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Client Alert: Federal Contractors Required to Enroll in E-Verify Effective 9/8/09¹

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Effective **September 8, 2009**, federal contractors with contracts in excess of \$100,000 will be required to use E-Verify, a free, internet-based program run by the federal government for verifying employment eligibility of workers employed in the United States. By way of background, on June 6, 2008, President Bush issued Executive Order 13,465, requiring federal government contractors to use E-Verify on all employees who are hired during the contract term or assigned to work on the contract. On November 14, 2008, the federal government issued final regulations interpreting the Executive Order (the "Final Rule"). After a lawsuit was filed challenging the legality of the Executive Order, the applicability date of the Final Rule was extended to September 8, 2009. On August 25, 2009, the court case was dismissed, thus paving the way for implementation of the Final Rule.

Per the Final Rule, government contracts that exceed the "simplified acquisition threshold" (currently \$100,000) which are for a period of performance longer than 120 days must include a term requiring the contractor to (1) enroll in E-Verify within 30 days of being awarded the contract, and (2) within 90 calendar days, begin to use E-Verify to verify the employment eligibility of all new hires and persons assigned to the contract. The Final Rule does not apply to contracts for commercially available off-the-shelf items or work performed outside the U.S. Note that use of E-Verify is not a substitute for the employer's usual employment eligibility requirements (i.e., obtaining I-9 forms). The United States Citizenship and Immigration Services (USCIS) website contains a wealth of information on E-Verify, and how to enroll. Frequently asked questions regarding the Final Rule can be found at:

<http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=cb2a535e0869d110VgnVCM1000004718190aRCRD&vgnnextchannel=534bbd181e09d110VgnVCM1000004718190aRCRD>

Call us if you have any questions, or we can be of further assistance.



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