

Contracting With The Federal Government, Social Security Numbers and E-Verify: What You Need To Know



By Christina Harris Schwinn

program, the enrolling entity has thirty days from the effective date to verify the social security numbers of all new employees who are hired and existing employees who will be assigned to perform work on a project that receives federal funds regardless of the number of hours the assigned employee works on such project.

As a matter of background, earlier this year a lawsuit was filed to enjoin the implementation of the E-Verify law. The parties seeking to enjoin the federal government from imposing the final rule for e-verification of social security numbers for employees working on projects that receive federal funds did not succeed and this rule is now in effect.

Voluntary Verification

Any employer or entity may enroll in the E-Verify system to verify the social security numbers of new employees or existing employees. Only an enrolled entity may use the E-Verify system. Once enrolled,

the E-Verify system may be used to verify employee social security numbers. With regard to existing employees, unless there is a good faith basis for verifying the social security number of an individual who has already completed the I-9 verification process, proceeding to verify the social security numbers of existing employees without a good faith reason for doing so could create unexpected liabilities and exposure to discrimination claims. However, if there exists a good reason to verify the social security number of an existing employee, then the employer may do so. A few examples of situations when verification would be appropriate include: re-verification of a social security number following receipt of a no-match letter from the Social Security Administration or when a former employee who is rehired is required to complete a new I-9 Form.

While voluntary enrollment into the E-Verify system aids an employer in ensuring that employees have social security numbers that match

the employee's name and the records on file with the Social Security Administration, verification is not synonymous with authentication. Further, if the E-Verify system is not used across the board for all new hires of an employer, note that selective use could create exposure to claims of discrimination.

A note to the reader: This article is intended to provide general information and is not intended to be a substitute for competent legal advice.

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Mandatory Verification

In order to use the E-Verify system for the purposes of verifying social security numbers, each contractor, employer or entity must first register with the U.S. Citizenship and Immigration Services and establish an E-Verify account. The web address for the U.S. Citizenship and Immigration Services for the E-Verify service is www.uscis.gov/portal/site/uscis. Once enrolled in the E-Verify