<u>E-Verify</u>

Contractor and Subcontractor Affidavit and Agreements

It is the policy of the City of LaGrange that unauthorized aliens shall not be employed to perform work on City contracts involving the physical performance of services. Therefore, the City shall not enter into a contract for the physical performance of services within the State of Georgia unless the contractor shall provide evidence on City-provided forms that it and its subcontractors have registered for and are participating in the federal work authorization program as defined by O.C.G.A. § 13-10-90(2) to verify information of all new employees. **The City of LaGrange shall be authorized to conduct random audits of a contractor's or subcontractor's compliance with O.C.G.A. § 13-10-91 and the rules and regulations of the Georgia Department of Labor.** The contractor/subcontractor shall retain all documents and records of compliance for a period of three (5) years following completion of the contract. This requirement shall apply to all contractors for the physical performance of services.

State Law requires that all who enter into a contract for the physical performance of services with the City must satisfy O.C.G.A. § 13-10-91 and Rule 300-10-1-.02, in all manner, and such are conditions of the contract.

By submitting a proposal to the City, contractor agrees 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, as well as attestation(s) from such subcontractor(s) that they are in compliance with O.C.G.A. § 13-10-91 and Rule 300-10-1-.02. Such attestation(s) shall be maintained and may be inspected by the City at any time. Any such attestation shall become a part of the contractor/subcontractor agreement.

An affidavit of such compliance with O.C.G.A. § 13-10-91 and Rule 300-10-1-.02 will be initiated by the City, signed by the contractor, and will become part of the contract.

For further information and Registration in the Employment Eligibility Verification Program please go to the following link:

https://e-verify.uscis.gov/enroll/startpage.aspx

Frequently Asked E-Verify Contractor Questions

Q. **What types of contracts require that local governing authorities collect the E-Verify Contractor affidavits?**

A. The City of LaGrange requires all vendors submit the E-Verify Contractor affidavit. However, only those vendors who provide physical performance of services including contracts involving new construction or demolition of structures or roads, and routine operation, repair or maintenance of existing structures, buildings or real property are required to register with the federal E-Verify program.

Q. **If the contract is exclusively for goods and there are no services being provided does the local governing authority need to collect an E-Verify contractor affidavit?**

A. The law only pertains to physical performance of services contracts or contracts that provide both physical performance of services and goods. If the contract is solely for goods, there is no requirement that the vendor register with the federal E- Verify program. However, the City of LaGrange requires all vendors submit the E-Verify contractor affidavit indicating which category that vendor applies to.

Q. **Does every contractor that provides physical performance of services contracts have to fill out an E-Verify Contractor affidavit?**

A. The E-Verify Contractor affidavit is required by all vendors providing physical performance of services. Contractors that provide physical performance of services must register with the federal E-Verify program; provided, however, that if the

contractor is an independent party with <u>no</u> employees that individual is exempt from

registering.

Q. **Does the local governing authority have to collect affidavits from subcontractors and sub-subcontractors working on local governing authority projects?**

A. The local governing authority is only responsible for collecting contractor affidavits for the parties with whom the local governing authority has directly signed a contract. The contractor is responsible for collecting subcontractor affidavits, the subcontractors must collect from their sub-subcontractors, and so on.

Q. **What do we do with the E-Verify Contractor affidavit once the contractor provides it to the local governing authority?**

A. Once a local governing authority receives an executed E-Verify Contractor affidavit, it must retain it for five years from the date it was received. At the end of each year, starting on December 31, 2011, a report must be filed with the Department of Audits and Accounts that will include the information on this affidavit.

Q. **Must a local governing authority follow the E-Verify contract requirements if there is an emergency or a situation which calls for immediate action?**

A. The law, like most laws, does not contain a waiver for abnormal situations. In the event the Governor declares a state of emergency under Title 38, and dispensing with the E-Verify requirements are somehow necessary to preserve public safety during the disaster, it may be within the Governor's emergency powers to suspend certain of these requirements during the pendency of the state of emergency.

Q. **If there is only one contractor that can provide a certain service to the local governing authority and they refuse to follow the E-Verify contractor requirements, can the local governing authority contract with them?**

A. Local governing authorities can only enter into public works contracts with contractors that follow the E-Verify requirements as provided in O.C.G.A. § 13-10-91.

Q. **Is the local governing authority required to verify the information provided in the E-Verify Contractor affidavit?**

A. No. The contractor is responsible for the information provided. If any of the information provided is determined to be erroneous, the liability is with the contractor and not the local governing authority.