E-VERIFY

August 13, 2009
Objective

- Provide background
- Share implementation plans and controls to comply with regulation
- Ensure everyone is clear about their responsibilities for compliance
What is E-Verify?

- E-Verify is an Internet based system that allows participating employers to electronically verify the employment eligibility of their newly hired employees.
- Operated by the Department of Homeland Security (DHS) in partnership with the Social Security Administration (SSA).
Executive Order #13465 dated June 6, 2008 instructed federal agencies to require federal contractor participation in E-Verify.

June 12, 2008 – proposed rule implementing order issued

November 14, 2008 - final rule implementing the Executive Order issued and becomes effective January 15, 2009.
Effective January 15, 2009, federal contractors were required to use E-Verify system to verify eligibility of employees working on a federal contract/subcontract.

Effective date has been extended 4 times to allow Obama Administration adequate opportunity to review the rule.

Current effective date is Sept. 8, 2009.
Why is The UC Required to Comply?

- Potential fines for non-compliance
- Potential loss of existing contract
- Federal contractor risks debarment from future federal contracts if it does not comply with E-Verify.
Employees Required to be Verified

- All **new employees** assigned to a covered contract or subcontract
- All **existing employees** assigned to a covered contract or subcontract
Employees Not Required to be Verified

- Employees who perform support work and do not perform any substantial duties under the federal contract
- Employees with a current HSPD-12 or Top Secret security clearance
- Employees not working on a qualified federal contract/subcontract
What is a Covered Contract?

- Value is above 100k \textbf{AND}
- Performance period is greater than 120 days \textbf{AND}
- Performance takes place in the United States
What is a Covered Subcontract?

- Subcontract is a prime contract with E-Verify clause **AND**
- Subcontract is for services or construction **AND**
- Value is greater than $3,000
What does E-Verify Require?

- Individual entering information into E-Verify must be “certified”
  - complete a web based tutorial AND
  - pass a test
- Information from the I-9 must be entered into E-Verify no later than the 3rd business day after the start day for pay
How does E-Verify work?

1. I-9 information is entered in E-Verify
2. SSA/DHS either confirms information or issues a tentative non-confirm
3. If confirmed, paperwork is retained per policy
4. If not confirmed, follow up is required with SSA and/or DHS within a specified period to resolve the discrepancies
University of California Response

- UCOP E-Verify Workgroup created to review regulations and the impact on the University
- E-verify Guidelines and recommended implementation steps have been issued
- Working on updates to PPS to ensure E-Verify process has been completed in a timely manner and developing reports to assist with compliance
UCLA’s Response

- UCLA E-Verify workgroup created - Dec 2008
- Members include representatives from central offices and campus departments
- Reviewed FAR regulation and determined impact on UCLA processes
- Development of procedure relating to E-Verify in progress
- Working with EFM/General Acting to include a flag on the fund table
- Campus training of impacted units is pending
Tentative Timeline

Sept. 2009
- E-Verify implementation becomes effective
- Upon receiving a federal contract with the E-Verify clause, enroll in E-Verify
- Determine employees who are required to be E-Verified
- Determine initial staff that needs training

Oct. 2009
- Begin campus training of staff impacted by the E-Verify requirement.

Nov. 2009
- All existing employees assigned to an E-Verify contract must be verified no later than 90 days of 1st contract with E-Verify clause

Dec. 2009
- Begin of 3 day compliance rule for new hires or transferred employees to an E-Verify contract
Next Steps

- General campus notice regarding E-Verify
- E-Verify workgroup to finalize campus policy and procedures
- Meet with various groups affected by E-Verify
  - PI & Fund Managers
  - I-9 and EDB preparers
Covered Contracts
- Solicitation issued, or contract awarded, or IDIQ contract bilaterally amended, on or after 9/08/2009; and
- Value above $100,000; and
- Performance period longer than 120 days; and
- Performance to take place in the United States

Subcontractor Flow-Down
- Subcontract of a prime contract with E-verify clause; and
- Subcontract is for services or construction; and
- Value above $3,000.

Covered Employees
- Existing employees assigned to the contract
- New hires assigned to the contract

Exceptions:
- Employees with current HSPD-12 credential, or active security clearance for Confidential, Secret, or Top-Secret.
- Employees who normally perform support work, such as indirect or overhead functions, and do not perform any substantial duties under the contract. (N.B. – “substantial” is qualitative, not a function of time spent or percentage of an employee’s duties.)
E-Verify Protocol

- On employee’s first day of work, employer and employee complete I-9 form. (Employee has until third business day to present I-9 documents.) Note that regular I-9 process does not require SSN and allows non-photo identity documents, but I-9 process under E-Verify does require both SSN and photo ID. E-Verify also requires copying of PRC or EAD if used as List A document.
- By third business day, employer initiates E-Verify query. (If employee is work-authorized but has not yet received his/her SSN, E-Verification can be postponed until SSN is issued.)
- If E-Verify response is a “confirmation” (employment authorized) → print and retain record with the I-9 form.
- If E-Verify response is a “tentative non-confirmation”:
  - Print out “Notice” and give to employee, who can contest or not contest (no contest → terminate).
  - If employee contests, print out “Referral” directing employee to contact SSA or DHS within 8 federal government work days.
  - Employment not authorized / final non-confirmation / employee no-show → terminate employment (or inform E-Verify that employee will not be terminated).

Implementation Timeline (including hypothetical dates)

  - Initiate E-Verify on each new hire assigned to the contract, by end of the 90 days
  - Initiate E-Verify on each existing employee assigned to the contract, by end of the 90 days, or within 30 days of being assigned to the contract, whichever is sooner
- Full implementation [12/9/2009]:
  - Within 3 business days of hire, initiate E-Verify on each new hire assigned to the contract
  - Within 3 business days of assigning an existing employee to a contract, initiate E-Verify on the employee (unless he/she has already been E-Verified by the employer)
Contact Information

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