



## PERSONNEL POLICY

### SUBJECT: EMPLOYMENT ELIGIBILITY VERIFICATION

DATE: January 1, 2017

Number: 102-16

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#### I. Statement of the Policy

Fulton County is committed to complying with all immigration-related employment laws. Therefore, Fulton County will not knowingly or intentionally hire or continue to employ individuals who lack work authorization. Nor will it do business with independent service providers (e.g., independent contractors, subcontractors, vendors) it determines to have knowingly hired or continued to employ persons without work authorization. Moreover, Fulton County will only work with contractors and subcontractors who use E-Verify to check the status of workers employed on building and road projects and/or engaged in any other performance of labor for a public employer within this state under a contract or other bidding process, as required by State Law.

Consistent with this commitment, Fulton County requires the completion of the federal Form I-9 to verify the identity and work authorization of all employees hired after November 6, 1986. Fulton County also participates in E-Verify.

#### II. Applicability

This policy applies to all employees responsible for ensuring completion of the Form I-9 and/or using E-Verify to confirm employment eligibility. Employees who fail to comply with this policy are subject to disciplinary action, up to and including termination of employment.

These policies do not create a contract of employment. Employment for non-classified employees remains "at will".

### **III. Prohibition of Discrimination and Retaliation**

Fulton County will not tolerate any form of discrimination or harassment prohibited by federal, state, or local law, including discriminatory treatment based on an individual's national origin or citizenship status. Nor will Fulton County tolerate discriminatory application of the Form I-9 requirements or E-Verify process, including, but not limited to, singling out individuals for extra scrutiny based on their national origin or citizenship status. Fulton County will not permit retaliation against employees for complaining of perceived discrimination or harassment.

### **IV. Establishment and Implementation of Procedure**

The County Manager, in consultation with the Chief Human Resources Manager and the County Attorney, is authorized to establish and modify, as needed, a procedure for implementing this policy.

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## PERSONNEL PROCEDURE

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#### I. Form I-9 Compliance

As required by Federal law, Fulton County must ensure that every employee hired or rehired after November 6, 1986, completes the Form I-9. The Department of Human Resources Management should use the most current version of the I-9 and familiarize themselves with the instructions before working with an employee to complete it.

Fulton County must retain I-9 forms of all current employees. It must also retain I-9 forms of former employees for three years after the date of hire or one year from the date of termination, whichever is later. Completed I-9 forms should not be placed in personnel files; instead, the forms, and any accompanying documents, such as E-Verify confirmations, should be kept in separate I-9/E-Verify binders and maintained in confidence as with any other personnel records.

#### Section 1

- Employees must fully complete Section 1 no later than the first day of employment (*i.e.*, when the employee actually begins working). Applicants must never be asked or permitted to complete Section 1 before he or she accepts an offer of employment with Fulton County.
- The employee must write down his or her full name, other names used, address (no post-office boxes permitted), and date of birth. The employee must also write down his or her Social Security number for purposes of E-Verify. The employee may, but is not required to, write down an e-mail address and/or telephone number.
- The employee must attest to his or her citizenship/immigration status by selecting the applicable box in Section 1 and filling in the accompanying blanks, if any.

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The employee must then sign and date immediately above the Preparer and/or Translator Certification.

- If the employee requires assistance to complete Section 1 (e.g., translation, someone other than the employee fills out any information in Section 1), the individual providing this assistance must complete the Preparer and/or Translator Certification by writing down his or her full name and address, signing, and dating. The employee must still sign and date Section 1. It is generally advisable that someone other than the staff member completing and signing Section 2, assist the new hire in completing Section 1.

## **Section 2**

- After confirming that Section 1 is complete, the Department of Human Resources Management must complete Section 2 and do so within three business days after the date the employee begins working. For example, if the employee begins working on Monday, the Department of Human Resources Management must complete Section 2 on or before Thursday. If the employee is to work less than three business days, the Department of Human Resources Management must complete Section 2 on the first day of employment.
- Fill in the blank asking for the employee's full name (last name, first name, middle initial). Use the name written down by the employee in Section 1.
- The employee must present either (1) one original document from List A; OR (2) one original document from List B and one original document from List C. Department of Human Resources Management staff must familiarize themselves with the list of acceptable documents included with the form (generally all documents must be unexpired). If a List B document is presented, the List B document must have a photograph. The Department of Human Resources Management must never ask the employee to provide a specific type of document or particular combination of documents. If the employee provides more documents than required, such as a List A and List B document, the Department of Human Resources Management should allow the employee to select an acceptable combination of 1-9 documents, and return the other unnecessary documents.
- With the employee present, the Department of Human Resources Management should physically examine each document to determine that it (1) relates to the person presenting it, and (2) appears genuine on its face, not fake or fraudulent. If not, the Department of Human Resources Management must return the document to the employee and ask that he or she provide another acceptable document. The employee must do so within three business days of beginning employment. Regardless, if any document appears to relate to someone else or does not appear genuine on its face, Department of Human Resources

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Management staff must immediately report the situation to the Chief Human Resources Officer, even if the employee later provides a facially acceptable document.

- Employees may present certain receipts in lieu of original documents if their employment will last at least three days:
  - A receipt showing the employee applied for a lost, stolen, or damaged document. The employee must provide the original replacement document within 90 days. A receipt is not acceptable for extensions or renewal of documents.
  - The arrival portion of the Form I-94/1-94A with a temporary I-551 stamp and a photograph. The employee must present the actual Permanent Resident Card (Form I-551) by the expiration date of the temporary stamp or within one year from the date of issuance if there is no expiration date.
  - The departure portion of the Form I-94/I-94A with a refugee admission stamp. The employee must present an unexpired Employment Authorization Document (Form I-766) or a combination of a List B document and an unrestricted Social Security card within 90 days.
- The Department of Human Resources Management should record the information for the presented documents in Section 2, specifically the document title, issuing authority, document number, and expiration date, if any. Photocopies should be made of the following documents only: U.S. Passport, Passport Card, Permanent Resident Card (Form I-551) or Employment Authorization Document (Form I-766) and the photocopies must be retained with the I-9. If the employee presents an acceptable receipt in lieu of an original document, the Department of Human Resources Management must record the document title, write “receipt” and the document number in the “Document Number” field, and record the last day the receipt is valid, as discussed above, in the “Expiration Date” field. When the employee later provides the original document, the Department of Human Resources Management must cross out the word “receipt” and accompanying document number and expiration date, record the updated information from the original document, and initial and date.
- Within the Section 2 certification, the Department of Human Resources Management must write down the employee’s first day of employment, sign and date the certification, write down the Department of Human Resources Management’s staff member’s full name and job title, enter “Fulton County” under employer name, and write down the Fulton County address. The Department of Human Resources Management should complete all portions of Section 2, including the certification, on the same day the Department of Human Resources Management reviews the supporting documents provided by the employee.

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### **Section 3**

- Fulton County will not continue to employ individuals whose temporary work authorization has expired. If a current employee's temporary work authorization expires during employment, Fulton County must complete Box A (if applicable), review an original List A or List C document supporting renewed work authorization (or a receipt as discussed above), complete Box C, and fill out the attestation (sign, date, and print name). The Department of Human Resources Management must re-verify the employee's renewed work authorization before the original grant expires.
- Reverification applies only to List A or List C documents evidencing temporary work authorization, such as an Employment Authorization Document (Form I-766). The Department of Human Resources Management is not to re-verify work authorization of U.S. Citizens, non-citizen nationals, or lawful permanent residents who supplied a Permanent Resident Card (Form I-551) in support of Section 2 even if the Permanent Resident Card later expires during employment.
- If the Department of Human Resources Management needs to re-verify more than once during an employee's term of employment, use a new I-9 form. Write down the employee's full name at the top of Section 2, complete Section 3 as appropriate, and retain with the original I-9.

## **II. E-Verify Participation**

E-Verify is an Internet-based program that compares information from an employee's Form I-9 to data in federal records to confirm employment eligibility. As required by law, Fulton County is enrolled in and participates in E-Verify. Before a Department of Human Resources Management staff member uses E-Verify, they must register as a user, familiarize themselves with the Rules and Responsibilities contained in the E-Verify User Manual, and participate in the required E-Verify tutorial. Registered users must never allow someone else to use their login credentials to access E-Verify.

All new hires must be verified through E-Verify. E-Verify should never be used to verify prospective employees or applicants. Current employees already confirmed through E-Verify must never be "re-verified" even if Section 3 of the I-9 must be completed because temporary work authorization expired, or is set to expire. If Fulton County rehires an employee, the County must confirm his or her employment eligibility using E-Verify as for a new hire.

An E-Verify case for each newly hired employee must be initiated no later than the third business day after he or she begins working. Generally, case initiation should occur on the same day the Department of Human Resources Management completes Section 2 of the I-9. If the Department of Human Resources Management misses this

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deadline, the Department of Human Resources Management must still proceed with the verification and note the reason for the delay using the dropdown function in E-Verify.

E-Verify will require that the information from the I-9 be entered into the system. Department of Human Resources Management staff must make sure the information they enter into E-Verify is correct. The County will adhere to all procedures called for by E-Verify depending on the result (e.g., Employment Authorized, SSA Tentative Nonconfirmation, DHS Tentative Nonconfirmation), including notifying an employee of a Tentative Nonconfirmation, affording the employee an opportunity to contest/not contest the non-confirmation, and providing the required referral papers.

Fulton County will not take any adverse action against an employee based on the E-Verify result unless and until the system issues a Final Nonconfirmation or No Show, or unless the employee receives but does not contest a Tentative Nonconfirmation. Fulton County cannot continue to employ anyone who receives a Final Nonconfirmation or No Show result, or who receives and does not contest a Tentative Nonconfirmation.

The Department of Human Resources Management must print, store, and retain the E-Verify Case Details Report with the I-9 for the same amount of time that Fulton County is required to retain the I-9. The Case Verification Number should be written at the top of the I-9. This practice must be followed regardless of the E-Verify result.

### **III. Prohibition of Discrimination and Retaliation**

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