



**FULTON COUNTY**

**FULTON COUNTY, GEORGIA**

**OFFICE OF INTERNAL AUDIT**

**REVIEW OF GEORGIA SECURITY IMMIGRATION  
COMPLIANCE ACT**

**January 1, 2010-July 1, 2010**

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## **Objective**

The objective of this report is to assess Fulton County's compliance with the Georgia Security Immigration Compliance Act of 2006.

## **Background**

Georgia State Senate bill 529, the Georgia Security Immigration Compliance Act of 2006, established new work and eligibility verification requirements for all Georgia counties and their respective contractors and sub contractors. Public entities are now required to verify the immigration status of new employees. Additionally Georgia Counties are now prohibited from providing certain services, such as health benefits, adult education, and housing to any adults without verifying their immigration status. Georgia Bill 529 is part of a nationwide plan called the Federal Work Authorization Program. The Federal Work Authorization Program is a federal government initiative which verifies "lawful presence" in this nation through several federally maintained websites and internet accessed data bases. E- Verify and SAVE are the two primary databases used for citizenship verification. E- Verify will only provide reasonable assurance that a perspective employee with a temporary work permit is eligible for work. The SAVE program is far reaching, in that, it confirms whether the foreign national is a resident alien or a naturalized immigrant applicant.

During the 2009 Legislative Session, the Georgia House of Representatives passed House Bill 2 which further describes the benefits that require residency verification. One of the benefits addressed is the issuance of Occupancy Tax Permits, (formerly referred to as Business Licenses.) All Occupancy Tax Permit applications and renewals must now be processed through the Federal Government SAVE Program. Also addressed are the benefits provided to county employees for health, retirement, disability, and various other benefits that are provided to the general public. House Bill 2 changes or amends 50-36-1 – O.C.G.A. This bill essentially expands the verification process into several areas of Fulton County's day to day operations.

## **Scope and Methodology**

For the purpose of our review we tested compliance to the Georgia Security Immigration Compliance Act by reviewing documentation which verifies the lawful presence of individuals issued Occupancy Tax Permits, contractors and subcontractors providing materials or services to the County, and those receiving benefits from the County's Department of Health and Wellness. The authoritative codes referenced for this review are:-

- OFCGA 13-10-90: Contracts-Public Works.
- 13-10- 91: Verification of new employee eligibility.
- 50-36-1: Verification of lawful presence in the United States

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- 42-4-14: Determination of nationality of person(s) charged with a felony and confine in a jail facility (passed in 2006).
- House Bill 2, Amendment – 2009: Article 3, Chapter 10 – Title 13, Article 1, Chapter 4 (all bills referenced above).
- Title 42, Chapter 36 of Title 50- Federal Code: Federal Health & Welfare Guidelines.

### **Finance – Occupancy Tax Permits**

The Georgia Security Immigration Compliance Act defines Business Certificate License or Registration as a “public benefit” which requires verification of lawful presence or citizenship. The Association County Commissioners of Georgia website provides a checklist of public benefits which require verification through the SAVE program.

Fulton County’s Finance Department oversees the collection of Occupancy Tax Permit Fees. The processing of the Occupancy Tax Certificates is done by a private vendor, RDS, Inc. of Birmingham Alabama. The Finance Department has completed its application process with the SAVE program and is presently verifying the “lawful presence” of applicants who provided affidavits indicating that they are foreign nationals, having dual citizenship. As of this date, all applicants have indicated that they are either native or naturalized citizens. A sample of 10 occupancy Tax Certificates were reviewed. All had the appropriate affidavits enclosed with the proper Notary Public verifications.

### **Purchasing /Contract Compliance**

The Georgia Security Immigration Compliance Act of 2006 requires that each contractor and subcontractor, doing business with a public entity, submit an affidavit attesting to their participation in the Federal Work Authorization Program. As of July 1, 2009 and there after, this requirement applies to all public entities, contractors, and subcontractors. Participation in this program raises the assurance level that the new workers’ immigration statuses have been verified.

A review of agreements that the contractors entered into was conducted. The participation in the Federal Work Authorization Program was examined by selecting a limited sample of contract files to see if the appropriate affidavits were on file.

Four bid contracts were selected at random from Purchasing/Contract Compliance Internet Portal’s files. All contracts examined had documentation exceptions concerning the execution of the contractor and subcontractor’s affidavits.

### **Finding- 1 – Piedmont Landscape Contractors LLC, (Prime Contractor)**

No affidavit on file.

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**Finding- 2 – ER Snell Contractor Inc. (Prime Contractor)**

Two Sub Contractors did not provide EEV ID (Employment Eligibility Verification Identification) numbers. EEV ID (Employment Eligibility Verification Identification) numbers are issued upon registration with the Federal Work Force Authorization Program. One sub contractor's affidavit was provided with an expired Notary Public Seal affixed.

**Finding 3 – JA Tech & Associates Inc –**

No EEV ID (Employment Eligibility Verification Identification) numbers were provided by the prime contractor or subcontractors

**Finding- 4 – Atlantic Coast Consulting**

No EEV ID (Employment Eligibility Verification Identification) number was provided for the prime contractor. No Notary Public Seal was affixed on the prime contractor or subcontractor's affidavit.

**Department of Health and Wellness**

The Department of Health and Wellness provides a service called Primary Care Lite. This program provides a limited amount of health care for such things as diabetes screening, health maintenance, preventative care, minor illness and chronic disease screenings. The program requires a fee of \$20 per visit.

Presently there is no requirement that foreign nationals provide an affidavit nor is there any type of E Verify or SAVE database verification performed by the Fulton County Department of Health and Wellness.

Because of the unique requirements pertaining to the healthcare industry, the Georgia Attorney General's Office was contacted for an opinion regarding compliance and verification. The Attorney General Staff indicated that several Georgia Counties and Municipalities have contacted them in regards to this area of compliance. The Attorney in charge of legal research into this matter suggested that Fulton County's Office of Internal Audit send a letter, requesting direction in implementing the Georgia Immigration Security Compliance Act, so that it may be considered for research. A letter requesting further advisement on this issue was sent on June 14, 2010.

The Staff Research Counsel indicated that until a formal opinion is issued it may be in Fulton County's best interest to include a section or clause in the respective patient's documentation that requires the applicant's signature attesting that he/she is a legal

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resident. We recommend accepting this advice but also continuing to require a notarized affidavit so that the County remains in compliance with the federal initiative.

### **Summary**

There were no exceptions noted for the Fulton County Finance Department's Occupancy Tax Permit Applications.

The Health and Wellness Department has now implemented a program entitled Primary Care Lite. This program provides a limited amount of basic medical or health services to Fulton County citizens who do not have health insurance.

The county also provides bi lingual flyers to promote the program in the Hispanic Community. The Health and Wellness Department has not implemented procedures to verify the "lawful presence" of persons receiving medical benefits.

Our review of the Contract Compliance/Purchasing Department's compliance with the Georgia Immigration Security Compliance Act indicates that the department has not implemented a comprehensive strategy for achieving compliance.

### **Conclusion**

The Georgia Security Immigration Compliance Act has increased the use of web and internet based information. This is a new area of compliance that is now being implemented into Fulton County's service areas, where public benefits and contracting opportunities are being provided.

Fulton County has made all of its Departments aware of the Georgia Security and Immigration Compliance Act and several have contacted the County Attorney's Office for guidance.

### **Recommendations**

Since the Health and Wellness Department is providing Public Health benefits outside of the normal scope of immunizations and emergency care, implementation of verification procedures pertaining to "lawful presence" of prospective patients would be appropriate. Implementation should be made within the constraints of federal guidelines, which state that verification process should not place a foreign national's health in serious jeopardy. As an additional assurance in case a notarized affidavit can not be obtained, the Health and Wellness Department should insert a clause or section in the admission application, which must be signed by the patient, stating that he/she is a legal resident in the United States. This section should reference statute O.C.G.A. 50-36-1, which requires verification of foreign nationals receiving public health benefits.

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The Health Department should review any new official or unofficial opinions issued by the Georgia Attorney Generals Office concerning the verification of foreign nationals receiving health benefits. These opinions can be reviewed on the agency website ([law.ga.gov](http://law.ga.gov)).

Purchasing/Contract Compliance continues to experience exceptions with the vendor / contractor & sub contractor's affidavit documentation requirements. We recommend that the department offer a training session to the contract managers which cover the implementation of the Georgia Security Immigration Compliance Act. After the completion of the training session, the employees should provide written acknowledgement that they understand the documentation and verification requirements of the Georgia Security Immigration Compliance Act.