

Update: March 2011

I-9 Compliance Bulletin



Federal government shutdown would affect E-Verify

We have confirmed with the Department of Homeland Security that in the event of a federal government shutdown, E-Verify will not operate until the shutdown is resolved.

On March 2, a temporary spending measure was approved that extends the budget until March 18. After that date, if no budget agreement is reached, E-Verify will become unavailable until funding is restored.

Bottom Line

You should be aware that an E-Verify outage does not remove I-9 responsibilities. You should continue to complete I-9s as before. If you are a user of E-Verify, you should submit those cases to E-Verify when service is restored.

The TALX I-9 service will store E-Verify cases and submit them to E-Verify when service is restored. If your organization is a current user of the TALX I-9 service, you should continue to use the service as always.

To learn more about the TALX I-9 service, please contact Melinda Hanson at (314) 214-7143 or mhanson@talx.com. Learn more at our blog at <http://blog.talx.com>.

USCIS says employers may ask employees for document copies

The U.S. Citizenship and Immigration Services (USCIS) E-Verify team has said that employers may ask employees to provide photocopies of documents subject to E-Verify Photo Matching, but **may not require** them to do so. Employers must follow the guidance provided by the E-Verify team. Employers must make their own photocopies if the employee declines to.

During a training conference held by the Immigrations and Customs Enforcement (ICE) division of the Department of Homeland Security, a side discussion took place regarding this issue. It was suggested the employer could have the employee provide copies of their Form I-9 Section 2 documents subject to E-Verify Photo Matching. A proposal was sent to E-Verify after the training session.

The USCIS E-Verify team has responded to say that an employer may request a photocopy, but may not require it, "especially if the employee refuses." USCIS said the employer should not in any way penalize employees who refuse or are unable to provide copies of Form I-9 documentation, or deny employment.

As of March 1, 2011, E-Verify has authorized the release of the complete text of its response. It is available on the TALX blog: <http://blog.talx.com>.

Bottom Line

The photocopy issue can be expensive for employers. The Photo Matching feature requires employers to make and retain copies of employee documents subject to Photo Matching. Installing scanning and copying equipment at all hiring locations can be costly.

Although employers may be able to avoid some costs by requesting photocopies, **it is important to avoid any form of discrimination against employees who decline to provide copies.**

To learn more about this issue, please contact Melinda Hanson at (314) 214-7143 or mhanson@talx.com.