



SJSU RESEARCH FOUNDATION

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E-VERIFY PROGRAM

A General Overview

Human Resources Department

Background

- On September 8, 2009, the Department of Homeland Security (DHS) began implementing an amendment to the **Federal Acquisition Regulation (FAR)** that now requires certain federal contractors to participate in the E-Verify program.
- The rule requires covered Federal contractors to enroll in E-Verify or, if already enrolled, to change their system profile to reflect their federal contractor status.

Background cont'd

- “Covered” federal contractors **are required** to use the E-Verify system to electronically verify the employment eligibility of all new hires at all hiring sites, as well as to verify current employees who will directly perform work under a federal contract, with some narrow exceptions.
- The rule also requires “covered” contractors to “flow down” these obligations to certain subcontractors, who will then likewise become subject to the E-Verify requirements.

WHAT IS E-VERIFY

- E-Verify is an Internet-based system that allows an Employer, using information reported on an employee's Form I-9 Employment Eligibility Verification, to *electronically* determine the eligibility of that employee to legally work in the United States.
- The E-Verify system is operated by the Department of Homeland Security in partnership with the Social Security Administration.
- E-Verify is mandatory for those Employers with federal contracts or subcontracts that contain the Federal Acquisition Regulation (FAR) E-Verify clause.
- Federal contractors and subcontractors are required to use E-Verify as of September 8, 2009. Executive Order 12989 mandates the electronic verification of all employees working on any federal contract.
- For more information, please visit:
<http://www.uscis.gov/portal/site/uscis/>

E-Verify and the FAR E-Verify Clause

- **The E-Verify contract clause is the actual language of the E-Verify provisions of the Federal Acquisition Regulation, located at 48 CFR 52.222-54. This lengthy text may not be included in full in a federal contract that is subject to the requirement. Instead, the contract may simply incorporate the E-Verify requirement by referring to either FAR 52.222-54, or 48 CFR 52.222-54.**
- **FAR E-Verify Clause: 48 C. F. R. 52.222 – 54.**
- **Federal Acquisition Regulation (FAR) final rule requires that, as of September 8, 2009, federal contractors with contracts containing the FAR E-Verify clause **MUST** use E-Verify as a condition of their federal contract.**

E-Verify Enrollment Timelines

Once the employer becomes subject to the E-Verify clause, it must indicate that it is a federal contractor with an E-Verify clause when enrolling in E-Verify.

An employer must enroll as a federal contractor in E-Verify within 30 days of being awarded a federal contract that contains the E-Verify clause or within 30 days after a current contract is modified to include an E-Verify clause.

Prime Contracts Subject To E-Verify

A federal contract is subject to E-Verify requirements if the contract:

- **Was awarded or modified on or after September 8, 2009 to include the E-Verify clause.**
- **Is valued at more than \$100,000.**
- **Is for work that is performed in the United States (all or some).**
- **Has a performance period of at least 120 days.**
- **Is not for “commercially available, off-the-shelf” (COTS) items or for items that would be COTS but for minor modifications.**

Employees Affected by E-Verify Rules

- Subject to a phase-in period for Employers that are new federal contractor E-Verify registrants, covered Federal contractors must use the E-Verify system to verify the employment eligibility of all new employees within three business days of start date, regardless of the location of the worksite and regardless of whether the employee is assigned to a federal contract.
- Federal contractors must also use E-Verify to verify the employment eligibility of current employees who are assigned to the federal contract.

NOTE: All employees hired on or before November 6, 1986, and still in continuous employment, are exempt from E-Verify. The Immigration Reform and Control Act of 1986 (IRCA) does not allow employers to complete Forms I-9 for these employees. As a result, the FAR also excludes employees hired on or before November 6, 1986.

Preparation for E-Verify

The SJSU Research Foundation will verify ALL its existing Employees through the E-Verify system:

- Who were hired on or after November 6, 1986**
- Who are working for the Research Foundation in the United States**

Preparation for E- Verify cont'd

WHAT E – VERIFY IS NOT:

- **NOT a credit check of any kind**

- **NOT a check to determine whether or not an employee is current on child support or other obligations**

- **NOT a criminal background check**

PATH FORWARD

**The Research Foundation will be working
with **TAL-X I-9 Services****

**to enroll in the E-Verify program with
Homeland Security and to administer the
E- Verify program on a “go forward” basis.**

“GO LIVE” DATE: JUNE 1, 2011

PATH FORWARD cont'd

In order to effect an orderly transition to the E-Verify system by JUNE 1, 2011, the HR department respectfully requests from all its operations partners and its employees at all locations:

- **Support and cooperation in implementing and administering this important compliance initiative.**
- **As a site designee: Specific review of legally acceptable documents accepted by you, before a new employee's start date.**
- **As an employee: Appropriate *timely* submission of legally acceptable documents which demonstrate your right to legally work in the United States.**