

This form is provided as a sample and may not be suitable for every situation. This form should not be considered legal advice or legal opinion. There may be state or municipality specific information that would affect your use of this form. You should review applicable law in your jurisdiction and consult experienced counsel for legal advice. If you use this form (either "as is" or by modifying the form), you are responsible for all content.

E-Verify Requirements

Operated by the U.S. Department of Homeland Security in partnership with the Social Security Administration, E-Verify is an Internet-based system that enables employers to determine a new hire's eligibility to work in the United States. Several states require employers to participate in E-Verify, while others provide incentives. Below are state- specific requirements related to E-Verify followed by rules and guidelines governing its use.

State	Law/Regulation	Employer Affected	Summary of the Law
Alabama	Ala. Code § 31-13-4, as added by Act No. 2011-535 (H. 56); 31-13-9(b), as amended by Act No. 2012-491 (H. 658)	All	Requires all Alabama employers as well as state contractors and subcontractors to use E-Verify.
Arizona	A.R.S. § 23-211 et seq.	All	Requires all Arizona employers as well as state contractors and subcontractors to use E-Verify.
California	Cal. Lab. Code § 2811 2813	All	Prohibits the state, or a city, county, or special district, from requiring private employers to use an electronic employment verification system (e.g., E-Verify), except when required by federal law or as a condition of receiving federal funds.
Colorado	C.R.S. §§ 8-17.5-101 and 102	State agencies and contractors	Requires prospective contractors to use E-Verify to ensure work status of all newly-hired employees as a condition of receiving or renewing any contract from state agencies or state-funded institutions.
Florida	Executive Order 11-116 Senate Bill 1718 (2023)	<u>Executive Order 11-116</u> : State agencies and contractors <u>Senate Bill 1718</u> : All private employers with 25 or more employees.	<u>Executive Order 11-116</u> : All agencies under the direction of the Governor must use E-Verify to confirm the employment eligibility of all current and prospective employees (including subcontractors) assigned to perform work pursuant to a state agency contract. <u>Senate Bill 1718</u> : For employees hired on or after July 1, 2023, private employers with 25 or more employees must use E-Verify to confirm the newly hired employee is eligible to work in the United States. These employers must retain a copy of the documentation provided and any official verification generated, if applicable, for at least 3 years. Employers that are required to use E-Verify must also certify on their first return each calendar year to the state's tax service provider that it is in compliance with the E-Verify requirement. All public employers, contractors, and subcontractors must use E-Verify to confirm new hires' work authorization.

This form is provided as a sample and may not be suitable for every situation. This form should not be considered legal advice or legal opinion. There may be state or municipality specific information that would affect your use of this form. You should review applicable law in your jurisdiction and consult experienced counsel for legal advice. If you use this form (either "as is" or by modifying the form), you are responsible for all content.

State	Law/Regulation	Employer Affected	Summary of the Law
Georgia	Official Code of Georgia Annotated § 13-10-91, as amended by H. 87	<i>All public employers and contractors; Private employers with more than 10 employees</i>	Requires public employers, contractors and subcontractors to use E-Verify. Private employers with 11 or more employees are also required to use E-Verify.
Idaho	Executive Order 2009-10	<i>All state agencies and contractors</i>	Requires state agencies and contractors to confirm employment eligibility of all new hires.
Illinois	820 ILCS 55/12 as amended by Public Act 96-623 (S. 1133)	<i>All</i>	Participation in E-Verify is voluntary; however, upon enrollment, Illinois employers are required to sign an official sworn attestation affirming receipt of the required E-Verify training materials from the Department of Homeland Security and that all employees with access to the company's E-Verify account have completed mandatory training.
Indiana	Indiana Code 22-5-1.7, as added by P.L. 171-2011 (S. 590)	<i>Public employers and state and local contractors</i>	Requires state agencies, local governments, and state and local contractors to use E-Verify. The law also requires day laborers to attest that they are authorized to work in the United States before they commence employment. Further, the state incentivizes private employers' use of E-Verify.
Louisiana	La. Rev. Stat. Ann. § 38:2212.10	<i>All contractors and subcontractors</i>	Requires private contractors seeking business with a state or local government to use E-Verify. Private employers are not required to use E-Verify; however they will not be subject to penalties for hiring undocumented workers if they used E-Verify or keep certain identification documents on file for each employee.
Michigan	Public Acts of 2012, Act No. 200, Sec. 381	<i>Certain contractors and subcontractors</i>	Requires the use of E-Verify by contractors and subcontractors of the transportation department for construction, maintenance, and engineering services.
Minnesota	Minnesota Statutes § 16C.075	<i>All state contractors and subcontractors</i>	Requires vendors and subcontractors to certify that the vendor and all subcontractors have implemented the federal E-Verify program for all newly hired employees who will perform work on behalf of the state of Minnesota.
Mississippi	Miss. Code Ann. § 71-11-3, as added by S. 2988	<i>All</i>	Requires all employers to use E-Verify.
Missouri	Missouri Rev. Stat. § 285.525, as added by H. 1549	<i>All public employers and contractors</i>	Requires all public employers as well as contractors and subcontractors to use E-Verify.
Nebraska	Neb. Rev. Stat. § 4- 114	<i>All public employers and public contractors</i>	Requires public employers and public contractors to use E-Verify and created tax incentives for private employers that voluntarily used E-Verify.
North Carolina	NC Gen. Stat. 64-26; 153A-99.1	<i>State agencies and private employers with 25 or more employees</i>	Requires all state agencies, offices, and universities to use E-Verify. Employers with 25 or more employees are also required to use E-Verify.

This form is provided as a sample and may not be suitable for every situation. This form should not be considered legal advice or legal opinion. There may be state or municipality specific information that would affect your use of this form. You should review applicable law in your jurisdiction and consult experienced counsel for legal advice. If you use this form (either "as is" or by modifying the form), you are responsible for all content.

State	Law/Regulation	Employer Affected	Summary of the Law
Oklahoma	Okla. Stat. Title 25, § 1313	Okla. Stat. Title 25, § 1313	Requires public employers, contractors, and subcontractors to use E-Verify.
Pennsylvania	Pennsylvania Stat. Title 43, Ch. 5C, Sec. 167.1 - 167.11, as added by Act 127 (S. 637) P.L. 454, No. 75 of 2019 (Effective October 7, 2020)	<i>Public works contractors and subcontractors</i> <i>Construction industry employers (effective October 7, 2020)</i>	Requires public works contractors and subcontractors to use E-Verify. Effective October 7, 2020, additional requirements apply to construction industry employers.
South Carolina	Code of Laws of South Carolina Annotated § 8-14-10, as added by H. 4400	<i>Public employers and contractors; all private employers</i>	Requires public employers and public contractors to use E-Verify. Additionally, all private employers are required to use E-Verify.
Tennessee	TCA § 50-1-103 TCA § 50-1-103	<i>Employers with 35 or more employees</i> <i>Employers with 34 or fewer employees</i>	Employers with 35 or more full-time equivalent employees must use E-Verify. Smaller employers may use E-Verify for newly hired employees or request and maintain documents specified in the state's list of authorized identity and employment eligibility documents.
Texas	Tex. Gov't Code § 673.001 - 673.003	State agencies	State agencies must register and participate in the E-Verify program to verify employment eligibility information of all new employees.
Utah	Utah Code Annotated § 63G-12-301; 63G-12-302	<i>Public employers, contractors, subcontractors; private employers with more than 15 employees</i>	Requires public employers, contractors and subcontractors to use E-Verify. Private employers with more than 15 employees are also required to use E-Verify.
Virginia	Code of Virginia Annotated § 40.1-11.2; § 2.2-4308.2	<i>State agencies, public contractors with more than 50 employees in contracts worth more than \$50,000</i>	Requires public contractors with more than 50 employees in contracts worth more than \$50,000 and all state agencies to use E-Verify.
West Virginia	West Virginia Code §15-2D-3	<i>Employers with employees working on the grounds of the Capitol Complex</i>	Requires new employees working on the grounds of the Capitol Complex to submit to an employment eligibility check through E-Verify.

This form is provided as a sample and may not be suitable for every situation. This form should not be considered legal advice or legal opinion. There may be state or municipality specific information that would affect your use of this form. You should review applicable law in your jurisdiction and consult experienced counsel for legal advice. If you use this form (either "as is" or by modifying the form), you are responsible for all content.

E-Verify Guidelines

What is E-Verify?

E-Verify is a free internet-based system operated by the Department of Homeland Security in partnership with the Social Security Administration. It allows employers to electronically verify the employment eligibility of newly hired employees upon entering data provided from the employee's I-9 form. **Note:** Although E-Verify offers further protection in helping to ensure employees are authorized to work, it does not preclude you from completing and retaining I-9 forms.

What are the rules governing the use of E-Verify?

Use of E-Verify is subject to the following rules:

- **Use is limited to new hires only:** E-Verify may only be used after an employee has accepted employment and has completed the I-9 form. However, E-Verify queries must be initiated within 3 business days of the employee's start date.
- **Must be used consistently:** If you use E-Verify, you must use it consistently for all new hires. Use of the system may never be on a selective basis.
- **I-9 required:** Even though you are verifying employment eligibility using the E-Verify system, you are still required to complete and retain an I-9 form for each employee.
- **Follow TNC procedures:** Employers must sign a memorandum of understanding (MOU) when enrolling in E-Verify. Among other things, the MOU requires the employer to agree to follow appropriate tentative nonconfirmation procedures, also known as TNC procedures. A TNC result occurs when the I-9 information entered into the system fails to match government records. When this happens, you must notify the employee in private and provide them with a written notice, a sample of which is available from the Department of Homeland Security. You must allow the employee to contest the finding and may not take any adverse action against the employee if they choose to contest.
- **Keep appropriate records:** Employers using E-Verify must either record the E-Verify case number on the employee's I-9 or print the case details and keep it on file with the employee's I-9 form.
- **Post E-Verify notices:** Employers that use E-Verify must post the Right to Work and E-Verify Participation notices. These posters are available for download from the State & Federal Resources area of our website.

This form is provided as a sample and may not be suitable for every situation. This form should not be considered legal advice or legal opinion. There may be state or municipality specific information that would affect your use of this form. You should review applicable law in your jurisdiction and consult experienced counsel for legal advice. If you use this form (either "as is" or by modifying the form), you are responsible for all content.

How do I enroll in E-Verify?

You can enroll your company in E-Verify online [here](#). The following steps are required for enrollment:

- 1. Determine access method:** An access method provides companies with the ability to perform different functions within E-Verify. The four access methods are: employer, E-Verify employer agent, corporate administrator, and Web services. E-Verify will guide you through four questions to help determine which access method is right for your company. In general, if you have one location and are using E-Verify solely for the purpose of verifying employment eligibility for your own employees, then your access method will be "Employer".
- 2. Select organization designation:** This step will require that you select whether your business is part of the federal, state, or local government, or whether you are a federal contractor. If none of these apply, you'll select the "None" option.
- 3. Review and agree to MOU:** This step requires you to review and agree to the memorandum of understanding (known as the "MOU"). It's your responsibility to ensure that the company and all participating users understand E-Verify rules and responsibilities. Typically, the person that signs the MOU is a business owner, company president, HR representative, or legal counsel. Review the MOU carefully before signing.
- 4. Enter company information:** Here you'll be asked to enter company details, including company name, location, mailing address, employer identification number, and total number of employees. You'll also be asked to provide the first 3 digits of your company's North American Industry Classification System code, also known as an NAICS code.
- 5. Register program administrators:** This step requires you to register program administrators. You must register at least one individual during the enrollment process, but you may register more if you'd like. Program administrators can register new users, create E-Verify cases, view reports, and update company and user profile information.
- 6. Review and certify information:** Here you will be asked to review and certify the information entered in the system is correct. Once you've confirmed this information, click the "view memorandum of understanding" to print a copy of the MOU that you signed. Once your enrollment is approved, your program administrators will be sent a confirmation email with a temporary password. The program administrator must log-in to E-Verify, create a password, complete the E-Verify tutorial and pass the associated knowledge test.

For more information, visit the U.S. Citizenship and Immigration Services website [here](#).