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E-Verify Actions Needed Post-Government Shutdown

What is E-Verify?
E-Verify is an internet-based system that compares information entered by an employer from an employee's Form I-9, Employment Eligibility Verification, to records available to the U.S. Department of Homeland Security (DHS) and the Social Security Administration (SSA) to confirm employment eligibility.

Under federal law, E-Verify is mandatory for employers who have an E-Verify clause in their federal contract. In addition, it is mandatory in several states. At least eight states require all or most employers to participate in E-Verify, and at least sixteen states require certain employers to participate in E-Verify. Employers also can choose to enroll in E-Verify voluntarily.

How did the government shutdown affect E-Verify?
E-Verify and E-Verify services were unavailable during the shutdown. While E-Verify was unavailable, employers were not able to access their E-Verify accounts to:

- Enroll in E-Verify;
- Create an E-Verify case;
- View or take action on any case;
- Add, delete or edit any user account;
- Reset passwords;
- Edit company information;
- Terminate accounts; or
- Run reports.

Employees also were unable to resolve E-Verify Tentative Nonconfirmations (TNC).

U.S. Citizenship and Immigration Services has announced that the following actions must be taken by employers who participate in E-Verify now that E-Verify service has resumed:

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- Create an E-Verify case by February 11, 2019, for each employee hired while E-Verify was not available.
    - Use the hire date from the employee's Form I-9 when creating the E-Verify case.
    - If the case creation date is more than three days after the hire date, select "Other" from the drop-down list and enter "E-Verify Not Available" as the specific reason.

- If an employee received a TNC and notified you of his or her intention to contest it by February 11, 2019, revise the date by which the employee must contact the SSA or DHS to begin resolving the TNC.
    - Add ten federal business days to the date on the employee's "Referral Date Confirmation" notice. Federal business days are Monday through Friday and do not include federal holidays.
    - Reprint the "Referral Date Confirmation" by selecting "print confirmation." Remember to cross out the old date and insert the new date.
    - Give the revised notice to your employee.
    - Employees have until this new/revised date to contact SSA or DHS to resolve the TNC.

Remember that while an employee is resolving a TNC, employers may not take adverse action against an employee because the E-Verify case is in interim case status.

DHS guidance indicates that any calendar day E-Verify was unavailable should not count towards the federal contractor deadlines found in the Employment Eligibility Verification Federal Acquisition Regulation. Federal contractors with the Federal Acquisition Regulation (FAR) E-Verify clause should contact their contracting officer for more information on federal contractor responsibilities.

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