

TENNESSEE LAWFUL EMPLOYMENT ACT QUESTIONS AND ANSWERS

Does the Tennessee Lawful Employment Act require me as a Tennessee employer to utilize E-Verify?

No. Participation in E-Verify is not mandatory if an employer is confident that the information submitted during their I-9 employment eligibility process is valid and ensures a legal workforce.

What is E-Verify?

E-Verify is an internet-based system operated by the Department of Homeland Security (DHS) in partnership with the Social Security Administration (SSA). E-Verify works by comparing the information entered on an employee's Form I-9 electronically with DHS and SSA records to determine the eligibility of that employee to work in the United States.

How can I enroll in E-Verify?

The E-Verify enrollment website is <http://www.uscis.gov/everify> or you may call toll-free at 1-888-464-4218. E-Verify offers a comprehensive online tutorial as well as quick-reference guides, user manuals and other publications to assist users. E-Verify customer support is available to provide you with technical and program assistance.

Does use of E-Verify allow me to skip the I-9 process for newly hired employees?

No. Federal laws require all employers to verify the identity and employment eligibility of all new employees. The I-9 form must be completed for all new hires (including U.S. citizens) within three (3) business days of hire. This information can be verified through the E-Verify program once obtained by the employer.

Does the new law allow me to utilize a third-party agent to conduct the E-Verify process for new hires?

Yes. Any employer can hire a third party agent to conduct E-Verify checks. Employers who can attest to lack of internet access may enter into agreement with TDLWD to act as a designated agent to verify new employees through the E-Verify program at no cost to the employer.

What do I need to have if my business is inspected by the department and when?

The employer will be required to provide copies of documents submitted during the I-9 process or provide a copy of a case verification report obtained from the E-Verify program that shows an employee is authorized to work in accordance with the phase-in period described in the Act, i.e., if he/she was hired after January 1, 2012 for an employer

with 500 or more employees, after July 1, 2012, with over 200 employees, or after January 1, 2013, if the employer has more than six (6) employees. This applies to Tennessee based employers and includes their employees working in other states.

I understand the I-9 process and federal requirements but what is additionally required under the state law I should be aware of?

The state law requires the employer to maintain copies of documents presented during the I-9 process for three years after the documentation is received by the employer or one year after employment ends, whichever is later. Federal law requires the employer to keep the I-9 form only but the state law will also require the employer to maintain copies of the documents submitted for the completion of Form I-9.

What is IMAGE?

IMAGE stands for US Immigration and Customs Enforcement's Mutual Agreement between Government and Employers program. Under the IMAGE program, employers receive education and training from ICE on proper hiring procedures, fraudulent document detection, use of E-Verify and anti-discrimination procedures. To participate in IMAGE, employers must submit to a Form I-9 audit by ICE and verify all of their employees SSNs through the SSNVS. After completing the program, an employer will be deemed "IMAGE Certified". For more information on this program and other USCIS verification programs, visit the USCIS web site at <https://www.vis-dhs.com/EmployerRegistration/>.

What is the SSNVS program?

SSNVS stands for the Social Security Number Verification Service. It was created in 2006 by the Social Security Administration to allow employers to verify SSNs via a web site. It is a free service available to any employer. **SSNVS can only be used by employers and payroll services to verify that a SSN matches a particular name and only for the purpose of completing a W-2 form. SSNVS will not tell you whether an employee is authorized to work in the US.** The SSNVS is found online at <http://www.ssa.gov/employer/ssnv.htm>.