being copied by the Commissioner or an authorized representative of the Commissioner at any time and as often as may be necessary. Such employers shall file such reports, summaries, and other documents as the Commissioner may request. The Commissioner or an authorized representative of the Commissioner may require from any person, employer or individual any sworn or unsworn reports deemed necessary to review compliance with O.C.G.A. 13-10-91 and these rules.

(5) The Department of Labor shall notify a public employer, its contractor(s) or subcontractor(s) subject to O.C.G.A. 13-10-91 in writing whenever it appears to the Commissioner that such employer has failed to satisfy any of the requirements of O.C.G.A. 13-10-91 or these rules. The department shall notify the U. S. Department of Homeland Security whenever the records available to the department, including records requested of and provided by a covered public employer, contractor or subcontractor, are not sufficient to verify the work eligibility of an individual in the employ of such employer.

(6) The Department of Labor shall provide state-wide education and training to assist public employers, their contractors and subcontractors in complying with the requirements of O.C.G.A. 13-10-91 and these rules.

(7) The Commissioner shall have the power and authority to adopt, amend, or rescind these rules and regulations.

Authority O.C.G.A. 13-10-91.