



WEDNESDAY'S
News You Can Use

Annual Immigration Compliance Reporting and Remaining in Compliance with State Laws

Presented by **Jackie Neubert**



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Learning Objectives

At the end of this session, you should be able to:

- Recall the five sections of the annual immigration compliance reporting and the related Georgia laws
- Discuss in detail the Title 13 (contract reporting) and Sanctuary Policy sections
- Discuss most common questions relating to annual immigration compliance reporting
- Recite the possible consequences of noncompliance as specified in Georgia law

Reporting Requirements

- Official Code of Georgia Annotated (O.C.G.A.) §50-36-4
 - Requires governmental entities to report their annual immigration compliance
 - 5 areas of reporting (two specific areas with consequences for noncompliance)
 - Report filed each year by December 31

Polling Question #1

If I am unable to submit the required annual immigration compliance report by December 31st deadline, is an extension available?

- A. Yes
- B. No
- C. Maybe

Immigration Compliance Reporting

- Report is filed each year by December 31
- No provision in O.C.G.A. §50-36-4 that authorizes the Department of Audits and Accounts (DOAA) to waive the due date
- Next reporting period: December 1, 2020 through November 30, 2021
- System opens on November 1, 2021 for 2021 reporting period

E-Verify Program

- Federal Work Authorization Program – which is commonly known as E-Verify program
- E-Verify program is operated by the U.S. Citizenship and Immigration Services (USCIS)
- Registration information available on the USCIS website www.uscis.gov/e-verify
- Registration information includes user identification number and date authorization

E-Verify Program

- Authorization date located in the letter received from the U.S. Citizenship and Immigration Services (USCIS)
- Records of E-Verify numbers and authorization dates are maintained by USCIS
- E-mail address: E-Verify@dhs.gov

Five Areas or Sections of Reporting

Complete submission to the Immigration & Reform Act Collection System:

Confirmation of five areas or sections of reporting:

- 1. E-Verify Number (reporting government's number)
- 2. Title 13 (contract reporting)
- 3. Title 36 (business licenses)
- 4. Sanctuary Policy (O.C.G.A. §36-80-23)
- 5. Title 50 (public benefits)

Areas of Reporting (continued)

Descriptions of information that the annual report collects for the five different immigration requirements

- 1. **E-Verify Number** – confirm the number in the collection system for your entity
- 2. **Contractor Reporting** – list of contractors the entity used during the period for “physical performance of services”
- 3. **Business Licenses** – listing of licenses issued during the period to businesses who were required to enroll in the E-Verify program

Areas of Reporting (continued)

- 4. **Public Benefits** – listing of public benefits and whether or not the entity has received SAVE authorization for these benefits
 - SAVE – Systematic Alien Verification for Entitlements
 - Examples of public benefits: employee retirements benefits, employee health benefits, employee disability benefits, alcoholic beverage licenses, business licenses (occupational tax certificates), taxicab licenses, pawn broker licenses, billiard hall licenses, peddler and itinerant trader licenses, and transient business licenses

Areas of Reporting (continued)

- **5. Sanctuary Policy** – true/false question asking if the entity has enacted a sanctuary policy (confirmation that the government is in compliance with O.C.G.A. §36-80-23)
- Focus of two of the five areas of reporting and possible consequences of noncompliance
 - O.C.G.A. §13-10-91 – Title 13 or contract reporting
 - O.C.G.A. §36-80-23 – Sanctuary Policies

Title 13 – Contractor Reporting

Title 13: E-Verify contract reporting

- Report contracts for the physical performance of service as defined in O.C.G.A. §13-10-90
- Contracts that are over \$2,499.99
- \$2,499.99 threshold applies to non-bid contracts
- Contracts using bid process require affidavits regardless of amount

Contract Reporting

- A public employer cannot enter into a contract for physical performance of services unless the contractor registers and participates in the Federal Work Authorization Program (commonly know as E-Verify)
- Physical performance of labor and services using a bidding process or by contract wherein the labor or services exceed \$2,499.99
- Includes:
 - Routine operation, repair, and maintenance of existing structures
 - Services needed for normal operations

Contract Reporting (continued)

- A purchase order is a contract
- Documenting contractor compliance
 - Obtain a notarized affidavit that states
 - The contractor used the federal work program
 - The contractor will continue to use program for duration of contract
 - E-Verify number and date of authorization
 - Affidavit required even if contractor only has one employee

Contract Reporting (continued)

- New affidavit required each time you contract with a vendor
- Obtain affidavit in advance of awarding the bid
- Contractors must obtain similar affidavits from sub-contractors (must be submitted to public employer within 5 days of receipt)

Contractor Reporting (continued)

Contractors with No Employees

- Would not have E-Verify Number
- Affidavit not required
- Entities must still verify eligibility to work in the U. S.
- Verify through driver's license or state ID

Polling Question #2

When should you obtain affidavits?

- A. Before contracted services begin
- B. During the middle of the contract period
- C. After contracted services are complete
- D. While preparing to submit the annual report

Common Reporting Issues

Guidelines for five common reporting issues related to Title 13 –Contract Reporting

- **Affidavits should be obtained before services begin**
 - Prevents trying to track down information at report submission time
- **Difference between Title 13 and Title 36 employee thresholds**
 - Every private employer with more than ten employees shall register with and utilize the federal work authorization program

Common Reporting Issues (cont.)

- **Difference between Title 13 and Title 36 employee thresholds (continued)**
 - Counties and municipalities may not issue a business license (or other documents required to operate a business) until
 - Person provides evidence that they are authorized to use the federal work authorization program or
 - Person provides evidence that the provisions do not apply

Common Reporting Issues (cont.)

- **Difference between Title 13 and Title 36 employee thresholds (continued)**
 - O.C.G.A. §36-60-6 applies to counties and municipalities only
 - Must document participation through an affidavit provided by the AG's Office
 - Required of business with more than 10 employees
 - Affidavit required at time of issuance only
 - Person needs to only provide E-Verify number upon renewal

Common Reporting Issues (cont.)

- **Reporting is based on the contract date, not payment date**
 - Contracts are reported based on the date the contract was entered into, not based on payment date
- **Services performed remotely (but within the U.S.) need to be included in the report**
 - Work can be performed anywhere in the U.S.
 - Work does not have to be performed in Georgia

Common Reporting Issues (cont.)

- **Services performed remotely (but within the U.S.) need to be included in the report**
 - For services performed in a different country, there is no requirement to obtain an affidavit or report it since the purpose of the law is to ensure those working in the U.S. have the authority to do so
- **Locking yourself out of the collection system – don't hit finished until you are finished**
 - When entering contractor records manually, use the "new record" button to start a new entry. Don't hit "finished".

Penalties of Noncompliance

- Failure to complete the Title 13 section or area may result in exclusion from the list of qualified local governments (QLG)
- Reminder: Report is due on December 31
- DOAA is required to provide political subdivisions 30 days to demonstrate compliance

Penalties of Noncompliance (cont.)

- Noncompliant governments were notified by DOAA on January 27, 2021
- 30-day period ended on February 26, 2021
- Notification included noncompliant municipalities, consolidated city-county governments and counties

Penalties of Noncompliance (cont.)

- Commissioner of Department of Community Affairs (DCA) notified after February 26, 2021 of any units remaining noncompliant
- Notification required by O.C.G.A. §13-10-91(b)(7)
- DCA should exclude governments not in compliance from their list of **qualified local governments (QLG)**

Penalties of Noncompliance (cont.)

- Failure to be recognized as a qualified local government may jeopardize funding of any grants or loans made through the DCA
- Including any grants or loans provided under the State Community Development Program

Sanctuary Policy Reporting

- Provisions of O.C.G.A. §36-80-23 require the confirmation that governments did not enact any sanctuary policies
- No local governing body shall enact, adopt, implement or enforce any sanctuary policy
- “Sanctuary policy” means any regulation, rule, policy, or practice adopted by a local governing body which prohibits or restricts local officials or employees from communicating or cooperating with federal officials or law enforcement officers with regard to reporting immigration status information while acting within the scope of their official duties

Sanctuary Policy Reporting (cont.)

- Annual report includes a question that asks the local government to confirm that no sanctuary policies were enacted
- Confirmation that the government is in compliance with provisions of O.C.G.A. §36-80-23
- Question: This organization has not enacted a sanctuary policy and is in compliance with O.C.G.A. §36-80-23.
- Answer: Indicate True or False

Sanctuary Policy Reporting (cont.)

- **Answer True if:**

- The entity does not have any policy that prohibit employees from notifying federal officials of a person's immigration status while such local official or employee is acting within the scope of their official duties

- **Answer False if:**

- The entity has any type of policy that would prohibit or discourage employees from notifying federal officials of a person's immigration status while acting within the scope of their official duties even if such policy only affects one department within the entity

Sanctuary Policy Reporting (cont.)

- Reminder: Confirmation due by December 31
- Governments will be reported if:
 - Noncompliance with provisions (sanctuary policies enacted)
 - Failed to confirm (No Response)

Sanctuary Policy Reporting (cont.)

- **Provisions of O.C.G.A. §36-80-23 (d) require DOAA to notify state agencies of noncompliance**
- **Includes:**
 - **DCA**
 - **Georgia Department of Transportation (GDOT)**
 - **And all other state agencies that provide funding**

Sanctuary Policy Reporting (cont.)

- Notification includes both governments not in compliance and those that did not report (respond)
- As a condition of funding, agencies should require certification pursuant to O.C.G.A. §50-36-4 as proof of compliance with provisions of O.C.G.A. §36-80-23

Polling Question #3

When is the annual immigration compliance report due?

- A. June 30
- B. November 30
- C. December 31
- D. January 31

Summary

- O.C.G.A. §50-36-4 requires governmental entities to report their annual immigration compliance
- Report filed by December 31 each year
- Next reporting period: December 1, 2020 through November 30, 2021
- System will open for 2021 reporting period on November 1, 2021

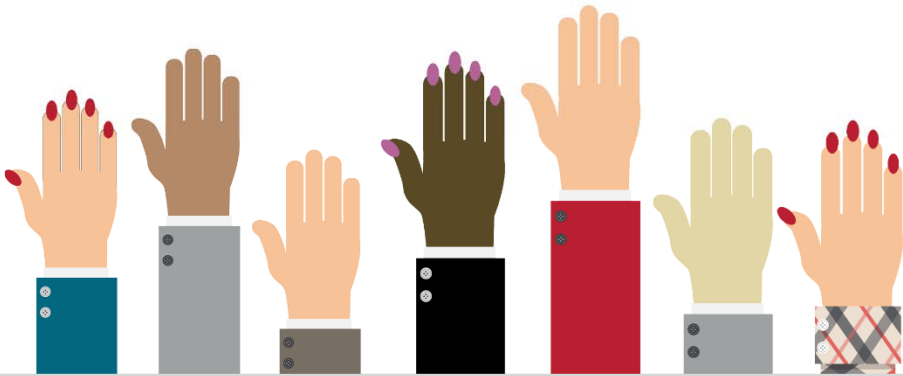
Summary (continued)

- Reporting is completed online through our collection system at www.audits.ga.gov/auth
- Instructions for creating an account and for using the collection system can be found at
- www.audits.ga.gov/NALGAD/iiraea_instructions_video.html
- General information about the reporting requirements can be found on our page at
- www.audits.ga.gov/NALGAD/IllegalImmigrationReformandEnforcementAct.html

Contact Information

- **DOAA Immigration Team**
- **immhelp@audits.ga.gov**
- **Please consult your legal counsel if you have specific questions on whether a particular contract, license, or benefit should be included**
- **Compliance status may be confirmed at any time**

QUESTIONS?



Thank You!



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