

E-Verify Requirement Delayed

The effective date of the new rule requiring federal contractors to begin using the E-Verify program has been delayed until February 20, 2009. The Department of Homeland Security decided to delay the original effective date of January 15th in response to a lawsuit challenging the agency's authority to make the program mandatory. Participation in the program has previously been voluntary.

The final rule now covers most prime contracts and most subcontracts in excess of \$3000 awarded after February 20th. Contracts for less than \$100,000, contracts lasting less than 120 days, contracts for commercially available off-the-shelf items, and contracts where all the work is performed outside the U.S. are exempt.

Covered contracts awarded after February 20th will contain a clause obligating the contractor to enroll in the E-Verify program within 30 days of the contract date. Under this program, contractors must verify an individual's eligibility to work in the U.S. using an online national database verification system.

Contractors must E-Verify: 1) all new hires within 3 days of their start date, whether or not the employee is assigned to a covered contract, and 2) current employees working on covered federal contracts using the information provided on their I-9 Form. Contractors have the option of E-Verifying all employees if they do not wish to expend the time and costs associated with determining which employees are working on covered contracts. The program may not be used as an applicant screening tool and Contractors are prohibited from E-Verifying an individual until after the individual has accepted the job offer. Institutions of higher education, as well as state and federal governments, are only required to E-Verify current employees assigned to a covered contract.

There is no charge to E-Verify an individual's eligibility directly through the program. However, there are a number of third-party vendors who are providing a verification service to contractors for a fee.

For more information and to register for the E-Verify program, visit the Department of Homeland Security's website at <http://www.dhs.gov/e-verify>.