



CITY AUDITOR'S OFFICE

# E-Verify Compliance

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May 22, 2025

AUDIT NO. 2505

**CITY COUNCIL**

Mayor Lisa Borowsky  
Barry Graham  
Vice Mayor Jan Dubauskas  
Adam Kwasman  
Kathy Littlefield  
Maryann McAllen  
Solange Whitehead



May 22, 2025

Honorable Mayor and Members of the City Council:

Enclosed is the audit report for *E-Verify Compliance*, which was included on the Council-approved FY 2024/25 Audit Plan. This is a regularly scheduled audit to confirm whether selected City contractors and their subcontractors are using the E-Verify program to verify employment eligibility of those working on City contracts, as required by Arizona law.

We randomly selected seven contractors and two subcontractors for review and found that several were not enrolled in the E-Verify program at the time of our audit and therefore were not complying with state requirements. These companies have since enrolled and plan to use it going forward. One subcontractor did not respond to our requests and this issue has been communicated to the contractor, as they are responsible for their subcontractor's compliance.

We would like to thank the Purchasing department and the City Attorney's Office for their assistance during this audit. If you need additional information or have any questions, please contact me at (480) 312-7851.

Sincerely,

A handwritten signature in blue ink that reads "Lai Cluff".

Lai Cluff, CIA  
Acting City Auditor

Audit Team:

Mel Merrill – Sr. Auditor



# E-Verify Compliance

Audit No. 2505

## WHY WE DID THIS AUDIT

An audit of E-Verify Compliance was included in the City Council-approved fiscal year (FY) 2024/25 Audit Plan. This is a regularly scheduled audit to confirm whether selected City contractors and their subcontractors are using the E-Verify program to verify employment eligibility of those working on City contracts, as required by Arizona law.

## BACKGROUND

The City is required by state law to conduct random verification of the employment records of its service contractors to ensure compliance with required use of the E-Verify employment eligibility program.

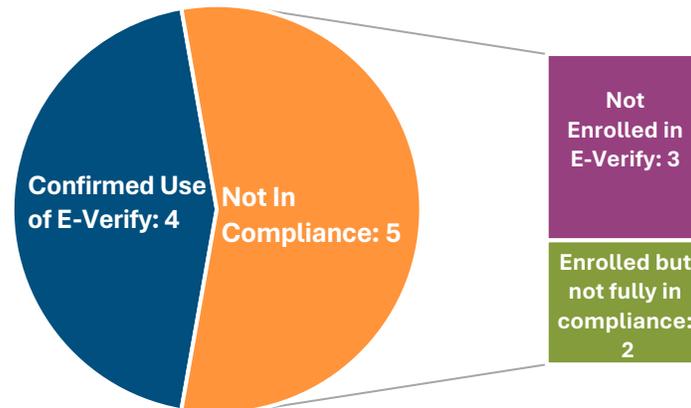
To meet this legal requirement, the City Auditor’s Office has periodically audited selected vendors’ compliance with the required use of the federal E-Verify system. E-Verify is a web-based application that allows any US employer to electronically confirm the employment eligibility of its newly hired employees. These requirements are also detailed in City contracts.

## WHAT WE FOUND

Several selected City contractors and subcontractors were not enrolled in the E-Verify program and did not use it to verify employment eligibility.

Of the 9 contractors and subcontractors reviewed, we found 5 had not fully complied with the requirement to use E-Verify as shown in Figure 1.

Figure 1. E-Verify compliance for selected service contractors and subcontractors.



- The three contractors and subcontractors that were not previously enrolled in E-Verify are now registered and indicated they would be using the system going forward.
- Two others were enrolled but did not provide E-Verify documentation for one or more employees selected for review.

Failure to comply with the E-Verify requirement may subject a contractor to penalties up to and including termination for breach of City contract. We notified the contractors, City contract administrators, and Purchasing department of the identified noncompliance.

## WHAT WE RECOMMEND

Because employers must be enrolled in the program before they can use it, the Purchasing department should require contractors to confirm enrollment in the E-Verify program during the procurement process.

### Management Response:

*The department agreed with the recommendation and will require this information in all solicitations and procurements.*

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## OBJECTIVE

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An audit of E-Verify Compliance was included in the City Council-approved fiscal year (FY) 2024/25 Audit Plan. This is a regularly scheduled audit to confirm whether selected City contractors and their subcontractors are using the E-Verify program to verify employment eligibility of those working on City contracts, as required by Arizona law.

## BACKGROUND

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In 2008 the Arizona Legislature passed the Legal Arizona Workers Act (LAWA), making it unlawful for any employer to intentionally, or knowingly, employ an unauthorized alien. Arizona Revised Statutes (A.R.S.) §23-214(A) specifically requires every employer to use the federal E-Verify program to confirm the employment eligibility of every employee hired after December 31, 2007.

The City is required by state law to conduct random verification of the employment records of its service contractors to ensure compliance with required use of the E-Verify employment eligibility program. To meet this legal requirement, the City Auditor's Office has periodically audited selected vendors' compliance with the required use of the federal E-Verify system. E-Verify is a web-based application that allows any US employer to electronically confirm the employment eligibility of its newly hired employees. City contracts detail this requirement as shown below.

### Standard City Contract Terms:

#### IMMIGRATION LAW COMPLIANCE

Under the provisions of A.R.S. §41-4401, the Contractor warrants to the City that the Contractor and all its subcontractors will comply with all Federal Immigration laws and regulations that relate to their employees and that the Contractor and all its subcontractors now comply with the E-Verify Program under A.R.S. §23-214(A).

A breach of this warranty by the Contractor or any of its subcontractors will be considered a material breach of this Contract and may subject the Contractor or Subcontractor to penalties up to and including termination of this Contract or any subcontract. The Contractor will take appropriate steps to assure that all subcontractors comply with the requirements of the E-Verify Program. The Contractor's failure to assure compliance by all its subcontractors with the E-Verify Program may be considered a material breach of this Contract by the City.

The City retains the legal right to inspect the papers of any employee of the Contractor or any subcontractor who works on this Contract to ensure that the Contractor or any subcontractor is complying with the warranty given above.

The City may conduct random verification of the employment records of the Contractor and any of its subcontractors to ensure compliance with this warranty. The Contractor agrees to indemnify, defend and hold the City harmless for, from and against all losses and liabilities arising from any and all violations of these statutes.

**SOURCE:** Excerpt from standard terms and condition in the City Services Contract.

## FINDINGS AND ANALYSIS

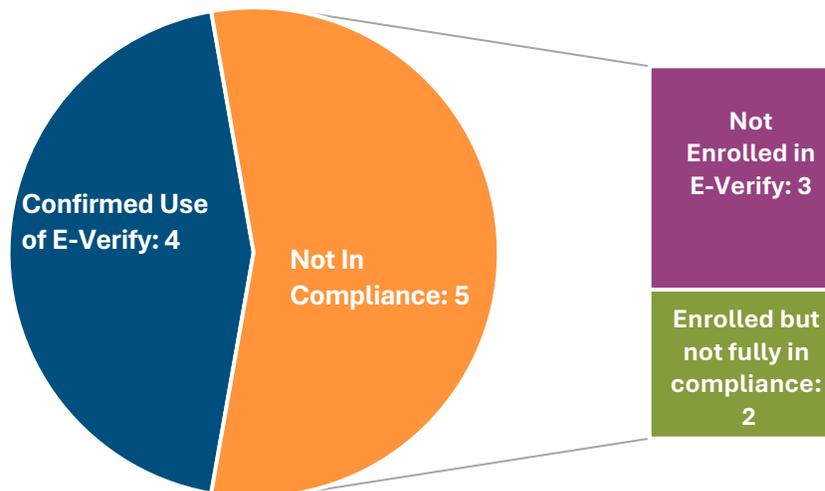
### 1. Several selected City contractors and subcontractors were not enrolled in the E-Verify program and did not use it to verify employment eligibility.

Seven contractors and two of their subcontractors with active City services contracts were randomly selected for E-Verify compliance testing. Of the 9 contractors and subcontractors reviewed, we found 5 had not fully complied with the requirement to use E-Verify as follows:

- Three were not enrolled in the E-Verify program when we initiated the audit. Employers must register through the online application in order to use it. Once enrolled, they can verify employment eligibility for newly hired employees, but current system policies do not allow employers to verify employees hired prior to the program enrollment date (an exception is made for federal contractors). One of these three contractors was previously enrolled, but its registration had expired and the employees that worked on the City contract had not been E-Verified. It also did not require its subcontractors to use E-Verify. The other two had not previously enrolled.
- One subcontractor, while actively enrolled in the E-Verify program, did not provide the requested documentation. The prime contractor was notified of this issue since they are responsible for their subcontractors' compliance.
- One contractor could not provide E-Verify documentation for 1 of the 5 employees selected for review; however, they are enrolled and using the system.

Results are summarized in Figure 1 below.

**Figure 1. E-Verify compliance for selected service contractors and subcontractors.**



SOURCE: Auditor analysis of selected service contractors' and subcontractors' E-Verify documentation.

For the identified noncompliance, the contractor has been notified. City contract administrators and the Purchasing department have also been notified and will follow up to confirm ongoing compliance. Failure to comply with the E-Verify requirement may subject a

contractor or subcontractor to penalties up to and including termination for breach of City contract. All three contractors and subcontractors that were not previously enrolled in E-Verify are now registered and indicated they would be using the system going forward.

**Recommendation:**

- 1.1 Because employers must be enrolled in the program before they can use it, the Purchasing department should require contractors to confirm enrollment in the E-Verify program during the procurement process.

## **SCOPE & METHODOLOGY**

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We performed the following steps to complete this audit:

- Reviewed applicable state and federal laws and U.S. Citizenship and Immigration Services' *E-Verify User Manual* (April 2018 version).
- Reviewed prior City Attorney's Office memos and communications on implementing these laws.
- Worked with Purchasing and the City Attorney's Office to gain an understanding of contractual and legal requirements.
- Using City financial reports of open purchase orders as of November 2024, we identified a population of approximately 520 contractors with open purchase orders and active contracts for City services. We selected 10 contractors using weighted random sampling, ensuring adequate representation of construction services contracts to cover state-funded areas that request E-Verify audit. Several contracts were determined to be not service-related or inactive and were excluded from the sample.
  - For selected contracts, we contacted each company and requested information on employees and subcontractors that worked on City contracts. If the contract was not project-specific, we requested a listing of their 10 most recent hires. Where applicable, we randomly selected two subcontractors that worked on the City contract and requested the same employee information.
  - From the employee information provided, we randomly selected up to 5 employees from each contractor or subcontractor, hired after the law's effective date or the company's enrollment in E-Verify.
  - Used the E-Verify Employer Search tool on the E-Verify website to confirm contractor enrollment in the program.

### **Audit Standards**

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Audit work took place between December 2024 and April 2025.

## MANAGEMENT ACTION PLAN

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1. Several selected City contractors and subcontractors were not enrolled in the E-Verify program and did not use it to verify employment eligibility.

### Recommendation:

Priority	Recommendation
<b>Moderate</b>	1.1 Because employers must be enrolled in the program before they can use it, the Purchasing department should require contractors to confirm enrollment in the E-Verify program during the procurement process.
Responsible Party: Jenn Myers, Purchasing Director  Est. Completion Date: 12/31/2025	<b>Management Response:</b> Agree <b>Proposed Resolution:</b> Purchasing will include this information as a submittal requirement in all solicitations. For contracts that do not go through the solicitation process, this will be a required confirmation prior to any signatures being obtained.

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### **City Auditor's Office**

Lai Cluff, Acting City Auditor  
Travis Attkisson, Senior Auditor  
Elizabeth Brandt, Senior Auditor  
Mel Merrill, Senior Auditor  
Mandi Bradley, Auditor  
Shelby Trimaloff, Exec Asst to City Auditor

### **Audit Committee**

Councilman Barry Graham  
Councilwoman Maryann McAllen, Chair  
Councilwoman Solange Whitehead

### **Our Mission**

*The City Auditor's Office conducts audits to promote operational efficiency, effectiveness, accountability and integrity in City Operations.*

### **Scottsdale City Auditor**

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