



President Bush Signs Executive Order Requiring All Federal Contractors to Use E-Verify

Insights

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President Bush recently signed an amendment to Executive Order 12989 requiring all federal contractors to use E-Verify.

The Executive Order provides that federal departments and agencies *may not enter into contracts* with employers that do not use E-Verify. It also requires, as a condition of each contract, that the contractor agree to use E-Verify to verify the employment eligibility of: 1) all persons hired during the contract term by the contractor to perform employment duties within the U.S.; and 2) all persons assigned by the contractor to perform work within the U.S. on the Federal contract.

The Department of Homeland Security (DHS) is expected to publish proposed regulations in the Federal Register within the next two weeks; these requirements will go into effect at that time. Once the proposed regulations are published, they should provide guidance on whether the rule applies only to new Federal contracts, and whether current employees who work on the federal contract must be processed through E-Verify.

E-Verify is operated by the U.S. Citizenship and Immigration Services (USCIS), in cooperation with the Social Security Administration (SSA) and is internet-based. E-Verify compares information contained on the Employment Eligibility Verification Form I-9 with Social Security numbers, and with the DHS database to verify identity and employment eligibility of newly-hired employees. Employers who enroll in E-Verify must sign a Memorandum of Understanding with the DHS and the Social Security Administration (SSA) and agree, among other things, to allow the DHS and SSA to make periodic visits to the employer for the purpose of reviewing E-Verify-related records, including Form I-9.

Employers should review whether they have any current federal contracts, the scope of any applicable contracts (in particular which job sites are affected and which employees are working on those contracts), and whether they have any federal contracts in process that will require compliance with the requirements of this Executive Order. We also recommend that you conduct an audit of your company's current Form I-9 completion and retention procedures and of all I-9 forms for current employees.

For more information contact any attorney in our Global Immigration Services Practice.

