

## **President orders contractors to verify the legal status of employees**

*Those doing business with the government must use E-Verify to determine eligibility*

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WASHINGTON — President George W. Bush on June 9 issued an executive order requiring all companies contracting to do business with the federal government to use an electronic employment eligibility verification system to determine the legal status of employees. Shortly after the executive order was issued, Secretary of Homeland Security Michael Chertoff designated E-Verify as the system to be used to comply with the order. The action by the president was expected to give a boost to efforts to encourage all employers to use E-Verify.

"A large part of our success in enforcing the nation's immigration laws hinges on equipping employers with the tools to determine quickly and effectively if a worker is legal or illegal," Mr. Chertoff said. "E-Verify is a proven tool that helps employers immediately verify the legal working status for all new hires."

E-Verify is operated by U.S. Citizenship and Immigration Services in partnership with the Social Security Administration. The E-Verify database helps enable employers submitting Social Security numbers and other information about prospective employees determine if the worker has legal status. Federal departments and agencies within the executive branch already use E-Verify to check the status of all new hires within the federal workforce.

More than 69,000 private employers use the program and Mr. Chertoff said about 1,000 companies join E-Verify each week. He estimated more than 10% of the new hires in the United States are run through the E-Verify system.

Mr. Chertoff said the president's action will "significantly increase the impact of E-Verify on the federal contracting workforce, because after all, if we expect private employers to use E-Verify, the federal government should lead by example and not merely by exhortation."

"It is always embarrassing, frankly, when we have these periodic operations in which we discover illegal workers working on federal projects paid for by federal money that is ultimately paid for by the taxpayer," Mr. Chertoff said. "So, we are going to make sure we finish getting our own house in order first, even as we work to continue to make sure that others in the private sector use this system."

Mr. Chertoff said the Office of Management and Budget concluded its review of a proposed rule amending the federal acquisition regulation to implement the president's executive order. He said there would be a comment period for the new regulation, "but we are looking forward to getting this new system up and running later this year."

It was expected the contractor's responsibility to verify the employment eligibility of its workforce will extend to the employees of companies it assigns to perform work on a subcontract basis.

"The basic principle is this: If you're working for the federal government and you're being paid with federal taxes, you ought to make sure that your employees are obeying federal law when it comes to their employment authorization, and this executive order as implemented in detail by the regulation will do precisely that," Mr. Chertoff said.

Kevin Lashus, an attorney with the Houston law firm of Tindall & Foster, said the executive order reflected the frustration of the administration with the inability of Congress to enact a comprehensive reform of the nation's immigration policy. Mr. Lashus pointed out E-Verify always was a key element in the administration's immigration law reform proposals. The executive order enables President Bush to at least extend use of EVerify to all companies doing business with the federal government. The order also was part of the recent stepped-up efforts to enforce current laws.

Mr. Lashus said the executive order also was issued as states and major corporations were taking steps to verify not only the employment eligibility of their own employees but of those of companies with whom they do business. The governments of 12 states — Arizona, Colorado, Georgia, Idaho, Minnesota, Mississippi, North Carolina, Oklahoma, Rhode Island, South Carolina, Utah and Virginia — require contractors to use E-Verify, and in the case of Arizona, all companies doing business in the state are required to use the system, Mr. Lashus said. Additional state legislatures are considering making similar requirements.