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Labor and Employment Alert: E-Verify in Light of the Government Shutdown

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Due to the well-publicized impasse between President Trump and Congress, a partial government shutdown is currently in effect. Approximately 25 percent of government functions are shut down, including the Department of Homeland Security's (DHS) E-Verify services.

What is Affected?

During the suspension, employers cannot access E-Verify accounts. Specifically, employers cannot complete the following tasks:

- Enroll in E-Verify;
- Create an E-Verify case;
- View or take action on any case;
- Add, delete, or edit any user account;
- Reset passwords;
- Edit company information;
- Terminate accounts; or
- Run reports.

Additionally, employees are unable to resolve E-Verify Tentative Nonconfirmations (TNCs) or access my E-verify.

What Should Employers Do During the E-Verify Suspension?

The DHS announced that the "three-day rule" for creating E-Verify cases does not apply to cases affected by the suspension of E-Verify. Also, the time period to resolve TNCs will be extended for employees; and the number of days that E-Verify is unavailable will not count toward the number of days allotted to resolve TNCs. DHS will issue additional guidance on these deadlines once E-Verify resumes. Employers with Federal Acquisition Regulation (FAR) E-Verify contracts that may be affected should contact their contracting officer to discuss

extending relevant deadlines, as necessary.

An employer's obligation to verify employment eligibility remains in effect during the government shutdown despite the inability to access E-Verify. Employers must still complete Form I-9 no later than the third business day after an employee starts work for pay. Employers should keep track of all new hires during the suspension and add these cases to E-Verify once the system resumes. Employers should not take adverse action against employees who are in an interim case status due to the suspension of E-Verify. During the shutdown, employers should also continue to comply with all other Form I-9 requirements as indicated in the USCIS Employer Handbook and on the [USCIS I-9 Central website](#).

Should you have any questions regarding the suspension of E-Verify during the partial government shutdown, contact your Vorys attorney.