

# Government Contracts Blog

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## Government Contractors Are Spared E-Verify (For Now) But Face Debarment for Hiring Illegal Immigrants

For the third time, the Government has agreed to delay the mandatory implementation of E-Verify for government contractors. They will not have to comply with E-Verify until June 30, 2009, when contracting officers can begin inserting FAR clause 52.222-54. Employment Eligibility Verification, into solicitations and contracts. [74 Fed. Reg. 17793](#).

E-Verify has been pushed back once already as a result of a lawsuit in federal district court filed by the U.S. Chamber of Commerce and other parties. As this Blog has previously [reported](#), the plaintiffs challenge the mandatory use of E-Verify for government contractors by means of an Executive Order despite statutory language making its use voluntary. Plaintiffs moved for summary judgment, and the court agreed to a Government request to stay proceedings while the new Administration assesses the new rule.

By requesting this latest stay, the Government expects the new Administration's review of E-Verify "to be concluded shortly." Presumably, when it is, the Government will either respond to the plaintiffs' motion for summary judgment or withdraw altogether the mandatory implementation of E-Verify for government contractors. Until then, the fate of E-Verify for government contractors is unknown.

Unmistakable, however, is the Government's renewed commitment to end illegal immigration by targeting employers. At the end of April, the Department of Homeland Security [announced](#) new guidelines that will focus "on the criminal prosecution of employers who knowingly hire illegal workers in order to target the root cause of illegal immigration." While the guidelines themselves are not yet publicly available, the DHS Secretary [testified](#) that the agency "***will use all available civil and administrative tools, including civil fines and debarment, to penalize and deter illegal immigration.***" And government contractors, like all employers, will be subject to DHS' promise "to obtain indictments, criminal arrest or search warrants, or a commitment from a U.S. Attorney's Office (USAO) to prosecute the targeted employer before initiating a worksite enforcement operation [against employees]."

Whether or not mandatory E-Verify is implemented, the Government is communicating that government contractors must not ignore the issue of hiring illegal immigrants. If any government contractors were not paying attention before, now would be a good time to tune in.

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