

### **What is E-Verify and how does it work?**

E-Verify is an Internet-based system operated by the Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) that allows employers to verify the employment eligibility of their employees, regardless of citizenship. Based on the information provided by the employee on his or her Form I-9, E-Verify checks this information electronically against records contained in DHS and Social Security Administration (SSA) databases.

### **Why does the university have to enroll in E-Verify?**

On June 6, 2008, the President issued Executive Order 13465 “Economy and Efficiency in Government Procurement through Compliance with Certain Immigration and Nationality Act Provisions and the Use of an Electronic Employment Eligibility Verification System,” providing that “Executive departments and agencies that enter into contracts shall require, as a condition of each contract, that the contractor agree to use an electronic employment eligibility verification system designated by the Secretary of Homeland Security to verify the employment of: (i) all persons hired during the contract term by the contractor to perform employment duties within the United States; and (ii) all persons assigned by the contractor to perform work within the United States on the federal contract.” The Federal Acquisition Regulation (FAR) was therefore amended to require federal contractors to use E-Verify, which is the system designated to implement the Executive Order. Since the University of Alaska is a federal contractor, we are required to enroll in E-Verify.

### **When will the university be required to start using the E-Verify system?**

Any solicitations issued and contracts awarded after September 8, 2009 will require participation in E-Verify as a term of the contract in accordance with FAR 1.108(d).

### **What is the E-Verify clause?**

The rule requires the insertion of the E-Verify clause into applicable federal contracts, committing the university to use E-Verify for all employees (existing and new) assigned to any given federal contract.

### **What types of prime contracts are exempt from the rule?**

The rule exempts:

- Contracts that include only commercially available off-the-shelf (COTS) items (or minor modifications to a COTS item) and related services;
- Contracts of less than the simplified acquisition threshold (\$100,000);
- Contracts less than 120 days; and
- Contracts where all work is performed outside the United States.

### **Does the rule apply to subcontracts?**

Yes. The rule only covers subcontractors if a prime contract includes the clause. For subcontracts that flow from those prime contracts, the rule extends the E-Verify requirement to subcontracts for services or for construction with a value over \$3,000. The university procurement offices will include the E-verify clause in any subcontracts as well as put the subcontractor on notice that there may be an E-Verify requirement by having the subcontractor sign the university's **Subcontract Compliance & Assurance Statement**.

### **Can the university's subcontractor verify under the university's E-Verify agreement?**

No. Each employer must register separately with DHS and SSA to use E-Verify.

### **What happens if the university does not comply with the E-verify rule?**

If the University of Alaska does not comply with the E-Verify rule for federal contracts, the university would lose all existing contracts and may risk losing all future federal contracts. Depending on the seriousness of the infraction, the university could risk losing all federal government funding including grants.

### **Does the E-Verify rule extend to employees working outside the United States?**

No. The rule applies only to employees working in the United States, which is currently defined to include the fifty States and the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands.

### **Must all university employees be processed through E-Verify?**

No. Only employees whose labor is charged to a federal contract that contain the E-Verify clause must be processed through E-Verify.

### **My employee is working on a contract for a minimal amount of time. Is he or she subject to E-Verify?**

Yes. The rule does not exempt employees based on the intermittent nature of the work or the length of time spent performing the work.

### **How do I know that an employee is working on a federal contract that requires E-Verify?**

The department should contact their grants and contracts office to determine if the restricted fund that is charged for the employee's wages is connected to federal contract requiring E-verify. You can also view the Banner form FRAGRNT to see if "E-VERIFY" is listed on the User Defined Tab for a particular contract.

### **Must administrative support staff that support the federal contracts be processed through E-Verify?**

Generally, no. Administrative support staff may support federal contracts as long as their labor costs are not charged directly to the federal contract restricted fund. Only if staff labor is charged directly to the federal contract must the administrative staff be processed through E-Verify.

### **One of my employees that is working on a federal contract was run through E-Verify by a previous employer. Do they need to be processed through E-Verify again?**

Yes. Under the rule, the university is required to enter the worker's identity and employment eligibility information into the E-Verify system following completion of the Form I-9 at the time of hire.

### **My employee has been previously confirmed by the University of Alaska as work authorized through E-Verify but is moving to another federal contract. Do they need to be processed through E-Verify again?**

No. Once an employee has been run through E-Verify and employment authorization has been confirmed, the employee should not be processed through E-Verify again by the university.

### **Are there any exceptions to verify employees with certain credentials and security clearances?**

Yes. The university is not required to perform employment verification using E-Verify for any employee who has been granted and holds an active federal agency HSPD-12 compliant credential or a U.S. Government security clearance for access to confidential, secret, or top secret information in accordance with the National Industrial Security Program Operating Manual. The university must still collect the Form I-9 at the time of hire for such employees.

### **How do I know if my employee already has security clearance or has already been processed through E-verify?**

The appropriate department administration staff can determine if the employee already has security clearance or has been processed through E-Verify by looking at the PEA2EMP form in Banner HR. The security clearance effective date and expiration date as well as the E-Verify processing date is listed.

### **Who will be processing my employees through E-verify?**

The department's HR office will be processing your employees through E-verify. Once the I-9 information is submitted, the HR office will fax back to the department a confirmation that E-Verify is complete.

### **How long do I have to get the employee processed through E-Verify?**

If you have a new employee, the department should submit a completed I-9 form along with the appropriate documentation to their HR office within three days of starting work.

If an existing employee is transferring to a federal contract, the department should notify their HR office that the employee has started work on a federal contract that requires E-Verify within three days of the employee starting work on the contract.

### **If there is a three day window from the date the employee starts work, how will we E-Verify existing employees without the appearance of non-compliance?**

E-verify is only required for employees working on federal contracts that require E-verify. If an existing employee starts to work on a federal contract that requires E-Verify, we are compliant as long as E-Verify is completed within three days of start of work on the contract.

### **What happens if I miss the three day deadline to submit the I-9 form to HR or notify HR that an employee is working on a federal contract that requires E-Verify?**

If the three day deadline is missed, the wages for the employee will not be able to be charged to the restricted fund of the contract. The department's general fund will be charged for the labor. No job form changes, labor reallocations, or time sheet overrides will be able to charge the restricted fund for the time period that the employee's work authorization was not verified through E-Verify.

### **How long does it take HR to enter the employee in E-Verify?**

Once the HR office receives a legibly completed I-9 form with applicable documentation, the HR office will give priority processing in order to meet the three day limit.

### **How long does it take my employee to be processed through E-Verify?**

Once the HR office submits the information through E-Verify, an initial response is given immediately by the E-Verify system.

### **What happens if my employee is not approved by E-Verify?**

An employee may contest the **Notice of Nonconfirmation** that is issued by E-Verify directly with the SSA or DHS. If the employee does not contest and a **Final Notice of Nonconfirmation** is issued, all employment with the University of Alaska shall be terminated immediately.

### **How can I improve the chances of an employee who is not a US Citizen be approved through E-Verify?**

The department should verify that the I-9 form is completed thoroughly and that the department has photocopied the applicable documents. The I-9 form and photocopies should be sent to the HR office within three days of the person start of employment or work on the federal contract.

### **Is the employee required to provide his or her SSN on the Form I-9?**

Yes. The employee must provide his or her SSN in Section 1 of Form I-9 if the employee must be processed through E-Verify, if he or she has one.

### **What if my employee does not have an SSN?**

If the employee does not have an SSN, he or she must submit to the local Social Security Administration (SSA) office a completed SS-5 form (<http://www.ssa.gov/online/ss-5.pdf>) and the SSA-3328 form (<http://www.alaska.edu/hr/forms/PDF/ssa3288.pdf>). If the employee is a foreign national, the employee must wait 10 days after the date of entry into the United States before submitting the forms to the SSA.

The department should make a notation on the Form I-9 that the SSN has been applied for and send the forms to HR for processing in E-Verify.

### **May I use E-Verify prior to making a job offer to a job applicant?**

No. It is prohibited to process any job applicant through E-Verify prior to a job offer and acceptance by the applicant. However, once a job offer has been accepted, the department may instruct the employee to submit a completed I-9 form and appropriate documentation before the employee starts working.

### **Can an employee that is not working on a federal contract be processed through E-Verify?**

No. The University of Alaska will only process employees through E-Verify if they will be working on a federal contract that requires E-verify. If you have an employee that will be working intermittently on a federal contract, they must be processed through E-Verify. Please check with your grants and contracts office to determine if E-Verify is required.

### **Is the university required to notify applicants of our participation?**

Yes. We are required to post the notice provided by DHS indicating the university's participation in the E-Verify program as well as the anti-discrimination notice issued by the Office of Special Counsel for Immigration-Related Unfair Employment Practices at the Department of Justice. This notice will be on all job posting processed through UAKJobs. Those existing employees that must be processed through E-Verify will be given a notice of our participation prior to being processed through E-Verify.

### **Am I required to attend training in regards to E-Verify?**

Yes. If you are a department administrative support personnel that works with federal contracts, you must attend the E-Verify training that is provided by the grants and contracts and HR offices.