

CQ HOMELAND SECURITY

June 9, 2008 – 7:37 p.m.

E-Verify's Reach to Extend to Federal Contractors

By Caitlin Webber, CQ Staff

Federal contractors will be required to confirm that employees are authorized to work in the United States through an electronic employment verification system, the White House announced Monday.

President Bush signed an executive order June 6 that will require contractors to check employees' work status for all future contracts through E-Verify, an Internet-based system that uses Social Security Administration data and is operated by the Homeland Security Department. Federal departments and agencies already use E-Verify to ensure worker eligibility.

"Private employers that choose to contract with the federal government should meet the same standard," the White House said in a statement, adding that contractors that employ illegal immigrants are less dependable procurement sources and impose "a direct risk of disruption, delay and increased expense in federal contracting."

DHS first proposed the E-Verify mandate for federal contractors last October. Currently, use of the system is voluntary, except in a few states that passed laws requiring at least partial compliance.

Over 66,000 employers use E-Verify and more than 4 million employment queries were run in 2008 of which 99.5 percent were verified instantaneously, according to DHS.

"If we expect private employers to use E-Verify, the federal government should lead by example and not merely by exultation," DHS Secretary Michael Chertoff said Monday at a news conference.

The proposal and similar E-Verify expansion schemes have been met with stiff opposition. Some businesses believe it is burdensome and produces flawed results. Immigrant advocacy groups say it could lead to discrimination, while civil libertarians claim E-Verify could result in job losses and identity theft.

"The president's immigration announcement will effectively create a 'No-Work' list," said Timothy Sparagani, senior legislative counsel with the American Civil Liberties Union. "This will not decrease immigration, but it will cause enormous turmoil and economic distress for the poor workers who wrongly lose their jobs due to erroneous government data or whose identity is borrowed by an undocumented immigrant who is desperate to work."

The federal policy against contracting with firms that hire illegal immigrants dates back to 1996, said Neal Couture, executive director of National Contract Management Association, in an interview. He said the executive order's only new requirement is that

contractors who have been self-regulating now won't have a choice of how to monitor who can or can't work legally.

Database accuracy, delays in hiring and additional expense are among a "wide-ranging scope of issues of concern . . . whenever the government mandates the use of its system there are ramifications that are unintended," Couture said.

Rosemary Jenks, director of government relations for NumbersUSA, a lower-immigration advocacy group, says the executive order's effect should be "dramatic" if illegal immigrants are represented in contracted industries the same way they are represented in non-contracted industries.

Those who criticize the error rate or expense of E-Verify are "creating a straw man," she said. "There is not a single instance where a U.S. citizen or a non-citizen with legal permission to work has ever been fired, because of an error in E-Verify."

DHS is expected to issue draft regulations on the executive order within a week. After the subsequent 60-day public comment period, the regulations are expected to go into effect by the end of 2008.

Created as a pilot program in a 1996 immigration law ([PL 104-208](#)) the authorization for E-Verify will sunset on Nov. 30 without congressional action. There are currently several bills addressing employment verification pending in Congress. One measure ([HR 4088](#)) introduced by Rep. Heath Shuler, D-N.C., would mandate use of E-Verify over seven years.

The House Judiciary Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law will hold a hearing Tuesday on electronic employment verification systems.

Caitlin Webber can be reached at cwebber@cq.com.