Subject: New Federal Rule Requires UW to use E-Verify

Executive Summary
On 8 September 2009, a new regulation amending the Federal Acquisitions Regulation (FAR) went into effect. The rule requires all Federal contractors to enroll in E-Verify (EV) and verify the identity and employment eligibility of all employees assigned to Federal contracts. EV is an internet-based system operated by the Department of Homeland Security (DHS) in partnership with the Social Security Administration (SSA) which electronically compares documents that employees present to employers during the I-9 employment eligibility verification process with documents in the DHS and SSA databases.

UW-Madison is a substantial Federal contractor and therefore is subject to the rule. The following are implementation details, which should be distributed ASAP to all departments and units.

Types of Contracts Covered by the FAR Rule
This rule does NOT apply to grants and cooperative agreements, only to contracts. It applies to both primary contracts and pass-through or subcontracts that meet the following requirements. The contracts must:
1. contain the EV clause inserted by the Federal agency, and
2. be for work performed in the U.S., and
3. be a primary contract with a minimum of $150,000 and a performance minimum of 120 days, or
4. be a subcontract with a minimum of $3000, or
5. be an existing Indefinite Delivery Indefinite Quantity (IDIQ) contract with a performance period of 6 months beyond 8 Sept. 2009 (7 March 2010) with a substantial amount of work remaining that has been modified to contain the EV clause.

Employees Covered by the FAR Rule
The rule applies to:
1. individuals newly hired to work on an EV contract,
2. current employees who are assigned to an EV contract when it goes into effect, and
3. current employees who are assigned to an EV contract during its validity period.

Affected employees include everyone:
1. who was hired after 6 Nov. 1986, and
2. who is directly performing substantial work under the contract

The only exceptions are:
1. support staff performing only indirect or overhead functions, and
2. employees with active confidential, secret or top secret clearances and Homeland Security Presidential 12 clearances (HSPD-12).
At this time, UW-Madison will only be using the EV system for employees who are assigned to Federal contracts. We will NOT be using it for all new hires.

F-1 students who have received an initial period of 12 months of Optional Practical Training (OPT) in one of the STEM (science, technology, engineering and mathematics) fields will be able to apply for the additional 17 months of OPT by writing the UW-Madison Company Identification Number in section 17 of the form I-765 when they apply for the extension. UW-Madison does not need to run these students through EV and we will not do so. We will obtain our ID number upon enrollment (see below).

**Implementation of the FAR Rule at UW-Madison**

International Faculty and Staff Services (IFSS) is coordinating UW-Madison’s compliance with this new requirement. IFSS will enroll the University in EV and will submit all verifications to the system. There are very strict time frames that must be followed, and IFSS has posted a detailed Action Plan on its web site at: [http://www.ohr.wisc.edu/ifss/i-9/I-9.html](http://www.ohr.wisc.edu/ifss/i-9/I-9.html).

**Summary of Time Frames**

**Initial Set-up**
1. IFSS will enroll in EV during the last week of October.
2. IFSS must initiate the EV process for all employees employed on a Federal contract within 90 days of enrollment.

**On-going Compliance**
1. Current employees assigned to a Federal contract – IFSS must initiate the EV process within 90 days of the award date of the contract or 30 days from the date the employee is assigned to the contract, whichever is later.
2. New employees hired to work on a Federal contract – IFSS must initiate the EV process within 3 days of the start date of employment.

**Departmental Responsibilities and Impact on I-9 Process** (see IFSS Action Plan)

Principal Investigators who are awarded a Federal contract that contains the EV clause must notify the person in their Department who handles the I-9 process IMMEDIATELY when they identify individuals who will be employed under the contract.

**New Hires**
The EV process must be completed within 3 days of the start date of employment, just like the I-9. Whenever possible, departments hiring an employee to work on an EV contract should complete the I-9 process as soon as possible after the offer has been made and accepted. The I-9 and photocopied documents should be emailed to IFSS immediately upon completion of the I-9.

**Current Employees**
The EV process for current employees assigned to an EV contract must be initiated within 90 days of the contract award date or 30 days after the employee is assigned to the contract, whichever is later.

In most instances, a new I-9 will need to be completed for current employees who are assigned to an EV contract. Employers are required to use the newest version of the I-9 and abide by the current I-9 requirements, which changed in April 2009. Most current employees will have an earlier version of the I-9 and will need to do a new one.

The University is establishing backup procedures through Payroll to try to catch those who are employed on Federal contracts, but that may be too late to meet the Federal mandates. Departments must take responsibility for compliance. **The penalties for failure to comply with this regulation include heavy fines and debarment from all Federal contracts.** **Strict compliance with all of the requirements is essential to the University’s ability to continue to be awarded Federal contracts.**

**DHS Audits**

When IFSS enrolls in EV, we must execute a Memorandum of Understanding with DHS which, among many other things, gives DHS authorization to monitor our activities in EV and to audit our I-9s. This applies not only to I-9s associated with the EV process, but also to ALL I-9s completed by the University. Department employees who are responsible for the I-9 process would be well-advised to review all current I-9s to ensure:

1. that they have been properly completed;
2. that legible photocopies of all relevant documents are attached to the I-9;
3. that the documents used to demonstrate employment authorization have not expired; and
4. that the I-9 still must be retained.


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