

E-VERIFY WEBSITE IS DOWN

GOVERNMENT SHUTDOWN & I-9 REQUIREMENTS

The Federal Government has been “shut down” since December 22, 2018. As a result, the Federal Government’s electronic employment verification system—E-Verify—is unavailable. What does this mean for employers who use E-Verify?

LAPSE IN FEDERAL FUNDING IMPACT ON DHS WEBSITE OPERATIONS NOTICE

NOTICE: Due to the lapse in federal funding, this website will not be actively managed. This website was last updated on December 21, 2018 and will not be updated until after funding is enacted. As such, information on this website may not be up to date. Transactions submitted via this website might not be processed and we will not be able to respond to inquiries until after appropriations are enacted.

Background

Employers may voluntarily opt to use the E-Verify website to ensure a new-hire is eligible for employment; however, once enrolled in E-Verify, employers are required to upload the new employee’s information to perform a check within three days of hiring the employee. The E-Verify website cross-checks new-hire data from their Form I-9 against Department of Homeland Security (DHS) and Social Security records to confirm employment eligibility.

DHS Policy Changes during the Shutdown

During the shutdown, employers will not be able to access their E-Verify accounts, and employees will not be able to input information to resolve Tentative Nonconfirmations (TNCs).

Because of the associated compliance requirements and to minimize the impact on employers and employees, the DHS has implemented new policies for E-Verify while services are unavailable. You may view their entire release at the following website: <https://www.e-verify.gov/e-verify-and-e-verify-services-are-unavailable>.

These policies include the following:

- “The ‘three-day rule’ for creating E-Verify cases is suspended for cases affected by the availability of E-Verify.”
- “The time period during which employees may resolve TNCs will be extended. The number of days E-Verify is not available will not count toward the days the employee has to begin the process of resolving their TNCs.”

- “[DHS] will provide additional guidance regarding ‘three-day rule’ and time period to resolve TNCs deadlines once operations resume.”
- “Employers may not take adverse action against an employee because the E-Verify case is in an interim case status, including while the employee’s case is in an extended interim case status due to the unavailability of E-Verify.”
- “Federal contractors with the Federal Acquisition Regulation (FAR) E-Verify clause should contact their contracting officer to inquire about extending federal contractor deadlines.”

What to Do in the Meantime

Employers are still responsible for completing a Form I-9 with each new employee regardless of whether the E-Verify system is up or not. Employers that use E-Verify will want to attach some documentation to the employee’s Form I-9, indicating the government shutdown is the reason E-Verify was not processed within three days of hire. In addition, employers that use E-Verify will need to process any new hires through the E-Verify system once it is again operational. At that time, if the E-Verify system prompts the employer to provide an explanation of why the request is being submitted after the three-day window, the employer should enter the “other” option and type in “Federal Government Shutdown.”

For More Information

For more information or assistance, please contact our Human Resources team at **210-775-6082**, toll-free at **1-888-757-2104**, or **HRManagement@BFGonline.com**.

Other Potential Issues Related to the Government Shutdown

- ◆ Extended wait times at airports due to reduced TSA staffing
- ◆ IRS delays, including extended wait times for tax ID numbers and reduced staff available to answer questions during tax season
- ◆ Delayed economic data from the Commerce Department, including reports on new home sales, trade balance, construction spending, factory orders, and inventories, which are used by economists, business owners, and investors
- ◆ Delays in approvals of SBA Loans, which have not been processed since 12/22/2018



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