



# E-VERIFY 2021

*frequently asked questions*

## QUICK FACTS

### Bill Name:

SB 664

### Statute No.:

448.095, F.S.

### Effective Date:

January 1, 2021

### Useful Links:

- [Florida Senate Summary on Legislation Passed](#)
- [Full Bill Text](#)



## SUMMARY

Under pre-existing federal law, all employers are required to complete a Form I-9 for each newly hired employee in order to verify their identity and eligibility to work in the United States. Florida employers could also voluntarily participate in the federal government's E-Verify program, an Internet-based system that compares information supplied by an employer from the Form I-9 to information available to federal databases. Although E-Verify is not yet federally mandated, Florida has joined the ranks of states adopting a hybrid model.

In June 2020, Florida Governor Ron DeSantis signed into law a mandate requiring public employers and some private employers to use of E-Verify to confirm **employee work eligibility**. The updated law is effective **January 1, 2021**, as such, employers and contractors have until then to begin verifying employment eligibility as required in the bill.

### What is new?

No later than January 1, 2021, every Florida public employer, along with their private contractors and subcontractors must register with and use E-Verify to confirm the work eligibility of their new hires. Additionally, no public contract can be entered into unless each party to the contract registers with and uses E-Verify. Subcontractors working on any public contract must provide the contractor with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with unauthorized aliens. Contractors will need to go through this process for all public projects.

### As a contractor or subcontractor, what do I need to do?

If a contractor enters into a contract with a subcontractor, the subcontractor must provide the contractor with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. The contractor shall maintain a copy of such affidavit for the duration of the contract. To prepare for this new law, private employers who bid on public contracts should update their on-boarding and new hire practices by (i) timely registering for E-Verify, and (ii) having their HR staff participate in E-Verify training prior to its use.

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## E-VERIFY

### 1) Definitions:

“Contractor” means a person or entity that has entered or is attempting to enter into a contract with a public employer to provide labor, supplies, or services to such employer in exchange for salary, wages, or other remuneration.

“Subcontractor” means a person or entity that provides labor, supplies, or services to or for a contractor or another subcontractor in exchange for salary, wages, or other remuneration.

### 2) Effective January 1, 2021, public and private employers, contractors and subcontractors will begin required registration with, and use of the E-verify system in order to verify the work authorization status of all newly hired employees. Vendor/Consultant/Contractor acknowledges and agrees to utilize the U.S. Department of Homeland Security’s E-Verify System to verify the employment eligibility of:

- a) All persons employed by Vendor/Consultant/Contractor to perform employment duties within Florida during the term of the contract; and
- b) All persons (including subvendors/subconsultants/subcontractors) assigned by Vendor/Consultant/Contractor to perform work pursuant to the contract with the Department. The Vendor/Consultant/Contractor acknowledges and agrees that use of the U.S. Department of Homeland Security’s E-Verify System during the term of the contract is a condition of the contract with the City of Coconut Creek; and
- c) By entering into this Contract, the Contractor becomes obligated to comply with the provisions of Section 448.095, Fla. Stat., "Employment Eligibility," as amended from time to time. This includes but is not limited to utilization of the E-Verify System to verify the work authorization status of all newly hired employees, and requiring all subcontractors to provide an affidavit attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. The contractor shall maintain a copy of such affidavit for the duration of the contract. Failure to comply will lead to termination of this Contract, or if a subcontractor knowingly violates the statute, the subcontract must be terminated immediately. Any challenge to termination under this provision must be filed in the Circuit Court no later than 20 calendar days after the date of termination. If this contract is terminated for a violation of the statute by the Contractor, the Contractor may not be awarded a public contract for a period of 1 year after the date of termination.