



Florida Governor Orders Agencies To Use E-Verify

Insights

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Effective immediately, Florida state agencies under the direction of the Governor, and any contractors or subcontractors with those agencies, are required to use the U.S. Citizenship and Immigration Services' E-Verify system to check the legal work authorization of employees.

As one of his first official acts, Florida Governor, Rick Scott, issued an Executive Order on January 4, 2010 requiring the relevant state agencies to E-Verify "all current and prospective employees" and to include a requirement in their contracts that contractors (and any subcontractors engaged to fulfill the contract terms) use E-Verify for all persons employed during the contract term to perform duties within Florida.

The executive order also "encourages" state agencies not under the direction of the Governor to E-Verify current and prospective employees and require contractors to use the E-Verify system. The Executive Order contains no penalty provisions, definitions of terms, or guidance for implementation.

We expect this Executive Order to be challenged immediately because it requires state agencies to:

- E-Verify **current** employees and not just newly-hired employees (which is not allowed under the E-Verify system unless you are a federal contractor or subcontractor required to use E-Verify under the Federal Acquisition Regulations (FAR));
- E-Verify "prospective" employees (which is not allowed under either the I-9 Form requirements or E-Verify); and
- Require state contractors and subcontractors to E-Verify all persons employed during the contract terms (regardless of whether they are working on the state contract).

We'll keep you abreast of any further developments regarding this Executive Order.

Fisher Phillips has developed Electronic I-9 Solution, a computer-based system that synchronizes with E-Verify. If you have any questions about this or other immigration matters, contact one of the attorneys in the Global Immigration Practice Group in the Atlanta office of Fisher Phillips.

This Global Immigration Alert presents information about a specific new state order. It is not intended to be, and should not be construed as, legal advice for any particular fact situation.

