



Today's Contractor

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Verifying the Immigration Status of Workers

In response to growing concerns about undocumented aliens working for U.S. companies, the Department of Homeland Security (DHS) has been stepping up its efforts to deport foreign nationals who are working in the country illegally, and to identify and sanction companies that violate immigration laws by employing unauthorized workers. Industries that hire large numbers of recent arrivals to the United States are increasingly being scrutinized by immigration authorities. Therefore, construction companies need to develop a

compliance strategy to ensure that all employees and contractors have proper legal status.

Although jobsite raids by Federal agents are relatively rare, the U.S. Immigration Customs Enforcement (ICE) has been conducting employer audits, in which the employer is given three days to produce copies of employees' Forms I-9, Employment Eligibility Verification, and any supporting documentation.

Employers are required by law to maintain the original I-9s for all employees who have worked for the company over the last three years for inspection. After examining these documents, the ICE will then present the company with a list of individuals suspected of being unauthorized, as well as any errors on I-9s that need to be corrected. Employees who are unable to supply additional documentation proving their eligibility to work must then be terminated. The ICE may assess fines for substantive violations by the employer, which could include discrepancies on I-9s. Additional fines and even criminal charges may apply if the ICE

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believes the employer knowingly hired undocumented workers.

Employers can minimize their chances of having unauthorized employees by using E-Verify, a free, Internet-based system operated by the DHS, in partnership with the Social Security Administration (SSA). E-Verify allows employers to electronically confirm the employment eligibility of their newly hired employees by checking Social Security and immigration information provided on the I-9 against information in the SSA and DHS databases. Participating employers must submit a query to E-Verify after a newly hired employee completes the I-9, no later than the end of the third business day after the employee's start date. The system may not be used to pre-screen job candidates, however, an E-Verify query may be completed prior to the start date provided the employee has already accepted the position.

While a few states require nearly all employers to use the Federal E-Verify system for all new hires, in most parts of the country, the program is voluntary, except for companies that have a contract with the Federal government worth more than \$100,000, and with a performance period of more than 120 days. Federal contractors and subcontractors may also be required to use E-Verify for new hires and existing employees working on a covered Federal contract. In addition, some employers must use E-Verify if they have been awarded a contract by the state. Although E-Verify does not shield a company from worksite enforcement action, a presumption is created that a company has not knowingly hired an unauthorized alien.

While general contractors are not permitted to directly investigate the immigration status of their subcontractors' employees, the prime contractor should ensure through language in subcontractor agreements that subcontractors have verified their compliance with all Federal and state immigration

laws, including having valid I-9s for employees and using E-Verify, as legally required.

All construction companies need to have an immigration compliance policy in place that clearly states that the company will not hire anyone unauthorized to work in the United States. Employers that use E-Verify, regardless of whether they do so voluntarily or to comply with state or Federal requirements, must post notices both in English and Spanish informing employees about E-Verify, and of workers' rights to challenge a tentative non-confirmation (TNC) from the E-Verify system.



In addition to taking advantage of E-Verify to confirm the status of new hires, business owners concerned about protecting the company from liability may want to have a third party conduct an I-9 internal audit for all employees hired over the last three years. The company needs to also have a protocol for addressing concerns about any employees who may be unauthorized to work, or whose immigration status may have changed. A company's reluctance to create effective policies and procedures for handling such issues could possibly result in strained employer/employee relations, which could in turn lead to charges of discrimination.

For more information on verification of the immigrant status of workers, contact one of our qualified tax professionals.

Residential Market for Solar Power Systems Heats Up

The market for solar power is expanding rapidly due to a combination of Federal and local incentives, new technologies, and a growing interest among Americans for cleaner, more sustainable energy sources. And, as the demand for harnessing the sun's energy grows, the opportunities for homebuilders to offer solar power systems to residential customers are also becoming more attractive.

According to the Solar Energy Industries Association, the U.S. solar market grew 67% in value last year, from \$3.6 billion in 2009 to \$6.0 billion in 2010. While nonresidential installations have driven the U.S. market in the past, in 2010, both the residential and utility markets also grew substantially, with each of the three market segments contributing over 25% of total installations.

The main reason for the surge is the increasing affordability of solar power compared to other energy sources. In addition to the 30% Federal tax credit in effect through 2016 for residential and

commercial solar installations, many states and towns now offer incentives for transitioning to renewable energy sources. Recent technological innovations, such as improvements in thin-film photovoltaic (PV) materials and microinverters, have also contributed to the falling prices of solar energy systems.

The installation of solar panels may require some additional training. Contractors interested in installing solar panels need to be familiar with both electrical and building codes, along with how residential systems are connected to the local utility grid. Some states, such as California, have apprenticeship programs for installers of photovoltaic systems, and many community and vocational colleges offer certification courses for installers of a range of renewable energy systems. Training for installing specific systems may also be offered by individual solar panel manufacturers.

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construction trend data

Total construction starts for the first three months of 2011 came to \$88.0 billion, down 10% from the same period of 2010. Between February and March, nonbuilding construction declined 19% and residential building slipped 3%, while non-residential building rose 25%.

Gains in the nonresidential building sector came mainly from large projects, including the start of a \$1.1 billion data center for the National Security Agency. The manufacturing plant category grew 42%, store construction was up 37%, warehouse construction rose 67%, and hotel construction grew 43%. In the residential building sector, single family housing increased 2%, however, multifamily housing declined 21%.

“This period of low-level stability is looking to be more and more extended, pushing back the time when renewed expansion for overall construction activity is likely to take hold,” said

Robert A. Murray, vice president of economic affairs for McGraw-Hill Construction. “Public works,” he added, “had initially offset some of the weakness shown by other types of construction, but it’s now beginning to lose momentum, given waning support from the Federal Stimulus Act, tight state budgets, and cutbacks in Federal funding. . . .”

Total new construction starts by region for the first three months of 2011 were as follows: South Central, no change; Northeast, down 30%; Midwest, down 9%; West, up 7%; and South Atlantic, down 24%.

Year-to-Date Construction Contract Value Unadjusted Totals, In Millions

	3 Mos. 2011	3 Mos. 2010	% Change
Nonresidential Building	\$31,088	\$36,301	-14
Residential Building	24,945	29,918	-17
Nonbuilding Construction	<u>31,929</u>	<u>32,032</u>	<u>0</u>
Total Construction	\$87,962	\$98,251	-10

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With the streamlining of solar technology, PV panel installation has become easier, especially for smaller residential projects. Modular, pre-assembled PV products, together with the hardware needed for installation and system monitoring, are now available as kits. These systems can also be installed through a mounting system that requires far fewer roof penetrations than conventional solar panel systems. Because these systems are largely “out of the box,” installers need less training and less time to complete the job, than when installing conventional systems.

Solar shingles, or building integrated photovoltaics, are roof coverings that capture sunlight and turn it into energy. Despite being lighter and more

attractive than bulky roof panels, solar shingles have been less popular than panels in the past due to their higher cost and lower efficiency. However, with developments in solar film technologies, PV roof shingles and tiles are now easier to install than many solar panel systems, making them an increasingly competitive option. In addition to generating energy, solar shingles are also more durable and flexible than traditional asphalt shingles, and add value to homes beyond their energy-generating potential.

For more information on the residential market for solar power systems, contact one of our qualified tax professionals.