



e-verify contractor rule suspended until 5/21

MSK Client Alert

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On January 9, 2009, the US government voluntarily agreed to stay the enforcement of its regulations mandating the use of E-Verify for federal contractors until May 21, 2009, to allow both sides in a federal lawsuit to prepare extensive legal briefing. The U.S. Chamber of Commerce and other industry groups had filed suit against the government, challenging the validity of these regulations, which were due to take effect on January 15, 2009.

The law would require all federal contracts issued after the effective date to include a clause requiring the contractor to certify that it uses, or is signing up to use, E-Verify, an online program used to check the legal status of workers against a federal database. Contracts exempted from the rule are those less than \$100,000 or those for commercially available off the shelf (COTS) items. Subcontracts greater than \$3,000 are also subject to the rule. Any company awarded a federal contract after the effective date must sign an E-Verify memorandum of understanding (MOU) within 30 days of the contract award date. The contracting company will be required to use E-Verify for all current employees directly assigned to the federal contract (if hired on or after November 6, 1986), within 90 days of enrollment, or within 30 days after the current employee's assignment to work on the contract, whichever is later, or to any new hires hired after the effective date, within 3 days of commencing employment, regardless of whether the new hire works on any federal contract. A contractor company may instead elect to E-Verify all employees within 180 days of enrollment in the program. Questions? Contact David Rugendorf.

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