

**FLORIDA MANDATES NEW EMPLOYMENT ELIGIBILITY
VERIFICATION REQUIREMENTS**

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The new requirements effective January 1, 2021 affect both private and public sector employees, but do so in different ways. This article will outline many of the new requirements imposed on both private and public sector employers, as same relates to verifying whether a person is legally eligible to work in the United States (“US”). Please note that these requirements are in addition to the federal requirements mandating employers verify US employment eligibility and that the Form I-9 be completed for all new hires, and that reverification occurs when the originally provided verification documents provided by the employee expire.

Private Sector Employers

Effective January 1, 2021, all private sector employers in Florida who do not use the E-Verify System for verifying a new employee’s legal eligibility to work in the United States must not only continue to complete the Form I-9 required under federal law, but also must now make and retain copies of the identification proffered by the employee to verify employment eligibility for at least a period of three years. This requirement is a state law requirement, not a federal law requirement. It applies to all persons hired on or after January 1, 2021. Additionally, the requirement applies to any existing employee that provided an employment eligibility verification document, such as a passport that has an expiration date, when it is time to reverify continued eligibility to work in the United States.

Public Employers and Government Contractors

Effective January 1, 2021 all government entities and government contractors are required to use the federal E-Verify System for all persons hired on or after January 1, 2021. General contractors are required to obtain sworn affidavits from their subcontractors that swear the subcontractor does not employ, contract with or subcontract with any unauthorized alien. The general contractor must maintain the affidavit for the duration of the contract with the subcontractor.

Liability

Generally, a private employer that uses the federal E-Verify System for verifying eligibility of a person to work in the United States can avoid civil liability. As to government contractors who do not use the E-Verify System and who do not take their obligation to verify employment eligibility seriously, the ultimate penalty is license revocation.

Next Steps

Employers whether private or public should review and update their policies relating to employment eligibility verification to comply with this new requirement.

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. Competent legal counsel should be consulted if you have questions regarding compliance with the law.

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