

OAH Guidance on Verification of Eligible Workforce

Purpose:

OAH's workforce verification process supports the OAH policy that all recipients of Low Income Housing Tax Credits and HOME Multifamily funds exhibit the highest standards in verifying the eligibility status of employees and workers on DCA funded projects. Every Recipient must adopt internal procedures to verify that all direct and indirect beneficiaries of federal and state resources are eligible to work in the United States. As part of that verification process, all project owners, developers, general contractors and subcontractors are required to participate in E-Verify. E-Verify is a free, Internet-based employee verification system recognized as the best method for employers to verify the authorization status of its employees. If DCA determines that a participant has knowingly utilized illegal workers, additional sanctions including debarment may be initiated.

DCA's expectations and requirements for E-Verify are detailed below.

E-Verify Enrollment Requirements

DCA requires all project owners, developers, general contractors, and subcontractors to enroll in E-Verify. The E-Verify website, operated by the Department of Homeland Security, offers an array of tools and services to help educate new participants and guide them through the enrollment process. Project teams should direct questions regarding registration and use of the E-Verify system to the Department of Homeland Security and not to DCA.

Projects that have received awards **will be required to submit affidavits** confirming participation in E-Verify. The project owner, developer, and general contractor will be required to complete and submit to DCA the "Contractor Affidavit and Agreement Form." This form may be found on DCA's website.

The Affidavits of the General Partner, Developer and General Contractor should be sent to the attention of Lynette Watson, Federal Compliance Officer, prior to the start of work. All subcontractors for the project will be required to sign the "Subcontractor Affidavit and Agreement Form." These affidavits are to be collected and kept by the General Contractor. **Subcontractor affidavits should not be forwarded to DCA unless requested by DCA.**

E-Verify Training Questions

1. Do owners, developers and contractors need to resubmit documentation if they have sent in required documents in prior funding rounds?

Yes, recipients of OAH-administered resources must submit the required documentation regardless of their participation in prior rounds.

2. If a new subcontractor is used will all of the subcontractors' workers (new and old) need to use E-Verify?

Only new workers may be verified in e verify (refer to E-Verify website, MOU). However, it is still the responsibility of the Project Owner to ensure that only eligible workers are used on any project site.

3. What records or verification do general contractors/owners need to keep?

Contractors/Owners should keep the subcontractor affidavits on file at the project site. DCA may request verification of subcontractor registration in E-Verify at any time. There are also requirements for posting of E-Verify notices on sites in English and Spanish. Documentation relating to the eligibility of workers that cannot be e verified should also be kept with the general contractor records.

4. How do I verify that subcontractors who hire new contractors are using E-Verify?

There is no ability to audit compliance with E-Verify procedures on E-Verify. However, Affidavits signed by subcontractors verifying the steps taken to verify workers should be kept by the General Contractor.

5. Will DCA require all members of the limited partnership to register with E-Verify?

DCA will require that all business entities in the General Partner and Developer entities register with E-Verify.

6. Will DCA delay draw requests to developers if the E-Verify process fails and it is found that ineligible workers are present on a project site?

DCA will investigate any allegations related to the eligibility of project workers. DCA will confer with the Georgia Attorney General regarding appropriate actions if it is determined that there has been a knowing use of ineligible workers. Owners that implement appropriate procedures to verify workers should be able to refute any allegations that there has been a knowing use of ineligible workers.

7. If we are using a temporary staffing agency, should we get them to sign a contractor affidavit?

Please contact the Department of Homeland Security for questions about temporary staffing agencies and use of E-Verify. It is recommended that if it is impossible to use E-Verify to determine whether a particular worker or subcontractor is eligible, additional procedures be implemented to ensure that only eligible workers are utilized.

8. If the general contractor uses a subcontractor and the subcontractor is a company, who in the company do we E-Verify?

Generally, each subcontractor will E-Verify his/her employees. It is the general contractor's responsibility to educate all subcontractors and require subcontractors to sign affidavits.

9. What is DCA's policy for property management companies?

Property Management companies should also use E-Verify.

10. Will affidavits be required yearly? How often?

Affidavits should be provided on a project basis prior to the start of construction.

11. Is there a poster template for the E-Verify program?

Yes, they can be downloaded from the E-Verify website.

12. Why can't E-Verify be used for pre-screening?

E-Verify information must be entered within the first 3 days of employment, not before employment. Please refer to E-Verify website for more information.

13. Does the employee have to acknowledge and agree in order for the employer to enter their information into E-Verify?

The Department of Homeland Security should be contacted with all questions regarding the rights of employees in the E-Verify process.

14. Can employers verify existing workers?

No, only new hires are permitted to be entered into E-Verify. See the E-Verify website for more details.

15. Is the policy inclusive of current residents of funded properties?

No, E-Verify is intended only to confirm a person's authorization to work legally in the United States.

16. Are manufacturers and suppliers required to register with E-Verify?

No.

17. Who is considered a federal contractor?

For E-Verify purposes, a federal contractor is one who signed a contract with the federal government. The contract must include the E-Verify clause. DCA does not believe any of our participants will qualify as a federal contractor, but refer to the E-Verify website and resources for confirmation.

18. What are the requirements for individuals hired using Form 1099?

Each individual hired using Form 1099 is considered to be a separate subcontractor. As such, each '1099' employee must sign the Subcontractor Affidavit and Agreement Form to be collected by the project owner.