E-Verify Frequently Asked Questions
by Hiring Department

1. **What is E-Verify?**
   E-Verify is an internet-based system, operated by the Dept. of Homeland Security (DHS) in partnership with the Social Security Administration (SSA). The E-Verify system allows an employer, using information reported on an employee's Form I-9, to confirm whether the employee is eligible to work in the USA. E-Verify does not replace the Form I-9 requirement. Rather, in addition to the completion of the Form I-9, certain employers enter the worker’s identity and employment eligibility information into the E-Verify system. E-Verify conducts a two-step verification process that checks employee information electronically against records contained in DHS and SSA databases. For NMSU E-Verify is limited to determining the employment eligibility of employees hired or transferred to a Federal Contract. NMSU is required to use E-Verify under the following criteria:
   - Contracts governed by FAR (Federal Acquisition Regulation) 52.222-54 E-Verify Clause
   - Performance period longer than 120 days
   - Value above $100,000
   - Performed in the United States
   - Subcontracts covered under the federal contract valued over $3,000

2. **What are the government’s obligations with regard to privacy and data security?**
   In the Memorandum of Understanding, SSA agrees to safeguard the information provided by an employer and limit access information to individuals responsible for the verification of SSNs and for the evaluation of E-Verify. DHS agrees to safeguard the information provided by the employer and to limit access to individuals responsible for the verification of alien employment eligibility and for the evaluation of E-Verify. Information can only be used to verify accuracy of SSNs and employment eligibility, to enforce the INS and federal criminal laws and to ensure accurate wage reports to the SSA.

3. **Is an employer protected from an investigation if they use E-Verify?**
   No. Worksite enforcement is still permitted, but an employer using E-Verify is presumed to not knowingly have hired unauthorized aliens.

4. **Can I verify the immigration status of a new hire that is not a U.S. citizen?**
   No. E-Verify only verifies a new hire’s employment eligibility, not his or her immigration status.

5. **What information is required to conduct an E-Verify initial verification?**
   After hiring a new employee and completing the Form I-9, required for all new hires (regardless of E-Verify participation), Human Resource Services will submit a request based on the information on the Form I-9. In most cases, the E-Verify system will provide a response to the initial request within seconds of submission. However, sometimes the response may take longer especially if immigration documents are presented. **Please note that any List B document used on the I-9 must contain a photograph for E-Verify purposes.**

6. **What is the required timeframe for conducting an employment eligibility check on a newly hired employee?**
   Employers must make verification inquiries within three (3) business days of the first day of employment.
7. **When may an employer initiate a request under E-Verify?**

The earliest the employer may initiate a request is after an individual accepts an offer of employment and after the employee and employer complete the Form I-9. Human Resource Services must initiate the request no later than the end of three (3) business days after the new hire’s actual start date.

Although an employer may initiate the request before a new hire’s actual start date, it may not pre-screen applicants and may not delay training or an actual start date based upon a tentative non-confirmation or a delay in the receipt of a confirmation of employment authorization. An employee should not face any adverse employment consequences based upon an employer’s use of E-Verify program unless it results in a final non-confirmation. In addition, an employer cannot use an employment authorization response to speed up an employee’s start date. This would be disparate treatment to use E-Verify results to accelerate employment for this employee compared to another who may have received a tentative non-confirmation.

Employers must verify employees in a non-discriminatory manner, and may not schedule the timing of queries based upon the new hire’s national origin, citizenship status, race, or other prohibited characteristic.

8. **Must NMSU verify all new employees? What are the exceptions to this requirement?**

The rule requires NMSU to use E-Verify for all new employees and transferred employees designated to work on a federal contract that requires E-Verify under FAR 52.222-54.