

Chapter 36

Verification of Lawful Presence within the United States

O.C.G.A. § 50-36-1

Verification of Lawful Presence Within United States

- The law went into effect on July 1, 2007.
- In October 2012, the Office of the Attorney General determined that certification issued by GSWCC is a “public benefit” and GSWCC must to adhere to the requirements of 50-36-1.

O.C.G.A. § 50-36-1

- Must verify the legal immigration status of any person 18 years or older who applies for state or local public benefits as defined in federal law under 8 U.S.C. Section 1621,

State and Local Public Benefit

8 U.S.C. Section 1621 (c) (1) defines 'state and local public benefit' as:

“any grant, contract, loan, professional license, or commercial license provided by an agency of a State or local government or by appropriated funds of a State or local government; and any retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit, or any other similar benefit for Which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of a State or local government or by appropriated funds of a State or local government.”

List of Public Benefits in Statute

- Adult Education
- Cash Allowance
- Disability Insurance
- Down Payment Assistance
- Energy Assistance
- Food Stamps
- Gaming License
- Health Benefits
- Housing Assistance
- Medicaid
- Occupational License
- Professional License
- Rent Assistance
- State Grant or Loan
- State ID Card
- TANF
- Unemployment Insurance
- Welfare to Work

Occupational and Professional License

Similar to commercial licenses, where performing or holding a certain job is conditioned upon holding a license issued by a state or local government, it would be considered a public benefit and would be subject to verification.

O.C.G.A. 50-36-1 (a)(4)(A)(xv) and (xvi)

How Does this Effect the E&S Program

Citizenship verification is an additional step in the certification process.

There is no change in the actual administration of the certification/re-certification course.

Individuals will continue to create and use their Personal ID numbers for identification purposes.

How Does this Effect the E&S Program

Trainer's role

- Trainers will be responsible for collecting the documentation from the student and submitting it to GSWCC with the exams or re-certification roster.
- Trainers will be responsible for notarizing documentation, if needed.

Verification of Individuals

Effective January 1, 2013, GSWCC must verify the citizenship of all individuals that apply for certification/re-certification.

This is not retroactive, individuals who already hold a current certification will not have citizenship verified until they seek re-certification.

Individuals will have to submit documentation for each course they take.

Verification of Individuals

GSWCC has created a memo to explain the requirements and process for submitting documentation.

would be 0910631234. The Personal ID number is the identifying number the Commission uses to track an individual's certification.

MEMORANDUM

To: Applicants Seeking to Obtain or Renew Certification per O.C.G.A. 12-7-19, for Individuals Involved in Land Disturbing Activities

From: Georgia Soil and Water Conservation Commission

Re: Verification of Lawful Presence within the United States

As a result of a law change to O.C.G.A. § 50-36-1, the Georgia Soil and Water Conservation Commission (Commission) is required to obtain a signed and sworn affidavit verifying the applicant's lawful presence in the United States accompanied by a copy of at least one "secure and verifiable document." O.C.G.A. § 50-36-1(e).

Attached to this Memorandum there is a Checklist for Verification of Lawful Presence within the United States (Checklist) along with three different affidavits from which the applicant must choose that provide the basis for his or her lawful presence in the United States. The Checklist must be completed by an applicant to identify which of the three types of affidavits and which one of the 16 secure and verifiable documents listed is being submitted to the Commission.

In determining which affidavit is appropriate, an applicant that is a United States citizen should complete the affidavit with that title (first affidavit). An applicant that is a legal permanent resident should complete the affidavit with that title (second affidavit). An applicant that is a qualified alien or nonimmigrant under Title 8 U.S.C. with an alien number issued by the Department of Homeland Safety or other federal immigration agency should complete the affidavit with that title (third affidavit).

A legible photocopy of at least one secure and verifiable document must accompany the affidavit that is being submitted by an applicant. A "secure and verifiable document" is defined in O.C.G.A. § 50-36-2 as "a document issued by a state and federal jurisdiction or recognized by the United States government and that is verifiable by federal or state law enforcement, intelligence, or homeland security agencies. A secure and verifiable document shall not mean a Matricula Consular de Alta Seguridad, matricula consular card, consular matriculation card, consular identification card, or similar identification card issued by a foreign government regardless of the holder's immigration status. Only those documents approved and posted by the Attorney General pursuant to subsection (f) of this Code section shall be considered secure and verifiable."

Depending on which affidavit an applicant is submitting, there is included on the Checklist at least one type of secure and verifiable document that has been determined by the Georgia Attorney General's Office as being acceptable to support an affidavit. Once the appropriate affidavit is selected by an applicant and a photocopy of his or her secure and verifiable document has been made, he or she must complete the affidavit and sign it in the presence of a notary public.

Prior to attending a certification or re-certification course, each applicant is encouraged to mail to the Commission the following three documents: 1) a Checklist completed in its entirety by the applicant, 2) the appropriate original signed and notarized affidavit attesting to the basis for his or her lawful presence in the United States, and 3) a legible photocopy of the applicant's secure and verifiable document in support of the affidavit being submitted.

Please make sure that the applicant's name, ten digit Personal ID number, certification number (if applicable) and a current email address are included on each of the three documents being submitted, including the copy of the secure and verifiable document. An applicant's Personal ID number is the applicant's date of birth (mm/dd/yyyy) and the last four digits of their Social Security number. For example an applicant's date of birth is September 10, 1963 and the last four digits of their Social Security number are 1234, their Personal ID number

Required Documentation

1. GSWCC Checklist for Verification of Lawful Presence Within the United States

GEORGIA SOIL AND WATER CONSERVATION COMMISSION
CHECKLIST FOR VERIFICATION OF LAWFUL PRESENCE WITHIN THE UNITED STATES

THIS FORM MUST BE SUBMITTED TO THE COMMISSION WITH YOUR COMPLETE NOTARIZED AFFIDAVIT AND A LEGIBLE COPY OF YOUR SECURE AND VERIFIABLE DOCUMENT

NAME _____ (please print clearly)

Personal ID Number _____ Certification Number (if applicable) _____ Current Email Address (for notification purposes) _____
DOB(mm/dd/yy) and Last 4 digits of SSN

1) Affidavit that I am providing (please check the appropriate one):
 United States Citizen Affidavit;
 Legal Permanent Resident Affidavit; or
 Qualified Alien or Nonimmigrant under the Federal Immigration and Nationality Act, Title 8 with an Alien Number Issued by the Department of Homeland Security or Other Federal Immigration Agency Affidavit

2) A legible copy of at least one form of Secure and Verifiable Documentation authorized by the Georgia Attorney General's Office that I am providing to support my Affidavit (please check the form(s) of documentation):
 United States passport or passport card
 United States military identification card
 Driver's license issued by one of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Commonwealth of the Northern Marianas Islands, the United States Virgin Islands, American Samoa, or the Swain Islands, provided that it contains a photograph of the bearer or lists sufficient identifying information regarding the bearer, such as name, date of birth, gender, height, eye color, and address to enable the identification of the bearer.
 Identification card issued by one of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Commonwealth of the Northern Marianas Islands, the United States Virgin Islands, American Samoa, or the Swain Islands, provided that it contains a photograph of the bearer or lists sufficient identifying information regarding the bearer, such as name, date of birth, gender, height, eye color, and address to enable the identification of the bearer.
 Tribal identification card of a federally recognized Native American tribe, provided that it contains a photograph of the bearer or lists sufficient identifying information regarding the bearer, such as name, date of birth, gender, height, eye color, and address to enable the identification of the bearer.
 United States Permanent Resident Card or Alien Registration Receipt Card
 Employment Authorization Document that contains a photograph of the bearer
 Passport issued by a foreign government
 Merchant Mariner Document or Merchant Mariner Credential issued by the United States Coast Guard
 Free and Secure Trade (FAST) card
 NEXUS card
 Secure Electronic Network for Travelers Rapid Inspection (SENTRI) card
 Driver's license issued by a Canadian government authority
 Certificate of Citizenship issued by the United States Department of Citizenship and Immigration Services (US CIS) (Form N-560 or Form N-561)
 Certificate of Naturalization issued by the United States Department of Citizenship and Immigration Services (US CIS) (Form N-550 or Form N-570)
 Other document or form of identification for proof or documentation of identity that the Georgia Soil and Water Conservation Commission must accept pursuant to federal law deemed to be a secure and verifiable document solely for the issuance/renewal or administration of a Georgia mortgage license

I am providing the Georgia Soil and Water Conservation Commission with this Checklist, the applicable affidavit and a photocopy of an authorized secure and verifiable document as a required part of the certification or re-certification for individuals involved in land disturbing activities. I understand and agree that knowingly and willfully making a false, fictitious, or fraudulent submission of this documentation to the Commission may serve as grounds for my certification or re-certification to be revoked and may subject me to criminal penalties.

Signature of Applicant _____ Date _____

Required Documentation

2. Affidavit

Applicant must complete one of the following affidavits:

- Legal US Citizen
- Legal Permanent Resident
- Qualified Alien or Nonimmigrant under the Federal Immigration and Nationality Act

Personal ID Number
DOB(mmddyy) and Last 4 digits of SSN

Certification Number (if applicable)

**Legal Permanent Resident
Affidavit Under O.C.G.A. § 50-36-1(e)(2)(A)**

By executing this affidavit, the undersigned applicant verifies that applicant is a United States citizen 18 years of age or older. Furthermore, the undersigned applicant hereby verifies that applicant has provided at least one secure and verifiable document, as defined by O.C.G.A. 50-36-2, with this affidavit.

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed on _____, 20____, in _____, _____.
(month) (day) (year) (city) (state)

Signature of Applicant

Printed Name of Applicant

Subscribed and sworn before me on this ____ day of _____, 20____.

NOTARY PUBLIC

My commission expires: _____

Personal ID Number
DOB(mmddyy) and Last 4 digits of SSN

Certification Number (if applicable)

**Qualified Alien or Nonimmigrant under the Federal Immigration and Nationality Act,
Title 8 with an Alien Number Issued by the Department of Homeland Security
Or Other Federal Immigration Agency
Affidavit Under O.C.G.A. § 50-36-1(e)(2)(B)**

Personal ID Number
DOB(mmddyy) and Last 4 digits of SSN

Certification Number (if applicable)

**United States Citizen Affidavit Under
O.C.G.A. § 50-36-1(e)(2)(A)**

By executing this affidavit, the undersigned applicant verifies the applicant's lawful presence in the United States as the undersigned applicant is a United States citizen 18 years of age or older. Furthermore, the undersigned applicant hereby verifies that applicant has provided at least one secure and verifiable document, as defined by O.C.G.A. 50-36-2, with this affidavit.

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed on _____, 20____, in _____, _____.
(month) (day) (year) (city) (state)

Signature of Applicant

Printed Name of Applicant

Subscribed and sworn before me on this ____ day of _____, 20____.

NOTARY PUBLIC

My commission expires: _____

Required Documentation

The affidavit needs to be notarized.

Personal ID Number
DOB(mmddyy) and Last 4 digits of SSN

Certification Number (if applicable)

**Legal Permanent Resident
Affidavit Under O.C.G.A. § 50-36-1(e)(2)(A)**

By executing this affidavit, the undersigned applicant verifies the applicant's lawful presence in the United States under the terms of the applicable law.

Personal ID Number
DOB (mmddyy) and Last 4 digits of SSN

Certification Number (if applicable)

**Qualified Alien or Nonimmigrant under the Federal Immigration and Nationality Act
Title 8 with an Alien Number Issued by the Department of Homeland Security
Or Other Federal Immigration Agency
Affidavit Under O.C.G.A. § 50-36-1(e)(2)(B)**

I hereby declare that the information provided by the applicant is true and correct.

Executed on _____ at _____

Subscribed and sworn before me on this ____ day of _____, 20__.

NOTARY PUBLIC

My commission expires:

at verifies the applicant's lawful presence in the United States under the terms of the applicable law.

The Department of Homeland Security or other federal immigration agency

I hereby declare that the applicant is 18 years of age or older and that applicant has provided at least one secure and reliable source of information, with this affidavit.

The foregoing is true and correct.

(city) (state)

Printed Name of Applicant

Applicant's alien number issued by
The Department of Homeland
Security or other federal
immigration agency

Subscribed and sworn before me on this ____ day of _____, 20__.

NOTARY PUBLIC
My commission expires:

Becoming A Public Notary

GSWCC Trainers must become a Public Notary or have one present at the certification or re-certification course.

Trainers are not to charge course attendees for this service.

Becoming A Public Notary

Georgia public notaries are commissioned for a four-year term by the Clerk of Superior Court in their county of residence.

The fee for a new notary appointment or for reappointment is \$37.00.

If you are a legal resident of the State of Georgia, you may only apply in your county of residence. You may notarize documents in any county within GA.

Becoming A Public Notary

If you are a legal resident of a state bordering on the State of Georgia, and are regularly employed or carry on a business or profession in Georgia, You may only apply in the county of employment. You may notarize documents in any county within Georgia.

For complete information visit:

<http://www.gsccca.org/projects/npapp.asp>

Required Documentation

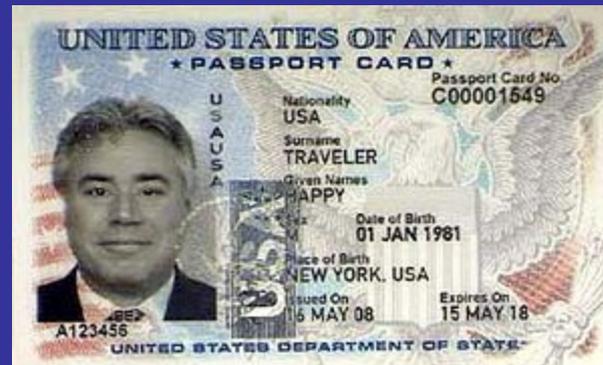
3. A legible photocopy of at least one secure and verifiable document must accompany the affidavit that is being submitted by an applicant. A “secure and verifiable document” is defined in O.C.G.A. § 50-36-2

Examples of secure and verifiable
document per O.C.G.A. § 50-36-2

Issued August 1, 2012 by the
Office of the Attorney General, Georgia

United States Passport or United States Passport Card

Passports are issued to citizens and non-citizens owing allegiance to the United States.



United States Uniformed Services Privilege and Identification Card

Military ID cards come in many different forms.

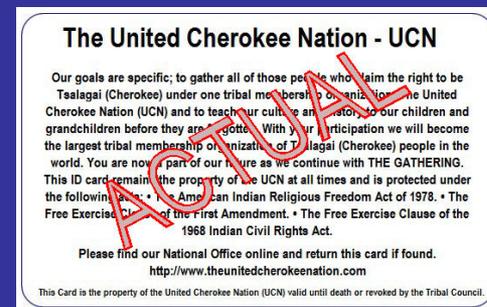
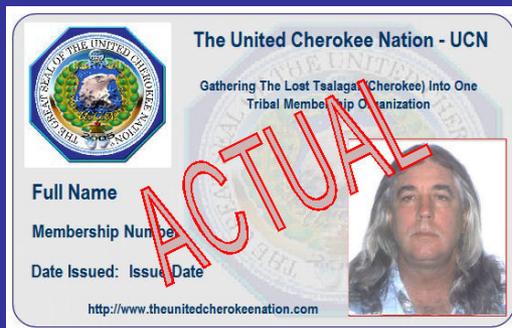


Driver's Licenses and Identification Cards

- Driver's licenses and identification cards from:
 - all states in the United States,
 - the District of Columbia,
 - Puerto Rico,
 - Guam,
 - the Northern Marianas Islands,
 - the U.S. Virgin Islands,
 - American Samoa, or
 - the Swain Islands as long as the card has a photograph and identifying information.

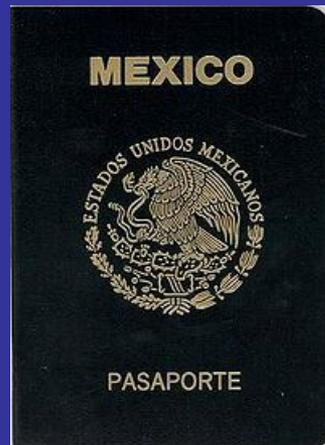
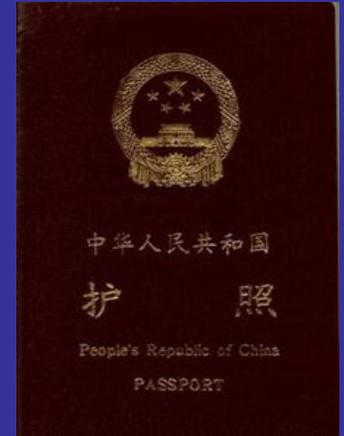
Tribal Identification Card

- Cards must be from a federally recognized Native American tribe and contain a photograph and identifying information.
- There is a very large number of Native American tribes and many have their own identification card. For a full list of federally recognized tribes, please check: <http://www.bia.gov/whoweare/bia/ois/tribalgovernmentservices/tribaldirectory/index.htm>.
- Below is a sample ID card from the Cherokee Nation.



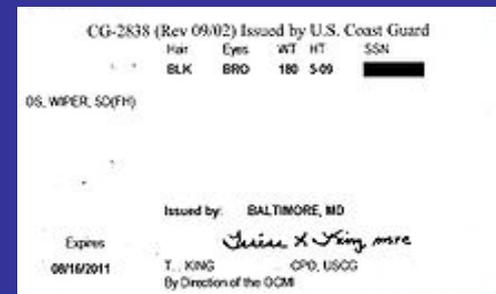
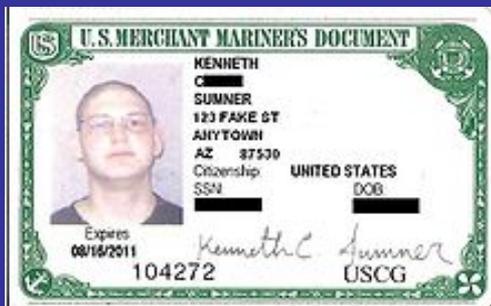
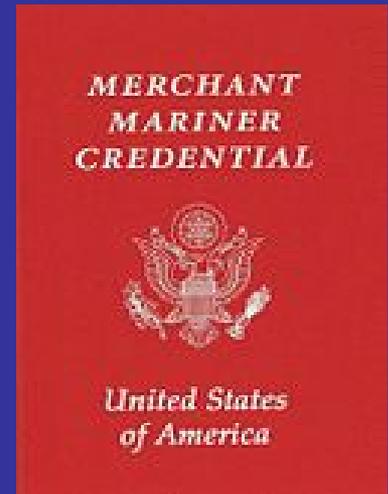
Passport of a Foreign Government

- There are nearly 200 countries in the world, many of which issue passports.
- Passports from foreign countries must be assessed on an individual basis.
- Below and above are sample from covers from a few select countries.



Merchant Mariner Document or Credential issued by the United States Coast Guard

- A Merchant Mariner Credential will replace the Merchant Mariner Document as they are phased out and looks like a passport.
- A Merchant Mariner Document is also known as a Z-Card and is about the size of a driver's license. It is being phased out of use.



Free and Secure Trade (FAST) Card

- The Free and Secure Trade program enacted to expedite trade between the United States and Canada and the United States and Mexico.
- FAST driver cards are travel documents for expedited entry into the United States to approved drivers making qualified trips.



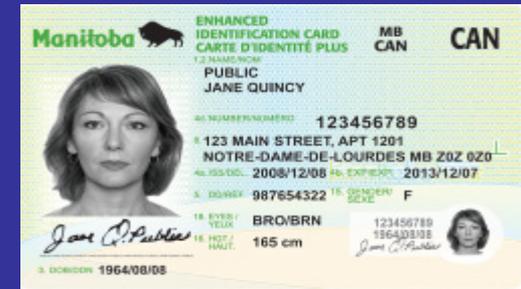
Secure Electronic Network for Travelers Rapid Inspection (SENTRI) Card

- The Secure Electronic Network for Travelers Rapid Inspection (SENTRI) Program allows pre-screened travelers expedited processing by United States or Mexican officials for land, air or sea travel.



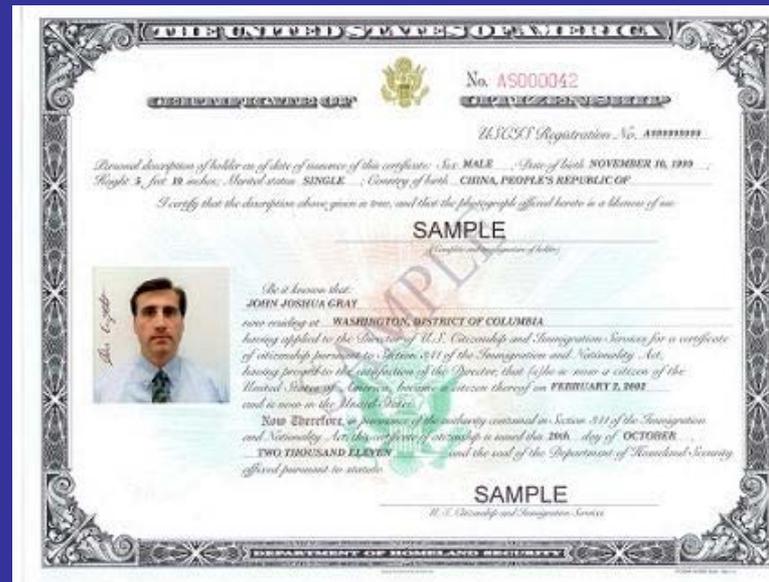
Canadian Driver's License

- Canada has thirteen total provinces and territories
- A few sample Canadian driver's licenses are provided here.



A Certificate of Citizenship issued by the United States Department of Citizenship and Immigration Services (USCIS)

- The Certificate of Citizenship (Form N-560 or Form N-561) is a document issued by the United States government as proof of citizenship.



A Certificate of Naturalization issued by the United States Department of Citizenship and Immigration Services (USCIS)

- A Certificate of United States Naturalization (Form N-550 or Form N-570) is a document issued by the United States government which proves a person has obtained citizenship through naturalization.

THE UNITED STATES OF AMERICA

DEPARTMENT OF HOMELAND SECURITY

U.S. CITIZENSHIP AND IMMIGRATION SERVICES

No. S0000000

U.S.C.I.S. Registration No. A999999999999999

I certify that the description given is true, and that the photograph affixed hereto is a likeness of me.

New Citizen Signature Here
(Complete and give signature of holder)

If it is known that, pursuant to an application filed with the Secretary of Homeland Security

at: **USCIS FIELD OFFICE CITY NAME, STATE NAME**

The Secretary having found that:

NEW CITIZEN NAME - EPSON B-310DN - NEW ASC PHOTO

residing at:

Mytown, State

having complied in all respects with all of the applicable provisions of the naturalization laws of the United States, being entitled to be admitted as a citizen of the United States, and having taken the oath of allegiance at a ceremony conducted by

U.S. CITIZENSHIP AND IMMIGRATION SERVICES

at: **CEREMONY CITY, STATE** on: **JULY 99, 0000**

such person is admitted as a citizen of the United States of America.

**** TEST CERTIFICATE ****
U. S. Citizenship and Immigration Services

DEPARTMENT OF HOMELAND SECURITY

U.S. CITIZENSHIP AND IMMIGRATION SERVICES

Other Secure and Verifiable Documents

- The Office of the Attorney General of Georgia created a catch-all in the list of Secure and Verifiable documents requiring acceptance of documents for proof of or documentation of identity if so required by federal law.
- Such documents are deemed “secure and verifiable documents” by the Attorney General of Georgia.

Unacceptable Forms of ID

- Matricula Consular de Alta Seguridad
- Matricula Consular Card
- Consular Matriculation Card
- Consular Identification Card



Submitting Documentation

Individuals may submit documentation prior to the course via mail

or

Submit documentation at the course. Trainers will be responsible for sending documentation to GSWCC with exams or re-certification roster.

Submitting Documentation

If mailed, it should be addressed to:

The Georgia Soil and Water Conservation
Commission
PO Box 1665
Athens, GA 30603

Applicants that submit documentation via mail will receive an email, within 5 business days of receipt, notifying them of their citizenship verification status.

Submitting Documentation at the Course

If an individual chooses to submit documentation at the certification or re-certification* course. The following procedures must be followed.

*Individuals that take online re-certification courses must submit documentation via mail.

Submitting Documentation at the Course

Trainers are to collect from the applicant:

- The checklist
- The appropriate affidavit
 - If the affidavit has not been notarized prior to the course, trainers must notarized the affidavit.
- A legible photocopy of secure and verifiable form of ID

Submitting Documentation at the Course

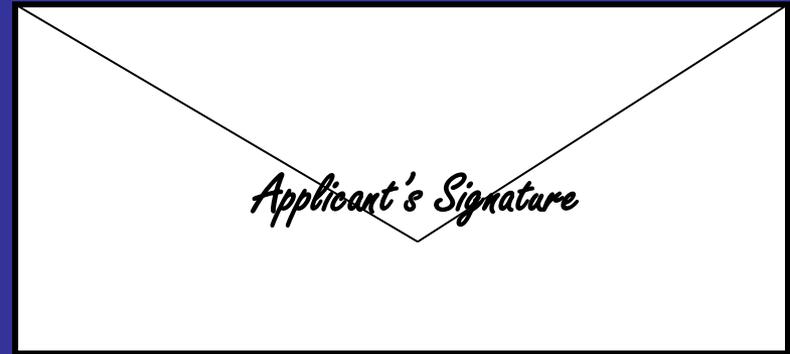
- The applicant's completed forms are to be placed into an envelope*. One set of forms per envelope.
- The applicant must print their name on the front , seal the envelope closed and sign their name over the seal.
- Documentation will not be accepted if it is not submitted as required by GSWCC.
- Exams and answer sheets are not to placed in sealed envelopes.

*trainers will need to provide envelopes at the course.

Submitting Documentation at the Course



Applicant's name printed
on the front of the
envelope



Envelope sealed with
applicant's signature on
back

Submitting Documentation to GSWCC

Sealed envelopes should be submitted in the same package as the exams/answer sheets/rosters.

Waivers

Applicants that submit documentation at the course or are unable to show proof of citizenship verification (email from GSWCC) are required to sign a waiver at the course.

The waiver states he/she understand that course refunds and certification/re-certification will not be issued if citizenship cannot be verified.

How Do I Get a Copy of the Forms?

All forms will be available at www.gaswcc.georgia.gov on the Documents and the Education and Certification page.

- GSWCC will send trainers an electronic copy of all forms. It is recommended that trainers have forms available if someone forgets to bring theirs.

Verification Process

GSWCC will be solely responsible for verifying an individual's citizenship status.

If individual is:

- A US Citizen or Legal Permanent Resident, documentation is verified and will be filed.
- If individual is a Qualified Alien or Nonimmigrant, their information will be verified through the SAVE Program and filed.

What is the SAVE program?

- The Systematic Alien Verification for Entitlements (SAVE) program is operated by the Department of Homeland Security division of the United States Citizenship and Immigration Services (USCIS)
- Used to determine the legal status of individuals seeking federal, state or local public benefits through benefit granting agencies

Informing the Public of New Requirements

The GSWCC will:

- Have information posted on website, which will include:
 - Home page
 - Education and Certification page
 - Course Date page
- send email to all individuals in Certification database
- send press release to various associations and organizations

Informing the Public of New Requirements

Trainers should remind applicants of requirements when they register for the course.

GSWCC staff will be present at your first certification/re-certification course to assist you with this new requirement.

Questions