

E-Verify – For Federal Contractors: No Longer a voluntary program after September 8, 2009.

by Gene Caudle, Sr. Vice President, Flex HR

A presidential executive order and subsequent Federal Acquisition Regulation (FAR) rule require federal contractors to use E-Verify to electronically verify the employment eligibility of employees working under Federal contracts. The FAR final rule, known as the Federal contractor rule, directs Federal agencies to require many Federal contractors to use E-Verify to electronically verify the employment eligibility of certain of their employees. It requires Federal contractors to agree, through language inserted into their Federal contracts, to use E-Verify to confirm the employment eligibility of all persons they hire during a contract term, as well as their current employees who perform work under a Federal contract within the United States. The rule's requirements to include language on E-Verify in Federal contracts take effect on **September 8, 2009**.

Prior to September 8, 2009, the E-Verify system has had many contractors in a state of confusion over what was being required, what employees were required to be verified and what process to use. E-Verify is a free, Internet-based system operated by Department of Homeland Security (DHS) in partnership with the Social Security Administration. E-Verify allows participating employers to electronically verify their employees' employment authorization. Results are returned online within seconds. E-Verify is the best method for employers to verify the employment authorization of their employees. E-Verify:

- Virtually eliminates Social Security mismatch letters
- Improves the accuracy of wage and tax reporting;
- Protects jobs for authorized workers; and
- Helps U.S. employers maintain a legal workforce.

To determine whether you are affected by the rule read the rest of the article...

The rule will only affect Federal contractors who are awarded a new contract on or after the effective date of the rule, September 8, 2009, that includes the Federal Acquisition Regulation (FAR) E-Verify clause (73 FR 67704). Your government contracting official, not the E-Verify program, determines whether your contract will include the FAR E-Verify clause. You should review your contract for the FAR E-Verify clause. Using E-Verify as a Federal contractor requires you to verify the employment authorization of:

- Existing employees currently assigned to a Federal contract, and
- All new hires.

Federal contractors also have the option of verifying their entire workforce, which includes all other existing company employees regardless of whether they are assigned to a Federal contract. If your company is not a Federal contractor, or if your Federal contract does not include the FAR E-Verify clause, you may only use E-Verify to verify new employees.

Some states have passed laws mandating the use of the E-Verify system for all private employers, other states require E-Verify of state contractors and subcontractors, and the federal government has joined in this effort with the E-Verify Federal Contractor rule.

The instructions for verifying new and existing employees on Forms I-9 require Companies to have newly hired employees complete Form I-9, regardless of whether they are assigned to a Federal contract. Employers should comply with Form I-9, Employment Eligibility Verification, procedures found in the Handbook for Employers: Instructions for Completing Form I-9 (Rev.07/31/09) (M-274) found at www.uscis.gov. As an E-Verify employer, you also have additional requirements for Form I-9 that other employers do not have:

You may only accept a List B document that contains a photo (if your employee cannot provide such a document because of religious objections, contact E-Verify Customer Support at 1-888-464-4218). You must photocopy any Employment Authorization Document (Form I-766) or Permanent Resident Card (Form I-551) if your employee presents one of these documents and keep it with that employee's Form I-9. Your employees must write their Social Security numbers on Section 1 of Form I-9. To initiate an E-Verify query, enter the information from the employee's completed Form I-9 into E-Verify.

The requirements to implement the E-Verify process can be very complex and are far too detailed to be covered within the scope of this article. Many organizations find it prudent to outsource the E-verify process to Flex HR, Inc. or other HR consulting organizations. We can provide contractors with complete processes for becoming compliant in utilizing the I-9 and E-Verify processes as required.

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