

E-Verify for Federal Contractors

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Federal Contractor Rule

- Final rule published by Department of Defense, General Services Administration, and NASA on November 14, 2008
- Rule applies to contracts entered into, extended, or amended on or after September 8, 2009 with performance terms lasting more than 120 days
- Rule requires federal contracting officer to insist upon inclusion of contract language requiring contractor to enroll in, and use, E-Verify for all new hires Company-wide AND for existing employees working in direct support of the federal contract

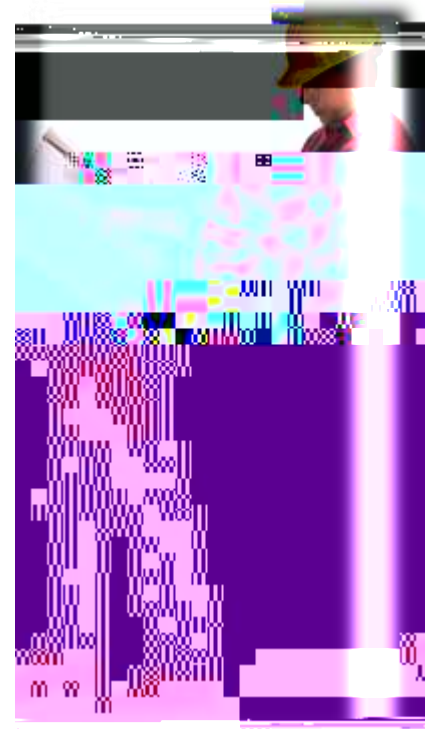
Federal Contractor Rule

- Federal contracting officer is to “*negotiate*” the addition of the E-Verify language in existing indefinite-delivery, indefinite-quantity (IDIQ) contracts
 - Applies if there is substantial performance remaining under contract, and
 - Period of performance extends until at least six months after rule takes effect.



Federal Contractor Rule

- “Contractor” is any entity providing >\$100,000 in goods or services to federal entity
 - Compare to \$50,000 threshold for requirement to prepare written affirmative action plans
- Exclusion for Commercial Off-the-Shelf (“COTS”) products that do not require substantial modification
- Contractors must require subcontractors to comply
- “Subcontractor” is any entity providing >\$3,000 in services or construction in support of the prime contractor



Federal Contractor Rule

- Contractors not already enrolled in E-Verify will have 30 days from contract execution to enroll and another 90 days from enrollment to begin verifying new hires
- Contractors already enrolled in E-Verify for more than 90 days, must verify new hires within three days
- Contractors enrolled for less than 90 days must begin to verify new hires within 90 days from date of enrollment as federal contractor
- All contractors must verify existing workers assigned to the contract within 90 days after enrollment or 30 days after the worker is assigned to the contract, whichever is later
- Note: Compliance deadlines are triggered by execution of contract





Who Must be Verified?

DHS Describes E-Verify

- No-cost Internet based system
- Fast & easy to use
- Electronically verifies the employment eligibility of
 - Newly hired employees
 - Existing employees assigned to work on a qualifying Federal contract
- Helps maintain a legal workforce
- Protects jobs for authorized workers
- Partnership between the U.S. Department of Homeland Security and the Social Security Administration

Dave Says:

- No-cost Internet based system **Hidden costs.**
- Fast & easy to use **Again, and again, and again.**
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DHS Federal Contractor Handbook

- **How to enroll . . .**
- **Go to www.dhs.gov/E-Verify. Under**
-
- **Follow instructions**



How to Handle I-9 Forms (according to DHS)

- **Option I: Complete new I-9 for all employees who will be run in E-Verify**
- **Option II: Complete new I-9 when required and update existing I-9 when allowed**



Complete a new I-9 when . . .

- The employee is a Noncitizen National and was unable to separately attest to that status on a previous Form I-9
- The employee presented a document such as a Certificate of Naturalization or Form I-688 that was acceptable at the time of completion of the previous Form I-9, but is no longer acceptable
- The employee's immigration status has changed
- The employee's name has changed
- The previous Form I-9 did not conform to I-9

Complete a new I-9 when . . .

- If your employee...
 - ...presented an ***unexpired*** Form I-551 (Permanent Resident Card), Form I-766 (Employment Authorization Document) or U.S. passport or U.S. passport card and it is still unexpired, photocopy the document & keep it with the employee's Form I-9
 - ...did not provide his or her Social Security Number (SSN) or if the employee claims that the number was changed by SSA, the employee should update Section 1 with the current SSN

Complete a new I-9 when . . .

- If your employee...
 - ...indicates his or her Alien number has been changed by the DHS, update Section 1 with the current Alien number
 - ...presented an unexpired Form I

Complete a new I-9 when . . .

- If your employee...
 - ...presented an unexpired List B document on a previous Form I-9 and that document has since expired, you do not need to request a new version to update a previously completed Form I-9. Such List B documents include state-issued driver's licenses or military ID cards

States Requiring Use of E-Verify

- Requirement limited to new hires
- Required for all (or nearly all) employers:
 - Arizona Georgia Utah Tennessee
 - Mississippi Alabama Louisiana
 - South Carolina North Carolina
- Required for state contractors:
 - Colorado
 - Florida
 - Idaho
 - Minnesota
 - Missouri
 - Nebraska
 - Oklahoma
 - Rhode Island

Questions???

Thank You

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