

## IMMIGRATION AND LABOR ALERT

---

### **NEW PENNSYLVANIA LAW REQUIRES E-VERIFY FOR PUBLIC WORKS CONTRACTORS**

Pennsylvania has enacted a new law which will require all contractors and sub-contractors for public works projects (i.e., construction, reconstruction, demolition, alteration and/or repair work) to use the E-Verify program to confirm the employment authorization of new employees. The law, known as the Public Works Employment Verification Act, will go into effect on January 1, 2013 and will apply to all public works projects the total cost of which exceeds \$25,000 and that are funded by the Commonwealth or its political subdivisions, authorities or agencies.

The Act requires impacted employers to certify that they have completed E-Verify paperwork for each newly hired employee. The statute does not limit this requirement to employees engaged in performing the public works contract. The certification form template, which will be made available online, must be completed and submitted to the government agency awarding the contract before work on the project begins. Contractors are further required to make all sub-contractors on public works projects aware of the law in their contracts. However, they are not responsible for non-compliance by subcontractors. Material suppliers are not covered.

Employers who fail to submit the E-verify certification form are subject to a fine ranging from \$250 to \$1,000 for each violation. Additionally, employers who fail to utilize the E-verify program will receive a written warning followed by debarment from public work projects for a temporary period ranging from thirty days to one year. Employers believed to have willfully violated the Act may be debarred from public work projects for three years.

The Act provides “whistleblower” protection to workers who report or complain of violations either to the employer or to any governmental authority. The damages available include reinstatement to employment, treble back pay, attorneys’ fees and any other legal or equitable relief the court may deem appropriate. The Act authorizes the Pennsylvania Department of General Services to conduct random audits to ensure compliance.

The Public Works Employment Verification Act will apply to all contracts awarded after January 1, 2013, as well as to contracts awarded prior to that date for which work has not commenced. The E-Verify requirements and certification required under the Act are to be completed in addition to the Form I-9, which is required under federal law. The Act prohibits discrimination in using the E-verify program on the basis of race, color, ethnicity and national origin. The Act does provide immunity from state-law-based employment claims for contractors and sub-contractors who terminate or refuse to hire individuals based on information provided from the E-Verify program.

**E-Verify** is a free, internet-based program maintained by Immigration and Customs Enforcement (ICE). The program is designed to check the personal information provided by employees against records maintained by the Department of Homeland Security and the Social Security Administration. Participating employers submit personal information provided by each employee and receive correspondence from ICE stating whether or not the employee has employment authorization in the United States.

Please do not hesitate to contact any member of the Immigration Practice Group for further information regarding enactment of the Pennsylvania Public Works Verification Act.

## IMMIGRATION AND LABOR ALERT

---

### **About Eckert Seamans Immigration Practice Group**

Eckert Seamans provides immigration related services to employers. The Immigration Group assists employers with structuring hiring programs and managing immigration matters, including regulatory compliance matters and large caseloads, in order to enable employers to compete more effectively in the global marketplace for the best professional talent. The Immigration Group focuses on providing strategic immigration planning, analysis and solutions that respond to the specific needs of our clients.

*This Immigration Alert is intended to keep readers current on matters affecting immigration, and is not intended to be legal advice. If you have any questions, please contact James Morrison at 202.659.6627, Kathryn Moore at 202.659.6674, Christopher Klein at 202.659.6683, or any other attorney with whom you have been working.*

© Eckert Seamans Cherin & Mellott, LLC, 2012, all rights reserved.