

Feds launch E-Verify to check workers' legal status

By **SUSAN CARROLL**
HOUSTON CHRONICLE

Sept. 11, 2009

THE NEW RULE

As of Tuesday, a new regulation took effect requiring companies awarded federal contracts to enroll in the U.S. government's E-Verify system, an Internet-based program that allows employers to check that new hires are legally authorized to work in the U.S. Within 90 days of enrolling, federal contractors will have to run all new hires and any workers assigned to the government project through the database. There are a few notable exceptions to the new rule, including contracts for less than 120 days or \$100,000.

Source: US Citizenship and Immigration Services

Ceola Curley, the owner of a Houston construction company, hopes to compete for a minimum \$200,000 federal contract to replace air handling units at the Houston air traffic control center.

But just knowing about plug valves and water coil connections won't get him the job these days.

A new regulation took effect this week requiring companies awarded federal contracts to enroll in the U.S. government's E-Verify system, a Web-based program that allows employers to check that new hires are legally authorized to work in the U.S. Within 90 days of enrolling, federal contractors will have to run all new hires and any workers assigned to the government project through the database.

An estimated 9,000 federal contractors and 139,000 other U.S. companies had enrolled in E-Verify as of Tuesday, said Bill Wright, a spokesman for the U.S. Citizenship and Immigration Service, which administers E-Verify.

Some 7,624 Texas businesses are enrolled in the program, USCIS data shows. Participation in the program is generally voluntary, although a handful of states require companies to enroll in E-Verify.

Some big business groups have opposed efforts to compel participation in the program, arguing that it can be burdensome, particularly for small employers. Immigrant advocates also have criticized E-Verify for incorrectly flagging people authorized to work in the U.S., including naturalized U.S. citizens, and lamented the federal contracting requirement.

Adding an extra step

If Curley scores the air handling contract, which was announced by the government earlier this week, he would have to eventually start using the system, instead of relying on the paper-based system used by the vast majority of U.S. employers. For Curley, that would mean an extra step beyond reviewing the I-9 employment verification forms required by the government, taking a look at new employees' Social Security cards and other documentation.

“I think it (using E-Verify) probably would be good because you can end up hiring someone who is not legal, and I certainly wouldn't want to do that and get in trouble with the government,” Curley said.

Chris Calabrese, with the American Civil Liberties Union's legislative counsel, warned that implementing the federal contractor rule in the midst of economic uncertainty “will only hurt the American work force without improving our nation's immigration enforcement practices.”

Fewer glitches claimed

Homeland Security officials insist the system's performance has improved significantly in recent years and reported that 97 percent of cases submitted to the system resulted in confirmations within 24 hours during the first quarter of fiscal year 2009. In the remaining 3 percent, the system found a discrepancy in a new employee's paperwork that needed to be resolved. That's down from 21 percent in 2002, according to an earlier independent evaluation.

Locally, the implementation on Tuesday of the federal contracting deadline, which repeatedly was postponed, has met with some trepidation, immigration and labor attorneys said.

Jerry Redmond, an attorney with Conner & Winters LLP, said the rule has caused “a lot of heartburn” for businesses trying to figure out if they are technically considered a federal contractor or subcontractor under the government's terms. There are a few notable exceptions to the new rule, including contracts for less than 120 days or \$100,000.

‘A lot of fear out there’

Patrick Trahan, a city spokesman, said the city of Houston started checking new hires through E-Verify on Tuesday. He said the city researched whether it would be considered a federal contractor under the new regulation, and ultimately decided it would not. The county, however, is not using E-Verify, said Richard Foisner, payroll director with Harris County. The Houston school district doesn't use it, either.

Redmond said many businesses also have expressed concerns in recent months about the potential for audits of their immigration paperwork. This summer, the Department of Homeland Security notified 652 businesses across the country, including 26 in Houston, of plans to audit their immigration and employment paperwork, marking a major increase in work site enforcement.

Gordon Quan, a Houston immigration attorney, said since the rule just took effect Tuesday, it was too early to measure the impact or detect problems locally.

But many local companies — even those without federal contracts — are asking questions about the program and seeking guidance, he said.

“Apparently, there is a lot of fear out there,” Quan said.