



Federal Contractor E-Verify Rule Goes Into Effect On September 8, 2009

Insights

9.08.09

On September 8, 2009 the government will begin requiring federal contractors to use E-Verify to verify the legal work status of newly-hired employees and current employees working directly on the covered federal contract. The U.S. Chamber of Commerce is seeking an emergency order from the U.S. Court of Appeals for the 4th Circuit to delay implementation but it appears unlikely to be granted.

The rule applies to any company with a prime federal contract with a value over \$100,000 and a performance period of at least 120 days, and will flow down to subcontractors for services or construction over \$3000. The E-Verify requirement is triggered by the inclusion of an E-Verify clause in a new or renewed federal contract. Existing indefinite-delivery/indefinite-quantity federal contracts will be revised to include the E-Verify clause for future orders if the performance period extends at least six months after the effective date of the rule and the work or number of orders will be or is expected to be "substantial."

We advise all employers to review any current federal contracts, any bids or solicitations for future federal contracts, as well as the scope of any applicable contracts (in particular, contracts on which current employees are working or will be assigned to work) to determine whether and when the requirements of this rule will need to be implemented. Once you have identified those current employees who will be covered by the new rule, we recommend that you audit their I-9 forms and correct them, as necessary, to bring them into compliance with the E-Verify requirements prior to processing them through the electronic verification system.

If you are using the Fisher Phillips Electronic I-9 Solution program to electronically complete and store I-9 forms, an employee's information may be run automatically through E-Verify upon completion of the I-9 form.

This Global Immigration Alert is provided as an informational overview of this topic. It is not intended as, nor should it be construed as, legal advice for any particular fact situation.