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## E-VERIFY Becomes a Reality on September 8, 2009 for Federal Contractors

E-Verify provides automated employment verification information to participating employers for newly-hired employees. Use of E-Verify is free.



On August 26, 2009, a U.S. District Court issued a long-awaited decision in a case which challenged the legality of an Executive Order requiring federal contractors to use E-Verify to check the employment eligibility of all newly hired employees, as well as all current employees directly working on a federal contract.

The District Court rejected the argument the E-Verify was not truly voluntary, concluding that employers voluntarily decide whether to become federal contractors.

As a result of the Court's ruling, the E-Verify rule will become effective on September 8, 2009. E-Verify will be mandatory for any prime federal contract exceeding \$100,000, subcontracts under a prime contract exceeding \$3,000, or which involve the receipt of any of monies under the ARRA which exceed \$100,000.00 – provided the contract contains the E-Verify language.

Employers should review all existing and pending contracts now to determine whether E-Verify will apply to the contract. Use of E-Verify will be required for the following personnel:

- (i) all employees hired during the contract period (regardless of whether they are actually performing services on the contract); and
- (ii) for all existing employees assigned to perform work under the contract.

### **Employer Responsibilities under E-Verify:**

- Use only to verify new hires after an employee accepts the position (hire date) and within 3 days of the employee's actual start date.
- E-Verify procedures must be applied to ALL new hires, regardless of citizenship status.
- You must display the E-Verify Poster in an area visible to prospective employees to show that you are an E-Verify participant. (Available *through* our office.)
- You must display an Anti-Discrimination Poster issued by the office of Special Counsel for Immigration – Related Unfair Employment Practices, Department of Justice (DOJ) in an area visible to prospective employees (English and Spanish versions). (Available *through* our office.)

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### What E-Verify is Not. . . .

- A database that holds employee information.
- A system that provides immigration status.
- To be used for prescreening applicants.
- A safe harbor tool for employment verification.
- An enforcement mechanism.

### For Further Information

If you are required to participate in the E-Verify program (because you are a covered federal contractor), or if you wish to voluntarily participate in E-Verify, please contact Attorney Sally Piefer, (262) 754-1325, [sap@tsglaw.com](mailto:sap@tsglaw.com) for further information and more detailed processes and procedures which must be followed to ensure compliance with federal law.

The Schroeder Group, S.C., Attorneys at Law provides comprehensive services covering all aspects of employment, employee benefits and labor relations law to closely-held businesses and companies. Through aggressive representation and sound advice, we help our clients achieve their business objectives. We are regularly in direct and ongoing communication with labor relations, human resources and employee benefits managers, as well as business owners and senior executives, and are also sensitive to their business, cost management and relationship needs. Our priority is counseling and problem avoidance.

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