

[Alerts and Updates]

E-Verify Requirement for Federal Contractors Delayed Again

June 2, 2009

Implementation of the regulation that would require all federal contractors to participate in E-Verify has been delayed yet again—until **September 8, 2009**—and it appears increasingly uncertain that the final rule will ever take effect.

In our [April 20, 2009 Alert](#), we reported that implementation of the federal contractor E-Verify requirement had been delayed for a third time, until June 30, 2009, based on an agreement between the parties to an ongoing federal court lawsuit that has challenged the rule. The latest delay results from an agreement among the parties in *Chamber of Commerce of the United States of America v. Napolitano* to extend the stay of proceedings for another 70 days, to provide the Obama administration more time "to complete its review of the Final Rule." Notice of the decision to extend implementation until September 8, 2009, is expected to be published in the *Federal Register* by early next week.

Under the final rule, E-Verify will be required for all federal contractors, regardless of size, holding a contract with a period of performance longer than 120 days and a value above \$100,000. Subcontractors will be required to participate in E-Verify if they provide services or construction with a value of more than \$3,000.

At present, federal contractors should be aware that they are obligated to comply with the E-Verify requirements *only* when they become parties to a federal contract that includes the E-Verify provision. This will not occur before September 8, 2009, and implementation of the final rule appears even more uncertain.

Note: While the delay is in effect for many federal contractors, as explained above, there are companies located in certain states (including Arizona, Colorado, Georgia, Minnesota, Missouri, Mississippi, North Carolina, Oklahoma, Rhode Island, South Carolina and Utah) which may still be mandated to use E-Verify. Please be sure to check with the law in your state, and to contact counsel regarding your company's obligations under E-Verify.

We will continue to follow developments in this area closely and will issue updated Alerts as events warrant.

For Further Information

If you have any questions about E-Verify, the federal contractor E-Verify requirement or the ongoing federal court litigation, please contact any of the [attorneys](#) in our [Employment, Labor, Benefits and Immigration Practice Group](#) or the attorney in the firm with whom you are regularly in contact.