



IMMIGRATION

ALERT

E-VERIFY MANDATED FOR PUBLIC WORKS CONTRACTORS AND SUBCONTRACTORS IN PENNSYLVANIA AS OF JANUARY 1, 2013

By Catherine V. Wadhvani

Effective January 1, 2013, Pennsylvania will require certain public works contractors and their subcontractors to participate in E-Verify. Gov. Tom Corbett signed The Public Works Employment Verification Act into law on July 5, 2012.

The law affects public works contractors and subcontractors who will work on certain projects with an estimated value of at least \$25,000, which are funded at least in part by a public body. These contractors and subcontractors will be required to participate in the Department of Homeland Security's (DHS) E-Verify (electronic I-9 employment verification or EVP) program, which is managed by Immigration and Customs Enforcement (ICE).

The law states that a "public works contractor or subcontractor shall participate in EVP and shall...use EVP to verify employment eligibility of each new employee." This means that the contractors must enroll in and comply with all requirements of the federal E-Verify program in addition to their normal compliance with I-9 Employment Verification requirements under the Immigration Reform and Control Act (IRCA).

Under Pennsylvania's law requiring the use of E-Verify, verification of participation in the E-Verify program will be required from public works contractors and subcontractors as a precondition to being awarded a contract for public work or

execution of an already-awarded contract.

The Pennsylvania law includes audits and sanctions provisions. Sanctions for willful failure to use E-Verify to confirm the employment eligibility of a new employee can be as severe as debarment from public work for a period of three years or for a third violation that is not found to be willful, debarment from public work for between 180 days and one year.

There are also civil money penalties under the state law ranging between \$250 to \$1,000 for each failure to provide the Pennsylvania-required verification of participation in E-Verify or making a false statement or misrepresentation with respect to completing the Pennsylvania verification of participation requirement.

Public works contractors and subcontractors should familiarize themselves with E-Verify requirements in anticipation of eventual participation in E-Verify.

For up-to-the-minute information on E-Verify and other evolving immigration laws, see our firm's blog: [Immigration View](#).

For more information on this Alert, please contact Catherine V. Wadhvani at cwadhvani@foxrothschild.com or 412.394.5540 or any other member of Fox Rothschild's [Immigration Practice](#).

