

ARTICLE X. - EMPLOYMENT ELIGIBILITY VERIFICATION SYSTEM [\[23\]](#) 

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Sec. 2-2111. - Declaration of purpose. 

(a) The Huntsville City Council declares:

- (1) 8 U.S.C. § 1324a makes it unlawful to hire, or to recruit or refer for a fee, for employment in the United States an alien knowing the alien is an unauthorized alien with respect to such employment;
- (2) The City of Huntsville shall require all contractors, as that term is defined by the ordinance from which this article was derived, to certify that they will not knowingly violate 8 U.S.C. § 1324a as a condition of receiving a contract;
- (3) The City of Huntsville shall require all contractors, as that term is defined by the ordinance from which this article was derived, to enroll in a designated employment eligibility verification system as a condition of receiving a contract;
- (4) The City of Huntsville shall require all contractors, as that term is defined by this ordinance, to remain enrolled in a designated employment eligibility verification system throughout the term of a contract; and
- (5) The City of Huntsville has the right to decline to award, renew or extend a contract and the right to terminate a contract, without any liability, for a contractor's failure to comply with the ordinance from which this article was derived.

(Ord. No. 09-735, § 1, 8-27-2009)

Sec. 2-2112. - Definitions. 

- (a) When used in the ordinance from which this article was derived, the following words and terms shall have these meanings and shall be construed so as to be consistent with federal and state law:
- (1) *City* means the City of Huntsville, Alabama.
  - (2) *Commercially available off-the-shelf (COTS) item* means any item of supply that is sold in substantial quantities in the commercial marketplace and offered to the city in the same form that it is available in the commercial marketplace, or with minor modifications.
  - (3) *Contract* shall mean all types of agreements, including, but not limited to, orders for the purchase or disposal of supplies or equipment, labor, services, construction, management, or any other item; contracts providing for the issuance of job or task orders; master agreements; and franchise agreements.
  - (4) *Contractor* means any person, employer, or business entity that enters into a contract with the city, has submitted a bid on a contract with the city, or intends to bid on a contract with the city and such contract value is in the amount of \$15,000 or more. This definition shall include, but not be limited to, a subcontractor, contract employee, or a recruiting or staffing entity. No governmental agency shall be considered to be a contractor for the purposes of the ordinance from which this article was derived.
  - (5) *Designated employment eligibility verification system* is the employment eligibility verification system designated by the city to be used by contractors in compliance with the ordinance from which this article was derived.
  - (6) *E-Verify* is a free Internet-based system that is operated or authorized by the United States Department of Homeland Security that allows employers to electronically confirm the legal working

status of newly-hired employees.

(7) *Unauthorized alien* shall have the same meaning as 8 U.S.C. § 1324a (h)(3).

(Ord. No. 09-735, § 2, 8-27-2009)

## Sec. 2-2113. - Requirements.

- (a) As a condition for the award, renewal, or extension of a contract with the city after January 1, 2010, a contractor must furnish written certification to the City of Huntsville of the following:
  - (1) Pursuant to 8 U.S.C. § 1324a, it is unlawful to hire, or to recruit or refer for a fee, for employment in the United States an alien knowing the alien is an unauthorized alien with respect to such employment; and
  - (2) It will not knowingly employ or contract with an unauthorized alien in violation of 8 U.S.C. § 1324a.
- (b) As a condition for the award, renewal, or extension of a contract with the city after January 1, 2010, a contractor must provide written certification that it has enrolled in the designated employment eligibility verification system.
- (c) The contractor shall have a continuing obligation to remain enrolled in the designated employment eligibility verification system throughout the term of its contract with the city. Upon request of the city's finance director, the contractor shall provide proof of its enrollment and continued participation in the designated employment eligibility system.
- (d) E-Verify shall be the designated employment eligibility verification system for the city. With prior written approval and at the sole discretion of the city's finance director, the city may allow an alternate comparable employment eligibility verification system to be used in lieu of E-Verify.
- (e) As a contractor participant in E-Verify, the contractor shall be required to use E-Verify for all new employees who will be working directly on the contract with the city, following completion of the Employment Eligibility Verification for I-9.
- (f) The city shall include specific written notice in all requests for bids or proposals that contractors and any subcontractors are required to enroll in the E-verify program as required by the ordinance from which this article was derived.
- (g) If a contractor uses one or more subcontractors in connection with the performance of a contract as defined herein, the contractor shall include in all subcontracts valued at \$3,000.00 or more the requirement for compliance by the subcontractor with the ordinance from which this article was derived. Certification from a subcontractor shall be furnished by the contractor to the city within three working days from the date of execution the subcontract agreement.
- (h) *Exceptions to the requirements.* Notwithstanding any other provision herein, these requirements shall not apply to the purchase by the city of any commercially available off-the-shelf (COTS) item, to contracts performed outside the United States, to contracts less than \$15,000.00 in value, nor to subcontracts less than \$3,000.00 in value.
- (i) Failure to comply with the requirements herein by a contractor or subcontractor shall be a material breach of such contract or subcontract.

(Ord. No. 09-735, § 3, 8-27-2009)

## Sec. 2-2114. - Enforcement provisions.

- (a) The city may refuse to award, renew, or extend a contract with a contractor who refuses to certify as required in [section 2-2113](#) of this article.
- (b) The city may refuse to award, renew or extend a contract with a contractor if the contractor has failed to enroll in the designated employment eligibility verification system, or failed to provide certification of enrollment in the designated employment eligibility verification system, or failed, upon request from city's finance director, to provide proof of enrollment and continued participation in the designated eligibility verification system.
- (c) The city may terminate a contract with any contractor that fails to:
  - (1) Correct a violation of 8 U.S.C. § 1324a within 30 days after notification of the violation by the United States Attorney General or Secretary of Homeland Security;
  - (2) Remain enrolled in the designated employment eligibility verification system throughout the term of its

contract with the city;

(3) Provide any certifications or proof required herein in a timely manner; or

(4) Otherwise comply with the requirements of the ordinance from which this article was derived.

(Ord. No. 09-735, § 4, 8-27-2009)

Secs. 2-2115—2-2130. - Reserved. 

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FOOTNOTE(S):

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**Editor's note**— Ord. No. 09-735, §§ 1—4, adopted Aug. 27, 2009, was included as Article X, §§ 2-2111—2-2114 at the discretion of the editor. ([Back](#))