



BOC Meeting Date
December 2, 2009

Requesting Agency
County Manager

Commission Districts Affected
All

Requested Action (Identify appropriate Action or Motion, purpose, cost, timeframe, etc.)

Approval of Policy 100-28 establishing administrative policies and procedures relating to implementation of the amended Georgia Security and Immigration Compliance Act effective January 1, 2010.

Requirement for Board Action (Cite specific Board policy, statute or code requirement)

Establishment of official administrative policy requires Board approval.

Is this Item Goal Related? (If yes, describe how this action meets the specific Board Focus Area or Goal)

Yes No

Summary & Background

(First sentence includes Agency recommendation. Provide an executive summary of the action that gives an overview of the relevant details for the item. Identify how item meets Board Focus Area & Goals.)

This past legislative session, the Georgia Assembly amended several sections of the Georgia Code that make up the Georgia Security and Immigration Compliance Act. The original Act established new work eligibility verification requirements for Fulton County and its contractors and subcontractors; the Act further prohibited the provision of certain services or benefits to any adult without a verification of their immigration status. Additionally, GSCIA required the County to make a reasonable effort to verify the immigration status of any foreign national charged with and jailed for a felony or DUI.

The amendments, which go into effect January 1, 2010, does the following --

- Mandates public employers to post their federal identification number and date of authorization on their website;
- Requires a signed, notarized affidavit from contractors attesting registration and participation in E-Verify;
- Defines the term "applicant" for public benefits;
- Expands the definition of "public benefits";
- Clarifies the annual reporting requirement;
- Calls for a reasonable effort to determine a person's nationality when any person is confined in compliance with Article 36 of the Vienna Convention on Consular Relations.
- Directs the County Jailer to inform a foreign national prisoner of their right to have their native country's local consular office notified of their detention and to allow a consular officer from their native country to visit, converse, correspond, and arrange for legal representation; and
- Establishes penalties for noncompliance.

Agency Director Approval

Typed Name and Title

Roberto Hernandez, Deputy County Manager

Phone

(404) 612-3755

Signature

Date

November 23, 2009

County Manager's Approval

Fiscal Impact / Funding Source*(Include projected cost, approved budget amount and account number, source of funds, and any future funding requirements.)*

The adoption of this policy results in minimal fiscal impacts associated with the rates charged by the SAVE program of .50 per request and a minimum monthly service fee of \$25.00 per using agency.

Exhibits Attached*(Provide copies of originals, number exhibits consecutively, and label all exhibits in the upper right corner.)*

Exhibit 1: Proposed policy 100-28 entitled Georgia Security and Immigration Compliance Act Implementation

Source of Additional Information*(Type Name, Title, Agency and Phone)*

Nwakaego Okparaeke, County Attorney's Office, 404-612-0246

	POLICIES AND PROCEDURES	
	SUBJECT: Georgia Security and Immigration Compliance Act Implementation	
	EFFECTIVE DATE: January 1, 2010	NUMBER: 100-28

Policy

It is policy of Fulton County Government, its agencies, departments and agents to comply with the Georgia Security and Immigration Compliance Act (GSICA), as amended from time to time. This law requires Fulton County to –

- Verify citizenship of all newly hired employees;
- Verify citizenship of all applicants for certain public services and benefits;
- Determine the immigration status of any foreign national charged and jailed with a felony, driving under the influence (DUI), driving without a license, or a serious misdemeanor;
- Notify foreign nationals detained in the Fulton County Jail of their right to notify their country's local consular office of their detention;
- Ensure that all contractors and subcontractors doing business with Fulton County register with, and participate in, a federal work authorization program to verify work eligibility of all new employees;
- Register with a federal work authorization program (currently "E-Verify").

Background

Senate Bill 529, the "Georgia Security and Immigration Compliance Act" of 2006, established new work eligibility verification requirements for Fulton County and its contractors and subcontractors, effective July 1, 2007. The Act further prohibited the provision of certain services or benefits to any adult without a verification of their immigration status. Additionally, GSCIA required the County to make a reasonable effort to verify the immigration status of any foreign national charged with and jailed for a felony or DUI.

During the 2009 Legislative Session, House Bill 2 amended several sections of the Georgia Code that make up the GSCIA. Effective January 1, 2009, HB 2 --

- Mandates public employers to post their federal identification number and date of authorization on their website;
- Requires a signed, notarized affidavit from contractors attesting registration and participation in E-Verify;
- Defines the term "applicant" for public benefits;
- Expands the definition of "public benefits";

- Clarifies the annual reporting requirement;
- Calls for a reasonable effort to determine a person's nationality when any person is confined in compliance with Article 36 of the Vienna Convention on Consular Relations.
- Directs the County Jailer to inform a foreign national prisoner of their right to have their native country's local consular office notified of their detention and to allow a consular officer from their native country to visit, converse, correspond, and arrange for legal representation; and
- Establishes penalties for noncompliance.

Applicability

Effective January 1, 2010, this policy will apply to Fulton County departments and agencies, contractors, and to the staffs of elected officials.

Definitions

- (1) *Applicant* means any person 18 years of age or older, who has made application for access to public benefits on behalf of an individual, business, corporation, partnership, or other private entity.
- (2) *Contractor* means contractors, contract employees, staffing agencies, or subcontractors.
- (3) *Public benefit* means –
 - a). any grant, contract, loan, professional license, or commercial license provided by Fulton County or by appropriated funds of the United States, State of Georgia or Fulton County;
 - b). Any retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit, or any other similar benefit for which payments of assistance are provided to an individual, household, or family eligibility unit by an agency of Fulton County government, or by appropriated Federal, State or County funds including –
 - Adult education
 - Authorization to conduct a commercial enterprise or business
 - Business certificate, license or registration
 - Business loan
 - Cash allowance
 - Disability assistance or insurance
 - Down payment assistance
 - Energy assistance
 - Food stamps
 - Gaming license
 - Health benefits
 - Housing allowance, grant, guarantee or loan

- Loan guarantee
- Medicaid
- Occupational license
- Professional license
- Registration of a regulated business
- Rent assistance or subsidy
- State grant or loan
- Tax certificate required to conduct a commercial business
- Temporary assistance for needy families (TANF)
- Unemployment insurance
- Welfare to work

(4) *Foreign national* means any individual who is a citizen of a country other than the United States.

(5) *Qualified alien* means –

- a). an alien who is lawfully admitted for permanent residence under the federal Immigration and Nationality Act (INA);
- b). an alien who is granted asylum under Section 208 of the INA;
- c). a refugee who is admitted to the United States under Section 207 of the INA;
- d). an alien who is paroled into the United States under Section 212(d)(5) of the INA for a period of at least one year;
- e). an alien whose deportation is being withheld under Section 243(h) of the INA (as in effect prior to April 1, 1997) or whose removal has been withheld under Section 241(b)(3);
- f). an alien who is granted conditional entry pursuant to Section 203(a)(7) of the INA as in effect prior to April 1, 1980;
- g). an alien who is a Cuban/Haitian Entrant as defined by Section 501(e) of the Refugee Education Assistance Act of 1980; and
- h). an alien who has been battered or subjected to extreme cruelty, or whose child or parent has been battered or subject to extreme cruelty.

(6) *Systematic Alien Verification for Entitlements Program (SAVE)* means an intergovernmental information sharing initiative of the United States Department of Homeland Security designed to assist in determining a non-citizen applicant's immigration status.

Responsibilities and Procedures

(1) Generally.

- a). All appointing authorities shall verify the immigration status of every newly hired employee according to County Policy 100-27.
- b). All agencies providing a public benefit shall register with the SAVE program at <https://save.uscis.gov/Registration>, enter into a Memorandum of Understanding with the SAVE program, and establish a purchase order for the payment of transaction fees.
- c). All agencies providing a public benefit, shall verify the lawful presence of every person 18 years of age or older who applies for state or local public benefits by requiring each applicant to execute an affidavit in the format attached as "Attachment A", affirming that he or she is a legal permanent resident, or a qualified alien lawfully present in the United States. The affidavit is presumed to be proof of lawful presence until eligibility verification is made through the federal Systematic Alien Verification Entitlement (SAVE) program.
- d). All agencies providing a public benefit shall verify the lawful status of all applicants stating that they are aliens lawfully present in the United States through the SAVE program.
- e). All applicants that are not lawfully present in the United States shall be ineligible to receive public benefits.
- e). Verification of lawful presence is not required for the following benefits:
 - Treatment of emergency medical conditions;
 - Short-term, non-cash emergency disaster relief;
 - 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.
 - Certain in-kind services, such as soup kitchens, short-term shelter, crisis counseling and intervention provided by public and nonprofit agencies that are necessary for the protection of life or safety;
 - Prenatal care;
 - Postsecondary education under specified circumstances;
 - Certain community development assistance or financial assistance programs administered by HUD;
 - Other Federal programs including certain social security and Medicare benefits under specified conditions.

(2) *Office of the County Attorney.* The Office of the County Attorney shall –

- a). Require each contract or agreement for the performance of services between Fulton County and a contractor or subcontractor to include a provision stating that compliance with OCGA § 13-10-91 is a condition of the contract and directs the contractor or subcontractor to register and participate in a Federal work authorization program.
- b). Ensure that each agreement between Fulton County and a contractor/subcontractor for the performance of services includes an executed affidavit verifying compliance with OCGA § 13-10-91 in the form provided for in Attachment “B”.

(3) *Office of Intergovernmental Affairs.* The Office of Intergovernmental Affairs shall --

- a). Submit to the Board of Commissioners for its approval during a Regular or Recess Meeting in December of each year, a report documenting Fulton County’s compliance with the GSICA.
- b). Provide an annual report on or before January 1 to the Georgia Department of Community Affairs (DCA), in a format prescribed by DCA, documenting Fulton County’s compliance with the GSICA, and identifying each public benefit administered by Fulton County.

(3) *Department of Information Technology.* The Department of Information Technology shall post the County’s federally issued identification number (58-6001729) and date of authorization (*date to be provided*) on the County’s website.

(4) *Personnel Department.* The Personnel Department shall monitor new employee work eligibility as required by OCGA § 13-10-91.

(5) *Department of Purchasing and Contract Compliance.* The Department of Purchasing and Contract Compliance shall –

- a). Require all contractors and subcontractors to register and participate in the federal work authorization program “E-Verify”. No contractor shall perform any services unless the contractor or subcontractor registers and participates in a federal work authorization program.
- b). Require a signed, notarized affidavit from contractors attesting to their registration and participation in the E-Verify program before considering a bid from the contractor for the performance of any service.

(6) *Sheriff’s Office.* The Fulton County Sheriff’s Office shall –

- a). Make a reasonable effort to determine the nationality of a person confined to the Fulton County Jail for any period of time and charged with a felony, DUI, driving without a license, or a serious misdemeanor.

- b). If the Jail identifies the prisoner as a foreign national, the Sheriff's Office shall make a reasonable effort to determine if the detainee has been lawfully admitted into the United States, and if lawfully admitted, that such lawful status has not expired.
- c). Inform a detained foreign national of their right to have their native country's local consular office notified of their detention and of their right to have a consular officer from their country arrange for legal representation.
- d). Contact the Law Enforcement Support Center of the United States Department of Homeland Security within 48 hours if verification of lawful status cannot be made from documents in possession of the detainee.
- e). Release from custody, pursuant to the admissions and release policies of the Fulton County Sheriff's Office, a detained foreign national unless the Jail receives a valid notification of pending charges from the United States Department of Homeland Security or another agency.
- f). Follow the guidelines and procedures developed by the Georgia Sheriff's Association pertaining to the determination of national and immigration status of certain persons admitted into the Fulton County Jail.

Departmental Sponsor: Office of the County Manager.

Policy Review Date: December 31, 2014

References

- Vienna Convention on Consular Relations, Article 36 "*Communication and Contact with Nationals of the Sending State*"
- 8 U.S.C. § 1611, 1621 and 1623
- 42 U.S.C. § 1396 b(v)(30)
- Immigration Reform and Control Act of 1986, Public Law 99-603
- Georgia Security and Immigration Compliance Act of 2006, Act 457 2006 Georgia General Assembly
- Official Code of Georgia sections 13-10-90, 13-10-91, 42-4-14, 50-13-1, 50-36-1
- Georgia Department of Labor Rules § 300-10-1-01 through 300-10-1-09
- Fulton County Policy 100-27, "*Immigration Reform and Control Act (IRCA)*"

Attachments

Attachment A: Applicant for Public Benefits Affidavit

Attachment B: Contractor/Subcontractor Affidavit

**Affidavit Verifying Status
of Benefit Applicant**

Pursuant to the Georgia Security and Immigration Compliance Act (O.C.G.A. § 50-36-1), effective July 1, 2007, every agency in **FULTON COUNTY** providing public benefits through any local program is responsible for determining the immigration status of citizen applicants for said benefits.

By executing this affidavit under oath, as an applicant for benefits, I am stating the following with respect to my application for benefits from Fulton County Government:

_____ I am a United States citizen or legal permanent resident 18 years of age or older;

OR

_____ I am a qualified alien or non-immigrant under the Federal Immigration and Nationality Act, Title 8 U.S.C., as amended, 18 years of age or older and lawfully present in the United States. My alien number issued by the U.S. Department of Homeland Security or other federal immigration agency is _____.

In making the above representation under oath, I understand that any person who knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in an affidavit shall be guilty of a violation of O.C.G.A. § 16-10-20.

Signature of Applicant

Date

Printed Name

SUBSCRIBED TO AND SWORN BEFORE ME ON THIS THE

DAY OF _____, 200__.

Notary Public

My Commission Expires:

GEORGIA SECURITY AND IMMIGRATION CONTRACTOR
AFFIDAVIT

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that [**insert name of Prime Contractor**] _____ (hereinafter "Prime Contractor") engaged in the physical performance of services under a contract with **Fulton County Government** has registered with and is authorized to use the 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 (IRA), [P.L. 99-6031], in accordance with the applicability provisions and deadlines established in O.C.G.A. § 13-10-91]. The Prime Contractor further declares that it is actively using and will continue to use the federal work authorization program throughout the contract period.

The undersigned further agrees that, should it employ or contract with any subcontractor(s) in connection with the physical performance of services to this contract with **Fulton County Government**, the Prime Contractor will secure from such subcontractor(s) similar verification of compliance with O.C.G.A. § 13-10-91 on the Subcontractor Affidavit attached hereto. The Prime Contractor further agrees to maintain records of such compliance and provide a copy of each verification to the **Fulton County Government** at the time the subcontractor(s) is retained to perform such service.

EEV/Basic Pilot Program* User Identification Number

EEV/Basic Pilot Program* Date of Authorization

BY: Authorized Officer of Agent
(Insert Prime Contractor Name)

Title of Authorized Officer or Agent of Prime Contractor

Printed Name of Authorized Officer or Agent

GEORGIA SECURITY AND IMMIGRATION CONTRACTOR AFFIDAVIT

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SUBSCRIBED TO AND SWORN BEFORE ME ON THIS THE
_____ DAY OF _____, 200__.

Notary Public

My Commission Expires:

NOTE:

*** 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)**

ATTACHMENT

GEORGIA SECURITY AND IMMIGRATION 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 **[insert name of Prime Contractor]** on behalf of **Fulton County Government** has registered with and is authorized to use the 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 (IRA), [P.L. 99-6031], in accordance with the applicability provisions and deadlines established in O.C.G.A. § 13-10-91]. The Subcontractor further declares that it is actively using and will continue to use the federal work authorization program throughout the contract period.

EEV/Basic Pilot Program* User Identification Number

EEV/Basic Pilot Program* Date of Authorization

BY: Authorized Officer of Agent
(Insert Subcontractor Name)

Title of Authorized Officer or Agent of Subcontractor

Printed Name of Authorized Officer or Agent

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

Notary Public
My Commission Expires:

NOTE:

*** 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)**