



ATTORNEYS AT LAW

**ADVISORY BULLETIN**  
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**DHS Abandons Social Security No-Match Rule; Strengthens E-Verify**  
Update provided by: Tuggle Duggins & Meschan

The Department of Homeland Security (“DHS”) recently announced that it is abandoning the Social Security No-Match Rule, which never took effect thanks to a court order shortly after the rule was issued in 2007.

No-Match letters are sent out to employers when there is a mismatch between a name and social security number of an employee. What, exactly, an employer is supposed to do when a No-Match letter was received has never been clear. In 2007, DHS issued a rule that instructed employers which steps to take when they received a No-Match letter. According to the No-Match Rule, employers would be required to instruct the employee to attempt to resolve the matter, since many of the No-Match letters are caused by name changes that weren’t properly recorded or other errors. Unless the matter was quickly resolved, the employee would be terminated.

DHS has decided to rescind the No-Match Rule in favor of strengthening a more modern E-Verify system. As of September 8, 2009, federal contractors and subcontractors are required to use E-Verify to verify that their employees are legally eligible to work in the United States. E-Verify is a free web-based system that compares information from the Employment Eligibility Verification Form with information in federal databases to verify workers’ employment eligibility. While it was not unusual for a No-Match letter to be sent out many months after the initial inquiry by an employer, E-Verify handles most work-authorization queries within 24 hours.

Currently, only federal contractors and subcontractors are required to use E-Verify. Contracts for less than \$100,000 or for items that are commercially available off-the-shelf are exempt from the E-Verify requirement. Additionally, subcontracts for less than \$3,000 for services or construction are exempt. Once awarded a federal contract, an employer is required to enroll in E-Verify within 30 days and must confirm that all of its employees working directly on federal contracts are authorized to work in the United States.



While not mandatory for employers other than those discussed above, the free E-Verify system is available to all employers who want to verify that their employees are legally eligible for employment in the United States. E-Verify is available at the Department of Homeland Security website (<http://www.dhs.gov>).