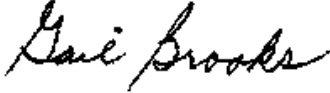


Date: September 3, 2009

Code: HR 2009-12

To: CSU Presidents

From: Gail Brooks
Vice Chancellor
Human Resources



Subject: E-Verify Program – Federal Contracts

Overview

Audience:	Human Resources Directors, Associate Vice Presidents/Deans of Faculty, or staff responsible for verifying employment eligibility for newly hired employees.
Action Items:	Determine if the campus has qualifying federal contracts, and if so, enroll in the E-Verify Program
Affected Employee Groups/Units:	Employees who are hired on qualifying Federal contracts.

Summary

On September 8, 2009, a new rule goes into effect requiring employers who have qualifying federal contracts to utilize the E-Verify Program to electronically verify the employment eligibility of their newly hired employees. Appropriate campus staff should consult with staff from contracts and procurement, research and sponsored programs or any other campus department that might be awarded a federal contract to determine if the campus needs to implement the E-Verify Program.

Background and Purpose

Current law requires all employers in the United States to complete an Employment Eligibility Verification Form (Form I-9) for each newly hired employee to verify each employee's identity and employment eligibility. The E-Verify Program is an Internet-based system operated by the Department of Homeland Security, U.S. Citizenship and Immigration Services (DHSUSCIS), in partnership with Social Security Administration (SSA) that allows participating employers to electronically verify the employment eligibility of their newly hired employees.

On September 8, 2009, a new rule goes into effect requiring employers who have qualifying federal contracts to utilize the E-Verify Program to electronically verify the employment eligibility of their newly hired employees. The rule amends the Federal Acquisition Regulation (FAR) to require that a new clause be inserted in subject federal contracts (Contract Terms and Conditions 52.222-54) requiring employers who hold federal contracts to use the E-Verify Program to verify that all new and existing employees working on the federal contract are authorized to work

Distribution:

Chancellor
Executive Vice Chancellor and CAO
Executive Vice Chancellor and CFO
All Campus Vice Presidents
Associate Vice Presidents/Deans of Faculty

Human Resources Directors
Directors, Contracts and Procurement
Directors, Research and Sponsored Programs
Payroll Managers

in the United States. The rule is not retroactively applied to existing contracts. The new rule is published in the November 14, 2008, *Federal Register*, 73 Fed. Reg. 67,651. **Please note:** The new rule includes a provision for institutions of higher education to only verify employees assigned to a covered Federal contract, **not** all campus employees.

Highlights of Key Requirements

Effective September 8, 2009, a campus awarded a qualifying federal contract, must implement the following:

- Enroll in the E-Verify Program within 30 days of being awarded a federal contract.
- Within 90 days, begin to implement the program for all new CSU hires that work on the federal contract. The E-Verify query must be run within three days of hire.
- Within 90 days after enrollment, verify all CSU employees currently assigned to work under the contract, or within 30 days of the CSU employee's assignment to the contract, whichever is later.
- Campuses that are currently enrolled in E-Verify on a voluntary basis and are awarded Federal contracts must update the campus profile through the "Maintain Company" page of the E-Verify website.

Exempt Federal Contracts

The E-Verify requirement is not applicable for the following types of contracts:

- Period of performance is under 120 days
- Contracts valued at under \$100,000
 - The subcontractor threshold remains \$3,000
 - Applies only to subcontractors if a prime contract includes the clause
- Commercial Off-the Shelf (COTS) Items
- Contracts where all work is performed outside the United States

Please note: Grants and Co-Operative Agreements are not subject to the Rule, only contracts.

Campuses should consult with staff from contracts and procurement, research and sponsored programs or any other campus department that might be awarded a federal contract to determine if the campus needs to implement the E-Verify Program. This memorandum provides key highlights of the E-Verify Program and if it is determined the campus must implement the program, appropriate staff should review the E-Verify Program rules in their entirety to ensure compliance.

The E-Verify Program website is: http://www.dhs.gov/files/programs/gc_1185221678150.shtm

The *Federal Register* E-Verify Rule website is: <http://edocket.access.gpo.gov/2008/pdf/E8-26904.pdf>

Campuses may contact Patty Bartscher, University Counsel, for assistance in determining if a campus has, or may in the future accept, applicable federal contracts that would require enrollment in the E-Verify Program. Ms. Bartscher may be reached at (415) 338-2998 or by email at: <mailto:pattyb@sfsu.edu>.

Questions may be directed to Human Resources Management at (562) 951-4411. This HR memorandum is also available on the Human Resources Administration's Web site at: <http://www.calstate.edu/HRAdm/memos.shtml>.

GB/pc