



The Background Check Company

To Whom It May Concern:

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council recently amended the Federal Acquisitions Regulation (FAR) to require that certain federal contractors and subcontractors use the federal government's **E-Verify program**. This means that all new hires and existing employees directly performing work under federal contracts must be authorized to work in the United States, as of September 8, 2009.

E-Verify is a program administered by the Department of Homeland Security's (DHS) Citizenship and Immigration Services (USCIS) bureau, in partnership with the Social Security Administration. This is a web-based program that allows employers to verify that their employees are authorized to work in the United States.

A clause will be inserted into federal contracts and solicitations requiring that the contractor enroll in E-Verify to verify the employment eligibility of:

- 1) All newly hired employees, following completion of the Employment Eligibility Verification Form I-9
- 2) All existing employees who are classified as "employees assigned to the contract". An "employee assigned to the contract" is any employee hired after **November 6, 1986**, who is directly performing work in the United States under a contract that includes the clause requiring the use of E-Verify.*

***An employee is not considered to be directly performing work under the contract if the employee normally performs support work, such as indirect or overhead functions, and does not perform any substantial duties under the contract.**

Federal contractors who are participating in E-Verify for the first time are allowed **90 calendar days from enrollment** to begin using the system for verifying new employees. After this 90-day phase-in period, the contractor will be required to initiate verification of each newly hired employee **within three business days after their start date**. To meet the three day requirement, employers may initiate verification of a newly hired employee before their start date if the employee has accepted the job offer and filled out Form I-9.

***Important note: Pre-screening of job applicants is not allowed. E-Verify may only be used after a job offer has been accepted and the Form I-9 is filled out.**

First-time enrollees are also allowed **30 calendar days instead of three business days** to start verification of existing employees who have not already been verified through E-Verify when they are newly assigned to a covered federal contract.

Contractors already enrolled, and using the program as federal contractors, will have the same extended timeframes to initiate verification of employees, with the timeframes being measured from the contract award date instead of from the E-Verify enrollment date. This means that a contractor that has already been enrolled as a federal contractor for **90 calendar days or more** will have the standard **three business days from date of hire to initiate verification of new hires**. Those contractors that have been enrolled in the program for **less than 90 calendar days** will have **90 calendar days from the date of enrollment as a federal contractor**.

Furthermore, any contractor can use E-Verify to verify employment of any employee, including those not currently working under a government contract. A contractor choosing to exercise this option must notify Department of Homeland Security (DHS) and **must initiate verifications for the entire workforce within 180 days of notifying DHS**.

Contracts covered under the final rule are prime federal contracts with a period of performance longer than 120 days and a value above the simplified acquisition threshold, which is \$100,000. In addition, the rule only covers subcontractors if a prime contract includes the clause requiring the use of E-Verify. For subcontracts that flow from prime contracts, the rule extends the E-Verify requirement to subcontracts for services or for construction with a value over \$3,000. The rule applies only to employees working in the United States, which includes the fifty States and the District of Columbia, Guam, Puerto Rico and the US Virgin Islands.

Exemptions to the rule include:

- 1) Contracts that include only commercially available off-the-shelf (COTS) items (or minor modifications to a COTS item) and related services. Nearly all food and agricultural products fall within the definition of a COTS item.
- 2) Contracts of less than the simplified acquisition threshold (\$100,000).
- 3) Contracts less than 120 days
- 4) Contracts where all work is performed outside the United States.

Further information on registration for and use of E-Verify can be obtained via the Internet at: www.uscis.gov

One Source, The Background Check Company, can perform these verifications at only a \$5.00 cost for each employee. Please contact us at 402.933.9999 or 1.800.608.3645 to obtain more information.

Thank you,

One Source, The Background Check Company