



Office of Communications

**U.S. Citizenship
and Immigration
Services**

USCIS Update

Nov. 13, 2008

Federal Contractors Required to Use E-Verify System

WASHINGTON— Federal contractors and subcontractors will be required to begin using the U.S. Citizenship and Immigration Services' E-Verify system starting Jan. 15, 2009, to verify their employees' eligibility to legally work in the United States. In a final rule scheduled to publish tomorrow in the *Federal Register*, the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council amended the Federal Acquisition Regulation (FAR) to reflect this change.

The new rule implements Executive Order 12989, as amended by President George W. Bush on June 6, 2008, directing federal agencies to require that federal contractors agree to electronically verify the employment eligibility of their employees. The amended Executive Order reinforces the policy, first announced in 1996, that the federal government does business with companies that have a legal workforce. This new rule requires federal contractors to agree, through language inserted into their federal contracts, to use E-Verify to confirm the employment eligibility of all persons hired during a contract term, and to confirm the employment eligibility of federal contractors' current employees who perform contract services for the federal government within the United States.

Federal contracts awarded and solicitations issued after Jan. 15, 2009 will include a clause committing government contractors to use E-Verify. The same clause will also be required in subcontracts over \$3,000 for services or construction. Contracts exempt from this rule include those that are for less than \$100,000 and those that are for commercially available off-the-shelf items. Companies awarded a contract with the federal government will be required to enroll in E-Verify within 30 days of the contract award date. They will also need to begin using the E-Verify system to confirm that all of their new hires and their employees directly working on federal contracts are authorized to legally work in the United States.

The final rule announced today takes into account the more than 1,600 comments received on the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council's proposed rule published in June. It also reflects some changes from the proposed rule that are designed to lighten the burden on small businesses who decide to accept federal contracts, and to provide contractors with flexible means of complying with the basic requirement that all persons working on federal contracts be electronically verified.

More than 92,000 employers currently use E-Verify, a free Internet-based system operated by the DHS in partnership with the Social Security Administration that allows participating employers to electronically verify the employment eligibility of their employees. During Fiscal Year 2008, more than 6.6 million employment verification queries were run through the system representing 1 out of every 8 hires made in the United States. Approximately 96.1 percent of all cases queried through E-Verify are instantly found to be employment authorized, and individuals who are not immediately cleared are given the opportunity to correct their government records in order to confirm their work eligibility. The new rule is available for viewing on the *Federal Register* Web site at: http://federalregister.gov/OFRUpload/OFRData/2008-26904_PI.pdf.