

JOHN HICKENLOOPER  
Governor

ELLEN GOLOMBEK  
Executive Director



**DEPARTMENT OF LABOR AND EMPLOYMENT**  
OFFICE OF THE EXECUTIVE DIRECTOR

633 17th Street, Suite 1200  
Denver, Colorado 80202-3660

August 2, 2012

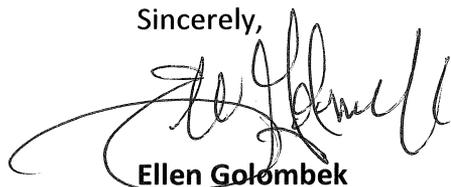
Dianne E. Ray, CPA  
State Auditor  
Colorado Office of the State Auditor  
200 East 14<sup>th</sup> Avenue, 2<sup>nd</sup> Floor  
Denver, CO 80203

Dear Ms. Ray:

In response to your request, we have prepared a status report regarding the implementation of audit recommendations contained in the October 2011 *Employment Verification and Public Contracts for Services Performance Audit*. The attached report provides a brief explanation of the actions taken by the Department of Labor and Employment to implement each recommendation.

If you have any questions, please contact Division of Labor Director Michael McArdle at 303-318-8450 or by e-mail at [michael.mcardle@state.co.us](mailto:michael.mcardle@state.co.us)

Sincerely,



Ellen Golombek

Executive Director  
Colorado Department of Labor and Employment  
303-318-8017

## AUDIT RECOMMENDATION STATUS REPORT

**AUDIT NAME:** Employment Verification and Public Contracts for Services Laws

**AUDIT NUMBER:** Performance Audit 2129

**DEPARTMENT/AGENCY/ENTITY:** Department of Labor and Employment, Division of Labor

**DATE:** August 2, 2012

### SUMMARY INFORMATION

*Please complete the table below with summary information for all audit recommendations. For multi-part recommendations, list each part of the recommendation SEPARATELY. (For example, if Recommendation 1 has three parts, list each part separately in the table.)*

<b>Recommendation Number</b> <i>(e.g., 1a, 1b, 2, etc.)</i>	<b>Agency's Response</b> <i>(i.e., agree, partially agree, disagree)</i>	<b>Original Implementation Date</b> <i>(as listed in the audit report)</i>	<b>Implementation Status</b> <i>(Implemented, Implemented and Ongoing, Partially Implemented, Not Implemented, or No Longer Applicable)</i>  <i>Please refer to the attached sheet for definitions of each implementation status option.</i>	<b>Revised Implementation Date</b> <i>(Complete only if agency is revising the original implementation date.)</i>
1a	Agree	June 2011	Implemented and Ongoing	
1b	Agree	June 2011	Implemented	
1c	Agree	February 2012	Implemented and Ongoing	
1d	Agree	February 2012	Implemented	
2a	Agree	July 2012	Implemented	
2b	Agree	July 2012	Implemented	
2c	Agree	December 2011	Implemented	
2d	Agree	July 2012	Implemented	
3a	Agree	December 2011	Implemented	
3b	Agree	July 2012	Implemented	
4a	Agree	December 2011	Implemented and Ongoing	
4b	Agree	April 2012	Implemented and Ongoing	

<b>Recommendation Number</b> <i>(e.g., 1a, 1b, 2, etc.)</i>	<b>Agency's Response</b> <i>(i.e., agree, partially agree, disagree)</i>	<b>Original Implementation Date</b> <i>(as listed in the audit report)</i>	<b>Implementation Status</b> <i>(Implemented, Implemented and Ongoing, Partially Implemented, Not Implemented, or No Longer Applicable)</i>  Please refer to the attached sheet for definitions of each implementation status option.	<b>Revised Implementation Date</b> <i>(Complete only if agency is revising the original implementation date.)</i>
4c	Agree	October 2011	Implemented and Ongoing	
5a	Agree	November 2011	Implemented and Ongoing	
5b	Agree	February 2012	Implemented	
6a	Agree	August 2011	Implemented and Ongoing	
6b	Agree	August 2011	Implemented	
6c	Agree	February 2012	Implemented	
8a	Agree	January 2012	Implemented	
8b	Agree	January 2012	Implemented	

## DETAIL OF IMPLEMENTATION STATUS

### **Recommendation #: 1**

**Agency Addressed: Department of Labor and Employment, Division of Labor**

### **Recommendation Text in Audit Report:**

The Division of Labor (the Division) should ensure that its compliance determinations are appropriate and have adequate support by:

- a. Ensuring that compliance officers adhere to new documentation review standards and utilize the Division's new testing spreadsheet when conducting employer audits.
- b. Establishing a formal written policy specifying documentation standards and expectations, including the minimum level of supporting documentation that compliance officers must maintain in hard copy files and the Division's eComp system when conducting an audit.
- c. Instituting a quality review process whereby a supervisor and/or another compliance officer routinely reviews a sample of completed audits for adherence to established standards.
- d. Finding employers to be noncompliant with the Employment Verification Law when there is evidence that an employer has submitted backdated affirmations.

### **Agency's Response** *(i.e., Agree, Partially Agree, or Disagree):*

- a. Agree. Implementation date: Implemented and Ongoing.
- b. Agree. Implementation date: Implemented.
- c. Agree. Implementation date: February 2012.
- d. Agree. Implementation date: February 2012.

**Agency's Written Response in Audit Report:**

- a. In June 2011, the Division created and implemented a large number and variety of new processes and policies. We will continue to ensure that compliance officers adhere to new documentation review standards and utilize the Division's new testing spreadsheet when conducting employer audits.
- b. In June 2011, the Division established formal written policies specifying documentation standards and expectations, including the minimum level of supporting documentation that compliance officers must maintain in hard copy files and the Division's eComp system when conducting an audit.
- c. The Division will institute a quality review process whereby a supervisor and/or another compliance officer routinely reviews a sample of completed audits for adherence to established standards.
- d. The Division will find employers to be noncompliant with the Employment Verification Law when there is evidence that an employer has submitted backdated affirmations.

**Current Implementation Status of Recommendation (i.e., Implemented, Implemented and Ongoing, Partially Implemented, Not Implemented, or No Longer Applicable):**

- 1a. Implemented and ongoing.
- 1b. Implemented.
- 1c. Implemented and ongoing.
- 1d. Implemented.

**Agency's Current Comments on Implementation Status of Recommendation:**

**1a. Implemented and ongoing.** In June 2011, the Division created and implemented a large number and variety of new processes and policies. The Division will continue to ensure that compliance officers adhere to new documentation review standards and utilize the Division's new testing spreadsheet(s) when conducting employer audits. Policies, processes, and spreadsheets will be updated as appropriate in the future.

**1b. Implemented.** In June 2011, the Division established formal written policies specifying documentation standards and expectations, including the minimum level of supporting documentation that compliance officers must maintain in hard copy files and the Division's eComp system when conducting an audit.

**1c. Implemented and ongoing.** The Division instituted a quality review process whereby a supervisor and compliance officers routinely review a sample of completed audits for adherence to established standards. Results from the quality control reviews have been incorporated into staff policies and procedures, Division processes, and employee performance standards. Quality control processes and resultant improvements will be ongoing.

**1d. Implemented.** The Division classifies employers as noncompliant with the Employment Verification Law when there is evidence that an employer has submitted backdated affirmations. This policy is also codified in the new Employment Verification Law rules.

**Recommendation #: 2**

**Agency Addressed: Department of Labor and Employment, Division of Labor**

**Recommendation Text in Audit Report:**

The Division of Labor (the Division) should ensure that monetary fines assessed as a result of noncompliance with the Employment Verification Law are handled appropriately and consistently for all employers on the basis of clearly defined standards. Specifically, the Division should:

- a. Fully specify in state rules those circumstances or situations in which an employer's actions or noncompliance meet the "reckless disregard" standard established in the Employment Verification Law and, therefore, warrant a fine assessment. This should include making the backdating of affirmations a finable offense.
- b. Define a schedule or matrix in state rules that directly and clearly aligns the different factors considered when assessing a fine with the resulting total fine amount.
- c. Obtain an informal or formal legal opinion from the Office of the Attorney General to clarify the total maximum amount the Division may fine an employer on a single audit under the Employment Verification Law.
- d. Develop a formal process in state rules for evaluating employers' appeals of fine assessments, including the standards and criteria by which an appealed fine assessment may be reduced or dismissed.

**Agency's Response** (i.e., Agree, Partially Agree, or Disagree):

- a. Agree. Implementation date: July 2012.
- b. Agree. Implementation date: July 2012.
- c. Agree. Implementation date: December 2011.
- d. Agree. Implementation date: July 2012.

**Agency's Written Response in Audit Report:**

- a. The Division will fully specify in state rules those circumstances or situations in which an employer's actions or noncompliance meet the reckless disregard standard established in the Employment Verification Law and, therefore, warrant a fine assessment. Backdating of affirmations shall be a finable offense.
- b. In June 2011, the Division created and implemented internal schedules and matrices that directly and clearly align the different factors considered when assessing a fine with the resulting total fine amount. The Division will formally adopt these schedules and matrices in state rules.
- c. The Division will obtain an informal or formal legal opinion from the Office of the Attorney General to clarify the total maximum amount the Division may fine an employer on a single audit under the Employment Verification Law.
- d. The Division will develop a formal process in state rules for evaluating employers' appeals of fine assessments, including the standards and criteria by which an appealed fine assessment may be reduced or dismissed.

**Current Implementation Status of Recommendation (i.e., Implemented, Implemented and Ongoing, Partially Implemented, Not Implemented, or No Longer Applicable):**

- 2a. Implemented.
- 2b. Implemented.

2c. Implemented.

2d. Implemented.

**Agency's Current Comments on Implementation Status of Recommendation:**

**2a. Implemented.** The Division has fully specified in the proposed state rules those circumstances or situations in which an employer's actions or noncompliance meet the reckless disregard standard established in the Employment Verification Law and, therefore, warrant a fine assessment. The backdating of affirmations is classified in the rules as a finable offense. The rules were proposed in June 2012 and published in the Colorado Register on July 10, 2012. A hearing is scheduled at the Division on August 2, 2012, and the rules become effective on October 1, 2012.

**2b. Implemented.** In June 2011, the Division created and implemented internal schedules and matrices that directly and clearly align the different factors considered when assessing a fine with the resulting total fine amount. These schedules and matrices will be present in state rules. The rules were proposed in June 2012 and published in the Colorado Register on July 10, 2012. A hearing is scheduled at the Division on August 2, 2012, and the rules become effective on October 1, 2012.

**2c. Implemented.** The Division obtained an informal legal opinion from the Office of the Attorney General to clarify the total maximum amount the Division may fine an employer on a single audit under the Employment Verification Law. The opinion supports the Division's current and historical position that the \$5,000 fine limit is per first offense, the \$25,000 fine limit is per second and subsequent offense, and neither limit applies on a per-audit basis.

**2d. Implemented.** The Division has clarified in the proposed state rules the standards and criteria by which fines are calculated and imposed including potential enhancements and mitigation to a fine. The rules state that appeals by employers are governed by the Colorado Administrative Procedure Act, § 24-4-101, et seq., C.R.S. The rules were proposed in June 2012 and published in the Colorado Register on July 10, 2012. A hearing is scheduled at the Division on August 2, 2012, and the rules become effective on October 1, 2012.

**Recommendation #: 3**

**Agency Addressed: Department of Labor and Employment, Division of Labor**

**Recommendation Text in Audit Report:**

The Division of Labor (the Division) should help facilitate employers' compliance with the Employment Verification Law's affirmation requirement by:

- a. Updating the Division's affirmation form to include a version number and/or effective date.
- b. Amending state rules to require employers to use the Division's approved affirmation form.

**Agency's Response (i.e., Agree, Partially Agree, or Disagree):**

- a. Agree. Implementation date: December 2011.
- b. Agree. Implementation date: July 2012.

**Agency's Written Response in Audit Report:**

- a. The Division will update the Division's affirmation form to include a version number and/or effective date.
- b. The Division will amend state rules to require employers to use the Division's approved affirmation form.

**Current Implementation Status of Recommendation (i.e., Implemented, Implemented and Ongoing, Partially Implemented, Not Implemented, or No Longer Applicable):**

3a. Implemented.

3b. Implemented.

**Agency's Current Comments on Implementation Status of Recommendation:**

**3a. Implemented.** The Division updated and issued a new affirmation form on the Division website in January 2012. The new form includes an effective date. Another version of the form is planned for late 2012 or early 2013, which will include an effective date, expiration date, and additional information to aid employers in adhering to the requirements of the law.

**3b. Implemented.** The Division has proposed amended rules that require employers to solely use the affirmation form created and approved by the Division in order to comply with the affirmation requirement. The required affirmation form is available from the Division or the Division's website. The rules were proposed in June 2012 and published in the Colorado Register on July 10, 2012. A hearing is scheduled at the Division on August 2, 2012, and the rules become effective on October 1, 2012.

**Recommendation #: 4**

**Agency Addressed: Department of Labor and Employment, Division of Labor**

**Recommendation Text in Audit Report:**

The Division of Labor (the Division) should ensure that it conducts audits of employers that are at higher risk of noncompliance with the Employment Verification Law by incorporating risk-based principles when selecting employers for audit. Specifically, the Division should:

- a. Utilize and leverage the unemployment insurance tax data to better identify the population of employers that are likely to have newly hired employees covered by the Employment Verification Law before randomly selecting specific employers for audit.
- b. Track noncompliance rates by industry and select for random audit a greater proportion of employers in those industries with historically higher rates of noncompliance.
- c. Resume re-audits of noncompliant employers.

**Agency's Response** (i.e., Agree, Partially Agree, or Disagree):

- a. Agree. Implementation date: December 2011.
- b. Agree. Implementation date: April 2012.
- c. Agree. Implementation date: October 2011.

**Agency's Written Response in Audit Report:**

- a. The Division will utilize and leverage unemployment insurance tax data to better identify the population of employers that are likely to have newly hired employees covered by the Employment Verification Law before randomly selecting specific employers for audit.
- b. The Division will track noncompliance rates by industry and select for random audit a greater proportion of employers in those industries with historically higher rates of noncompliance.
- c. The Division will resume re-auditing noncompliant employers.

**Current Implementation Status of Recommendation (i.e., Implemented, Implemented and Ongoing, Partially Implemented, Not Implemented, or No Longer Applicable):**

- 4a. Implemented and ongoing.
- 4b. Implemented and ongoing.
- 4c. Implemented and ongoing.

**Agency's Current Comments on Implementation Status of Recommendation:**

**4a. Implemented and ongoing.** The Division utilizes and leverages unemployment insurance tax data to better identify the population of employers that are likely to have newly hired employees covered by the Employment Verification Law before randomly selecting specific employers for audit. The Division will continue to explore and implement new methods of identifying and targeting appropriate employers for random audit.

**4b. Implemented and ongoing.** The Division tracks noncompliance rates by industry and selects for random audit a greater proportion of employers in those industries with historically higher rates of noncompliance. The Division will update noncompliance rates on an ongoing basis, and adjust audit selection by industry noncompliance rates accordingly.

**4c. Implemented and ongoing.** The Division resumed re-auditing noncompliant employers. Re-audits will continue for the foreseeable future, although the quantity and frequency of re-audit activities will vary due to fluctuations in initial audit noncompliance rates.

**Recommendation #: 5**

**Agency Addressed: Department of Labor and Employment, Division of Labor**

**Recommendation Text in Audit Report:**

The Division of Labor (the Division) should build on its existing efforts to educate and help promote employers' compliance with the Employment Verification Law by:

- a. Working with state and federal agencies and private-sector organizations that are likely to be points of contact for employers and business owners in Colorado to try to increase the availability and visibility of information about the Employment Verification Law and its requirements.
- b. Improving written technical guidance to clarify how key provisions in the Employment Verification Law should be implemented and adhered to, especially in those situations in which the Employment Verification Law departs from federal regulations and guidance related to the Form I-9 process. As a starting place, the Division should develop and make a frequently asked questions guide available on its website.

**Agency's Response (i.e., Agree, Partially Agree, or Disagree):**

- a. Agree. Implementation date: November 2011 and Ongoing.
- b. Agree. Implementation date: February 2012.

**Agency's Written Response in Audit Report:**

- a. The Division will expand upon its existing collaborative educational efforts to include additional state and federal agencies and private-sector organizations that are likely to be points of contact for employers and business owners in Colorado to try to increase the availability and visibility of information about the Employment Verification Law and its requirements.
- b. The Division will improve written technical guidance to clarify for employers how key provisions of the Employment Verification Law must be implemented and adhered to, especially in those situations in which the Employment Verification Law departs from federal regulations and guidance related to the Form I-9 process. The Division will develop and make a frequently asked questions guide available on its website.

**Current Implementation Status of Recommendation (i.e., Implemented, Implemented and Ongoing, Partially Implemented, Not Implemented, or No Longer Applicable):**

- 5a. Implemented and ongoing.
- 5b. Implemented.

**Agency's Current Comments on Implementation Status of Recommendation:**

**5a. Implemented and ongoing.** The Division expanded upon its pre-existing collaborative educational efforts to include additional state and federal agencies and private-sector organizations that were likely to be points of contact for employers and business owners in Colorado to try to increase the availability and visibility of information about the Employment Verification Law and its requirements. These efforts will continue for the foreseeable future. New partnership outreach has included: Colorado Secretary of State; Denver Metro Chamber of Commerce; Colorado Department of Personnel and Administration; Colorado Department of Revenue; Colorado Business Express; Small

Business Administration; Aurora Business Development Center; Mountain States Employer Council; Colorado Department of Regulatory Agencies; Office of Economic Development and International Trade; Better Business Bureau; and additional agencies and organizations.

**5b. Implemented.** The Division improved its written technical guidance for the public by clarifying for employers how key provisions of the Employment Verification Law must be implemented and adhered to (especially in those situations in which the Employment Verification Law departs from federal regulations and guidance related to the Form I-9 process). The Division developed and distributed a frequently asked questions (FAQs) guide on its website. The Division's website guidance now includes: a fact sheet; complete guide to the law; the new FAQs; new instructions for the affirmation form; and additional educational content. Guidance is updated and improved on an ongoing basis as conditions warrant.

**Recommendation #: 6**

**Agency Addressed: Department of Labor and Employment, Division of Labor**

**Recommendation Text in Audit Report:**

The Division of Labor (the Division) should strengthen its audit process, including communication with audited employers, by:

- a. Requesting that audited employers provide a list of all current employees and their corresponding hire dates. The Division should use these lists to ensure that employers provide copies of completed affirmations and identity and employment eligibility documents for all employees hired on or after January 1, 2007.
- b. Requiring compliance officers to use the Division's eComp system to generate an official closure letter for each initiated audit.
- c. Providing better instructions in the audit initiation letter for those circumstances in which the employer may not have obtained or maintained the required documentation.

**Agency's Response (i.e., Agree, Partially Agree, or Disagree):**

- a. Agree. Implementation date: Implemented and Ongoing.
- b. Agree. Implementation date: Implemented.

- c. Agree. Implementation date: February 2012.

**Agency's Written Response in Audit Report:**

- a. In August 2011, the Division implemented new processes, policies, and audit letters that request that audited employers provide a list of all current employees and their corresponding hire dates. The Division is using these lists to ensure that the employer provides copies of completed affirmations and identity and employment eligibility documents for all employees hired on or after January 1, 2007.
- b. In August 2011, the Division implemented new processes, policies, and audit letters that require compliance officers to use the Division's eComp system to generate an official closure letter for each initiated audit.
- c. The Division will provide better instructions in the audit initiation letter for those circumstances in which the employer may not have obtained or maintained the required documentation.

**Current Implementation Status of Recommendation (i.e., Implemented, Implemented and Ongoing, Partially Implemented, Not Implemented, or No Longer Applicable):**

- 6a. Implemented and ongoing.
- 6b. Implemented.
- 6c. Implemented.

**Agency's Current Comments on Implementation Status of Recommendation:**

**6a. Implemented and ongoing.** In August 2011, the Division implemented new processes, policies, and audit letters that request that audited employers provide a list of all current employees and their corresponding hire dates. The Division is using these lists to ensure that employers provide copies of completed affirmations and identity and employment eligibility documents for all employees hired on or after January 1, 2007.

**6b. Implemented.** In August 2011, the Division implemented new processes, policies, and audit letters that require compliance officers to use the Division's eComp system to generate an official closure letter for each initiated audit. Closure letters or other final written communiques are required for all audits, with the exception of situations where the employer cannot be reached through such written correspondence.

**6c. Implemented.** The Division revised the audit initiation letter, and the employer instructions for the affirmation form, in order to better communicate to employers their responsibilities in situations where they may not have obtained or maintained the required documentation under the law.

**Recommendation #: 8**

**Agency Addressed: Department of Labor and Employment, Division of Labor**

**Recommendation Text in Audit Report:**

The Division of Labor (the Division) should ensure a valid list of participants in the Department Program for audit purposes by:

- a. Following up with the contracting state agency or political subdivision when it receives a notice of participation from a contractor. At a minimum, the Division should confirm whether the contracting state agency or political subdivision received a copy of the notice of participation and obtain sufficient details to determine whether the entity submitting the notice is the primary contractor on the public contract for services.
- b. Improving technical guidance for contractors and contracting agencies to clarify that bidders and subcontractors are ineligible for participation in the Department Program.

**Agency's Response (i.e., Agree, Partially Agree, or Disagree):**

- a. Agree. Implementation date: January 2012 and Ongoing.
- b. Agree. Implementation date: January 2012.

**Agency's Written Response in Audit Report:**

- a. The Division will follow up with the contracting state agency or political subdivision when it receives a notice of participation from a contractor. The Division will confirm whether the contracting state agency or political subdivision received a copy of the notice of participation and obtain sufficient details to determine whether the entity submitting the notice is the primary contractor on the public contract for services.
- b. The Division will improve technical guidance for contractors and contracting agencies to clarify that bidders and subcontractors are ineligible for participation in the Department Program.

**Current Implementation Status of Recommendation (i.e., Implemented, Implemented and Ongoing, Partially Implemented, Not Implemented, or No Longer Applicable):**

8a. Implemented.

8b. Implemented.

**Agency's Current Comments on Implementation Status of Recommendation:**

**8a. Implemented.** The Division contacts the contracting state agency or political subdivision when it receives a notice of participation from a contractor. The Division confirms whether the contracting state agency or political subdivision received a copy of the notice of participation, and obtains sufficient details to determine whether the entity submitting the notice is the primary contractor on the public contract for services.

**8b. Implemented.** The Division improved technical guidance for contractors and contracting agencies to clarify that bidders and subcontractors are ineligible for participation in the Department Program. The new technical guidance is available on the Division website.

# State of Colorado



John W. Hickenlooper  
Governor

Kathy Nesbitt  
Executive Director

Jennifer Okes  
Deputy Executive Director

## DPA

Department of Personnel  
& Administration

Executive Office  
633 17th Street, Suite 1600  
Denver, Colorado 80202  
(303) 866-3000  
Fax (303) 866-2102  
[www.colorado.gov/dpa](http://www.colorado.gov/dpa)

August 3, 2012

Dianne E. Ray, CPA  
State Auditor  
Colorado Office of the State Auditor  
200 East 14th Avenue, 2nd Floor  
Denver, CO 80203

Dear Ms. Ray:

In response to your request, we have prepared a status report regarding the implementation of audit recommendations contained in the October 2011 *Employment Verification and Public Contracts for Services Performance Audit*. The attached report provides a brief explanation of the actions taken by the Department of Personnel & Administration to implement each recommendation.

We look forward to meeting with the Legislative Audit Committee to answer any outstanding questions related to our efforts on this subject. If you have any questions, please contact me at (303) 866-2996 or by e-mail at [jennifer.okes@state.co.us](mailto:jennifer.okes@state.co.us).

Sincerely,

Jennifer Okes  
Deputy Executive Director

## AUDIT RECOMMENDATION STATUS REPORT

**AUDIT NAME:** Employment Verification and Public Contracts for Services Laws

**AUDIT NUMBER:** Performance Audit 2129

**DEPARTMENT/AGENCY/ENTITY:** Department of Personnel & Administration

**DATE:** August 2012

### SUMMARY INFORMATION

Please complete the table below with summary information for all audit recommendations. **For multi-part recommendations, list each part of the recommendation SEPARATELY.** (For example, if Recommendation 1 has three parts, list each part separately in the table.)

<b>Recommendation Number</b> <i>(e.g., 1a, 1b, 2, etc.)</i>	<b>Agency's Response</b> <i>(i.e., agree, partially agree, disagree)</i>	<b>Original Implementation Date</b> <i>(as listed in the audit report)</i>	<b>Implementation Status</b> <i>(Implemented, Implemented and Ongoing, Partially Implemented, Not Implemented, or No Longer Applicable)</i>  Please refer to the attached sheet for definitions of each implementation status option.	<b>Revised Implementation Date</b> <i>(Complete only if agency is revising the original implementation date.)</i>
7a	Agree	April 2012	Implemented and Ongoing	
7b	Agree	April 2012	Implemented and Ongoing	
7c	Agree	April 2012	Implemented and Ongoing	
7d	Agree	April 2012	Implemented and Ongoing	
9	Agree	December 2011	Implemented and Ongoing	

## DETAIL OF IMPLEMENTATION STATUS

### **Recommendation #: 7**

**Agency Addressed: Department of Personnel & Administration**

### **Recommendation Text in Audit Report:**

The Department of Personnel & Administration (DPA) should help ensure that the State of Colorado, as an employer, complies with the Employment Verification Law for state classified employees by:

- a. Expanding technical guidance to more clearly and comprehensively explain the requirements of the Employment Verification Law and how they go beyond or are different from the federal Form I-9 process. Technical guidance should be kept current to reflect changes in applicable federal and state requirements.
- b. Providing training to human resources personnel at state agencies and higher education institutions on employment eligibility verification requirements and processes for state classified employees.
- c. Encouraging human resources personnel at state agencies and higher education institutions to use the employment verification self-audit form.
- d. Conducting targeted reviews of state agencies and higher education institutions, as necessary, for compliance with the Employment Verification Law.

### **Agency's Response (i.e., Agree, Partially Agree, or Disagree):**

- a. Agree. Implementation date: April 2012.
- b. Agree. Implementation date: April 2012.
- c. Agree. Implementation date: April 2012.
- d. Agree. Implementation date: April 2012.

**Agency's Written Response in Audit Report:**

- a. DPA will revise its technical guidance to more clearly and comprehensively explain the requirements of the Employment Verification Law, distinguishing them from the related requirements of the federal Form I-9 process.
- b. DPA will develop training for human resources personnel who carry out the verification process for new employees.
- c. DPA will remind human resources personnel about the self-audit tool available on its website and encourage departments to evaluate their own processes.
- d. DPA will consider ways to use its limited existing resources in order to conduct targeted reviews of state departments for compliance with the Employment Verification Law.

**Current Implementation Status of Recommendation (i.e., Implemented, Implemented and Ongoing, Partially Implemented, Not Implemented, or No Longer Applicable):**

Implemented and Ongoing.

**Agency's Current Comments on Implementation Status of Recommendation:**

The Department issued a revised technical assistance on Employment Eligibility Verification Form I-9 on December 28, 2011. This guidance was further refined on January 17, 2012. The Technical Assistance summarizes both the federal law and state law and highlights differences between the two. The Department has developed training for human resources personnel who carry out the verification process for new employees. This training was provided to a total of 30 individuals on January 23, 2012 and February 27, 2012. The Department also reminded Human Resource Directors of the available self-audit tool in an email from the State Chief Human Resources Officer on June 28, 2012. To date, the Department has not yet been able to implement any targeted compliance reviews in this area due to limited resources, but will continue to evaluate this periodically.

**Recommendation #: 9**

**Agency Addressed: Department of Personnel & Administration, Office of the State Controller**

**Recommendation Text in Audit Report:**

The Office of the State Controller should develop and implement a method for state agencies to comply with the Public Contracts for Services Law for small dollar purchases for services when a written purchase order or contract is not required.

**Agency's Response** *(i.e., Agree, Partially Agree, or Disagree):*

Agree. Implementation date: December 2011.

**Agency's Written Response in Audit Report:**

The Office of the State Controller agrees that it should develop and implement a method of promoting compliance with the Public Contracts for Services Law for small-dollar purchases not involving contracts or purchase order standard provisions or terms and conditions. We will attempt to increase awareness of the certification and affidavit form by directly notifying agencies and conducting training at the Colorado Contracts Improvement Team meetings. We will encourage state agencies to consistently use the form by policy and by referencing the form in the State's Procurement Manual. However, as pointed out in the report, in using the form there are tradeoffs regarding compliance and administrative efficiencies.

**Current Implementation Status of Recommendation (i.e., Implemented, Implemented and Ongoing, Partially Implemented, Not Implemented, or No Longer Applicable):**

Implemented and Ongoing.

**Agency's Current Comments on Implementation Status of Recommendation:**

The Office of the State Controller (OSC) has taken several steps to promote compliance with the Public Contracts for Services Law for small-dollar purchases. The Office posted the Certification and Affidavit form to be used for purchases under \$5,000 on the OSC website. In addition, the Office presented guidance on complying with the Public Contracts for Services law for small purchases for services at the July 18, 2012 Colorado Contracts Improvement Team (CCIT) meeting. The Certification and Affidavit form and the materials from the July CCIT meeting are both located on the OSC website along with a myriad of other forms and guidance on Public Contracts for Services law at: [http://www.colorado.gov/dpa/dfp/sco/contracts/Unauthorized\\_Immigrants.htm](http://www.colorado.gov/dpa/dfp/sco/contracts/Unauthorized_Immigrants.htm). The Office will provide refresher training on this law at future CCIT meetings.