



DEC 31 2008

PROCUREMENT MEMORANDUM 2009-01

ACTION

MEMORANDUM FOR: HEADS OF CONTRACTING OFFICES

Signed

FROM: Helen Hurcombe
Senior Procurement Executive and
Director for Acquisition Management

SUBJECT: Implementation of Electronic Employment Verification System –
E-Verify

Background

The Federal Acquisition Regulation (FAR) was recently updated through Federal Acquisition Circular (FAC) 2005-29 to require contractors to use the E-Verify System managed by the Department of Homeland Security (DHS) to verify that all new hires and all employees directly performing work under Federal contracts are authorized to work in the United States.

Purpose

This guidance outlines the actions required to comply with the new regulation for verification of employees through E-Verify, FAR Subpart 22.18, and associated FAR clause 52-222.54.

Applicability

The requirements of FAR Subpart 22.18 are effective on January 15, 2009, and are applicable to awards above the simplified acquisition threshold made on or after the effective date including task orders or delivery orders against previously awarded contracts, except those for commercially available off-the-shelf items as described in FAR Subpart 22.1803; and all current contracts in excess of the simplified acquisition threshold with a remaining period of performance in excess of 120 days, except those for commercially available off-the-shelf items as described in FAR Subpart 22.1803.

Please note that contractor employees are exempt from verification requirements if (a) the employee holds an active security clearance of confidential, secret, or top secret; or (b) the employee has received a credential issued pursuant to Homeland Security Presidential Directive 12 (HSPD-12).

Required Actions

- **Existing Contracts:**

Contracting Officers shall:

- Conduct a review of existing contracts to determine the applicability of FAR Subpart 22.18 based on dollar amount; type of goods or services; remaining period of performance; and place of performance.
- Modify contracts and task orders to include FAR clause 52-222.54, as appropriate.

- **Pre-award (New Contracts)**

Contracting Officers shall:

- Insert FAR clause 52-222.54 in all solicitations and contracts, as prescribed in FAR Subpart 22.1803.

- **Post-award (All Contracts and Modifications)**

Contracting Officers shall:

- Verify contractor enrollment in E-Verify within 30 calendar days of contract award.
- Ensure contractor compliance with verification requirements for employees assigned to the contract.

Waivers

In exceptional cases, the head of the contracting activity may waive the E-Verify requirement for a contract or subcontract or a class of contracts or subcontracts, either temporarily or for the period of performance. This waiver authority may not be delegated. Bureau Procurement Officials shall submit waiver documentation to the Senior Procurement Executive for concurrence.

If you have any questions, please contact Lori Donovan at ldonovan@doc.gov or (202) 482-1716.

cc: Acquisition Community
Acquisition Council