

## **E-Verify Coming Soon**

December 23, 2008

On November 14, 2008, Federal Acquisition Regulation (FAR) Council issued a final rule to require federal contractors and subcontractors to use the U.S. Citizenship and Immigration Services' (USCIS), or "E-Verify" system as the means of verifying that their employees are eligible to work in the United States.

The final rule applies to solicitations issued and contracts awarded after January 15, 2009. Contractors who wish to enroll in E-Verify before the effective date of this rule may do so now. Enrolling now may help contractors become familiar with the system and may make it easier for them to use E-Verify if and when you are awarded a federal contract. All employers, including federal contractors, may enroll in E-Verify at any time without waiting for the effective date.

### Critical Components of the Final Rule

1. **Significantly Extended Timelines.** The final rule amends the proposed rule to permit Federal contractors participating in the E-Verify program for the first time a longer period - 90 calendar days from enrollment instead of 30 days as initially proposed - to begin using the system for new and existing employees.
2. **Covered Prime Contract Value Threshold.** The final rule requires the insertion of the E-Verify clause for prime contracts above the simplified acquisition threshold (\$100,000) instead of the micro-purchase threshold (\$3,000).
3. **Contract Term.** The final rule clarifies that the E-Verify clause need not be inserted into prime contracts with performance terms of less than 120 days.
4. **Sureties.** Under the final rule, sureties performing under a takeover agreement entered into with a Federal agency pursuant to a performance bond need only verify employees assigned to the covered Federal contract.
5. **Security Clearances and HSPD-12 Credentials.** The final rule exempts employees who hold an active security clearance of confidential, secret or top secret from verification requirements.
6. **All Existing Employees Option.** The final rule provides contractors the option of verifying all employees of the contractor, including any existing employees not currently assigned to a Government contract. A contractor that chooses to exercise this option must notify DHS and must initiate verifications for the contractor's entire workforce within 180 days of such notice to DHS.

Further information on registration for and use of E-Verify can be obtained at <http://www.dhs.gov/E-Verify>.

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