

## New Executive Order Requires All Federal Contractors to Use E-Verify

On June 6, 2008, President Bush issued Executive Order 12989 (“EO 12989”), directing all federal departments and agencies to require federal contractors to use the government’s E-Verify Program. Pursuant to EO 12989, all federal contractors must verify the employment eligibility of all new hires and current employees assigned to work on future federal contracts. E-Verify is the web-based program operated by U.S. Citizenship and Immigration Services in partnership with the Social Security Administration that allows employers to verify the work authorization of new employees. Federal contractors who refuse to use E-Verify will be deemed ineligible to do business with the federal government. EO 12989 also instructs federal agencies not to do business with federal contractors who “knowingly employ unauthorized alien workers.”

It is not yet clear whether subcontractors will also be required to use E-Verify; however, the Department of Homeland Security (“DHS”) will soon issue rules, regulations or orders that it deems necessary to implement the Executive Order. According to EO 12989, federal contractors may be suspended or completely dismissed by a contracting agency based on their noncompliance with the Immigration and Nationality Act’s employment provisions. Moreover, EO 12989 states, “Contractors that adopt rigorous employment eligibility confirmation policies are much less likely to face immigration enforcement actions and they are generally more efficient and dependable than contractors that do not employ the best available measures to verify the work eligibility of the workforce.”

The Order applies to federal contracts involving more than \$3,000. Contractors and subcontractors who are involved in contracts involving more than \$3,000 must enroll in E-Verify within thirty (30) days of signing the contract, and must begin verifying the employment eligibility of all new employees that are hired after enrolling in E-Verify. Moreover, contractors must continue to use the E-Verify Program for the life of the contract. Newly hired and newly assigned employees must be verified within three (3) days of hire or assignment.

Federal contractors should immediately begin implementing the E-Verify system to ensure a smooth transition once an effective date is announced. *Note:* participation in E-Verify does not exempt employers from completing, retaining and making available for inspection I-9 Forms that relate to their employees, or from other applicable legal requirements.

More information on E-Verify can be found at:  
[www.dhs.gov/ximgtn/programs/gc\\_1185221678150.shtm](http://www.dhs.gov/ximgtn/programs/gc_1185221678150.shtm)

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