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Contacts

If you have questions or would like more information, please contact any of the attorneys listed at the end of this Alert. Hunton & Williams' [labor and employment law practice](#) covers the entire spectrum of labor and employment litigation, arbitration, administrative practice before the NLRB, EEOC, and the DOL, federal contract compliance, wage-hour standards, workplace safety and health standards, workers' compensation, contractual rights and remedies, Sarbanes-Oxley and whistleblower claims, workplace investigations and client counseling under federal and state labor and employment laws. Hunton & Williams LLP provides legal services to corporations, financial institutions, governments and individuals, as well as to a broad array of other entities. Since our establishment more than a century ago, Hunton & Williams has grown to more than 1,000 attorneys serving clients in 100 countries from 18 offices around the world. While our practice has a strong industry focus on energy, financial services and life sciences, the depth and breadth of our experience extends to more than 100 separate practice areas, including bankruptcy and creditors' rights, commercial litigation, corporate transactions and securities law, intellectual property, international and government relations, regulatory law, products liability, and privacy and information management.

Federal Contractors Must E-Verify Work Eligibility for Employees

On Friday, June 6, 2008, President George W. Bush signed an Executive Order requiring all federal contractors to use the "E-Verify" system to confirm their employees' eligibility to work in the United States.

The E-Verify System

Originally, E-Verify was designed as a free and voluntary system for employers to check the employment eligibility of new hires and the validity of employees' Social Security Numbers. E-Verify is a web-based computer system operated by U.S. Citizenship and Immigration Services in partnership with the Social Security Administration, and may be accessed at the U.S. Citizenship and Immigration Services website (www.uscis.gov).

The Executive Order

The new Executive Order requires federal departments and agencies to require, as a condition of all contracts, that the contractor must use an electronic employment eligibility verification system designated by the Department of Homeland Security. Homeland Security Secretary Michael Chertoff designated the E-Verify system as the system to be used under the Executive Order.

The Order requires verification of employment eligibility for:

- (1) All persons hired during the contract term by the contractor to perform employment duties within the United States; and
- (2) All persons assigned by the contractor to perform work within the United States on the federal contract.

A contractor is defined as any individual or legal entity that:

- (1) Directly or indirectly (e.g., through an affiliate), submits offers for or is awarded, or reasonably may be expected to submit offers for or be awarded, a Government contract, including a contract for carriage under Government or commercial bills of lading, or a subcontract under a Government contract; or
- (2) Conducts business, or reasonably may be expected to conduct business, with the Government as an agent or representative of another contractor.

Concerns For Employers

The Order does not go into immediate effect. The Department of Homeland Security must propose rules to regulate

the process and procedures. Once these rules are final, then employers will be subject to the new requirement.

It is hoped that the regulations will answer many anticipated questions including:

- whether the requirement applies to sub-contractors;
- whether any types of contracts will be exempted;
- whether the requirement only applies to future contracts, or

whether existing contracts will be affected; and

- whether the requirement will apply to current employees or only to new hires.

In the meantime, employers should consider the following steps in anticipation of these new regulations:

- audit their relationships to determine whether they may be considered federal contractors;

- familiarize themselves with the E-Verify system;
- audit I-9 compliance procedures; and
- train applicable personnel not only on the new E-Verify system, but also on immigration compliance and anti-discrimination laws to prevent costly mistakes in implementing these new procedures.

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