

New Governors Act on E-Verify

January 10, 2011

Within hours of being sworn into office, two newly-elected governors put E-Verify at the top their agendas. On January 4, 2011 Florida's Governor Rick Scott (R) issued an executive order requiring state agencies and contractors to use E-Verify. A day later Governor Lincoln Chafee (I) of Rhode Island repealed the state's 2008 executive order requiring its agencies and contractors to use E-Verify.

Overview of E-Verify

The E-Verify program is an Internet-based system established by the Department of Homeland Security (DHS), in partnership with the Social Security Administration (SSA), to verify employee eligibility to work in the U.S. All employers must complete a Form I-9 for all of their new hires. In accordance with the E-Verify program, employers enter the information from the Form I-9 into the internet system. This information is then compared with records in both the SSA and DHS databases. Under federal law, participation in the E-Verify program is currently voluntary. However, Arizona, Mississippi and South Carolina have enacted laws that require all employers to use E-Verify. Several other states, including Colorado, Georgia, Idaho, Minnesota, Missouri, Nebraska, North Carolina, Oklahoma, Utah and now Florida have adopted some variation of the requirement requiring some, but not all, employers to use E-Verify.

Florida

On his first day in office Governor Scott issued Executive Order Number 11-02 (Verification of Employment Status). By doing so, Florida joined several other states that now require all state agencies to use E-Verify to confirm the employment authorization of both its current and future employees. In addition, the order provides that all state contracts require the use of E-Verify to verify the employment eligibility of all the contractors and those assigned to work by the contractors. The order does not require, but does "encourage" other employers to use E-Verify.

Rhode Island

Rhode Island's governor Lincoln Chafee repealed the state's E-Verify mandate fulfilling his promise that ending the requirement would be a priority. The mandate, originally implemented by then Governor Donald Carcieri (R) in March 2008, required state agencies and its contractors to verify the employment eligibility of all new employees through E-Verify. Chafee, who served in the United States Senate as a Republican from 1999 through 2006, stated the repeal would "allow us to engage in a comprehensive dialogue with our immigrant communities, law enforcement agencies and all interested parties." The repeal itself critiques the original order as "not effectively address[ing] the state's fiscal or unemployment problems" and serving as "an agent of divisiveness, incivility and distrust among the state's citizens."

WARNING: H-1B visas are running out

United States Citizenship and Immigration Services (USCIS) has updated its count of available new H-1Bs, our most basic professional work visa. USCIS announcements show a waning availability of the visas, prompting concern among employers that the H-1B visa program will soon be inaccessible until October 2011. USCIS announced that as of December 31, 2010 the Service had approved all 20,000 of the U.S. Master's degree allocation, and had approved 57,300 of the available 65,000 H-1Bs (less a small number of H-1Bs allocated specifically to nationals of Chile and Singapore). For employers, this means that fewer than 8,000 new H-1Bs may be utilized for the rest of the fiscal year, which lasts until September 30, 2011.