

Acquisition Policy
DOT DASH
2009-015

Date: September 8, 2009

To: Chief of the Contracting Office (COCO)
Acquisition Personnel

From: Office of the Senior Procurement Executive

Subject: Employment Eligibility

Summary: Federal Acquisition Regulation (FAR) Case 2007-013, Employment Eligibility Verification, was published in the Federal Register on November 14, 2008, at 73 FR 67651. Due to ongoing litigation the applicability date was delayed several times. On August 15, 2009 the U.S. District Court granted the Government's motion for summary judgment and rendered an opinion in the Government's favor on all counts in the litigation. Although plaintiffs have filed a notice to appeal, the FAR Council has decided not to extend the applicability date for the FAR coverage on Employment Eligibility Verification (FAR Subpart 22.18 and 52.222-54). Therefore, E-Verify coverage will become applicable on September 8, 2009.

Contracting Officers should implement the necessary actions to implement E-Verify as of September 8, 2009. These actions include:

1. Ensure that solicitations issued on or after September 8, 2009, include the clause at 52.222-54, Employment Eligibility Verification, as prescribed at FAR 22.1803 and in accordance with FAR 1.108(d)(1); and
2. Initiating bilateral modifications to existing indefinite-delivery/indefinite-quantity contracts, in accordance with FAR 1.108(d)(3), to include the clause for future orders if the remaining period of performance extends beyond March 8, 2010, and the amount of work or number of orders expected under the remaining performance period is substantial.

This DASH and its attachment are available at <http://www.dot.gov/ost/m60>, under Quick Picks, Policy DASHES, and Acquisition.

Questions concerning this policy DASH should be directed to Lenita Ahmadi at (202) 366-4974 or lenita.ahmadi@dot.gov.

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Attachment