



Getting Legal About Illegals

As you may recall, President Bush had issued an Executive Order that, as of September 8, 2009, subjects all federal contracts over \$100,000 and 120 days to the US Citizenship and Immigration Services (USCIS) E-Verify program. E-Verify is an internet-based system that permits employers to check to make sure their employees are actually “legal” (eligible for employment). Prime contractors on impacted federal contracts are legally obligated to register and comply with E-Verify. Subcontracts over \$3,000 which are entered into under such federal contracts are also subject to E-Verify. Further, the State of Georgia requires E-Verify participation after July 1, 2009 on all State contracts (regardless of size) as well contracts with political subdivisions and instrumentalities.

If you need to register for the E-Verify program, please visit <https://e-verify.uscis.gov/enroll/StartPage.aspx?IS=YES> and this website will walk you through the process.

Participation with E-Verify does not eliminate the normal requirement to obtain an I-9 on each new employee within 3 business days of hiring, and in fact the I-9 form is used to help verify work authorization status. In addition, employers are required to accept only an I-9 List B identity document that contains a photograph of the employee. If an employee presents either Form I-551 (“Green Card”) or newer Form I-766 (employment authorization document), the employer must also photocopy that document and keep it on file with the I-9.

Employers are also required to display notices from USCIS regarding participation in the E-Verify program. Employers must also agree not to use E-Verify for pre-employment screening of applicants, but only for verification of work authorization.

Under President Obama's recent Executive Order, employers are not only required to verify eligibility of newly hired employees during the term of the federal contract, but also all persons assigned to that contract, regardless of when they were hired.

More details on the E-Verify program are available at <http://www.uscis.gov/portal/site/uscis>. Click on E-Verify Home Page on that website. And, of course, feel free to call upon us at Large & Gilbert, PC if you need help in implementing, figuring out, or participating in this program.

All businesses, regardless of whether government work is performed, should take the time to do a periodic housekeeping on employment files to make sure everything is in order. Check the I-9s already on file for existing employees to make sure they contain valid supporting documents. Also check the files for other documentation, such as W-4s, qualified plan enrollments, health insurance participation and COBRA, performance reviews, personnel memos, etc.

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