

118TH CONGRESS
2D SESSION

S. 5309

To require all Federal contractors and subcontractors to enroll in, and maintain compliance with, the E-Verify Program.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 13, 2024

Mr. LANKFORD (for himself and Ms. SINEMA) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To require all Federal contractors and subcontractors to enroll in, and maintain compliance with, the E-Verify Program.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLES.**

4 This Act may be cited as the “Secure And Fair Em-
5 ployment in Federal Contracting Act” or the “SAFE Con-
6 tracting Act”.

1 **SEC. 2. E-VERIFY COMPLIANCE REQUIREMENT.**

2 (a) IN GENERAL.—Chapter 47 of title 41, United
3 States Code, is amended by adding at the end the fol-
4 lowing:

5 **“§ 4715. E-Verify compliance requirement**

6 “(a) DEFINITIONS.—

7 “(1) ENTITY.—The term ‘entity’ means any or-
8 ganization seeking to provide goods or services to
9 the United States Government, including any parent
10 company, subsidiary, or affiliate of such organiza-
11 tion.

12 “(2) E-VERIFY PROGRAM.—The term ‘E-Verify
13 Program’ means the program described in section
14 403(a) of the Illegal Immigration Reform and Immig-
15 rant Responsibility Act of 1996 (8 U.S.C. 1324a
16 note).

17 “(3) EXECUTIVE AGENCY.—The term ‘executive
18 agency’ means—

19 “(A) an Executive department, a military
20 department, or an independent establishment
21 (as such terms are defined in sections 101, 102,
22 and 104(1) of title 5, United States Code); and

23 “(B) any wholly owned Government cor-
24 poration (as defined in section 9101(3) of title
25 31, United States Code).

1 “(b) CONTRACTOR CERTIFICATION.—Each entity
2 submitting a bid or proposal for a contract with an execu-
3 tive agency shall include, in such bid or proposal, a certifi-
4 cation that such entity, and each subcontractor such entity
5 will use to carry out its duties under such contract—

6 “(1) is currently enrolled in the E-Verify Pro-
7 gram; and

8 “(2) is fully complying with all statutes, regula-
9 tions, and policies governing the E-Verify Program.

10 “(c) PROHIBITION.—An executive agency may not
11 award a contract to an entity that has not made the cer-
12 tification required under subsection (b).

13 “(d) EXTENSION OR RENEWAL OF CONTRACTS.—
14 Not later than 1 year after the date of the enactment of
15 the SAFE Contracting Act, each executive agency shall
16 incorporate the procedures described in subsections (b)
17 and (c) into their contract extension and renewal proce-
18 dures.

19 “(e) AGENCY DETERMINATION OF CONTRACTOR
20 COMPLIANCE.—Each executive agency shall—

21 “(1) evaluate each certification submitted pur-
22 suant to subsection (b) by any entity with which
23 such executive agency seeks to enter into a contract
24 and any other information relevant to the entity’s
25 enrollment in the E-Verify Program and its compli-

1 ance with all statutes, regulations, and policies gov-
2 erning the E-Verify Program;

3 “(2) before awarding such contract, confirm
4 that such entity—

5 “(A) is enrolled in the E-Verify Program;

6 and

7 “(B) is fully complying with all statutes,
8 regulations, and policies governing the E-Verify
9 Program; and

10 “(3) after awarding such contract—

11 “(A) monitor such entity’s continued com-
12 pliance with all statutes, regulations, and poli-
13 cies governing the E-Verify Program; and

14 “(B) annually post, on a publicly available
15 website, such executive agency’s findings re-
16 garding such compliance.

17 “(f) PROCEDURES FOR NONCOMPLIANCE.—

18 “(1) NOTICE.—Not later than 14 days after an
19 executive agency determines that an entity currently
20 contracting with such executive agency is not in full
21 compliance with all statutes, regulations, and poli-
22 cies governing the E-Verify Program, such executive
23 agency shall submit written notice to such entity de-
24 scribing such noncompliance and any actions such
25 entity must complete to return to full compliance.

1 “(2) CONSEQUENCE FOR CONTINUED NON-
2 COMPLIANCE.—If an entity fails to return to full
3 compliance during the 30-day period beginning on
4 the date on which such entity receives notice pursu-
5 ant to paragraph (1), such entity shall be referred
6 to the Administrator of General Services for suspen-
7 sion and debarment proceedings in accordance with
8 subpart 9.4 of the Federal Acquisition Regulation.

9 “(g) SUBCONTRACTOR COMPLIANCE.—

10 “(1) IN GENERAL.—Before any subcontract is
11 awarded under any contract awarded by an executive
12 agency, such executive agency shall ensure that the
13 entity selected for such subcontract—

14 “(A) is enrolled in the E-Verify Program;
15 and

16 “(B) maintains continuous compliance with
17 all statutes, regulations, and policies governing
18 the E-Verify Program.

19 “(2) PROCEDURES FOR NONCOMPLIANCE.—

20 “(A) NOTICE.—Not later than 14 days
21 after an executive agency determines that an
22 subcontractor of an entity currently contracting
23 with such executive agency is not in full compli-
24 ance with all statutes, regulations, and policies
25 governing the E-Verify Program, such executive

1 agency shall submit written notice to such sub-
2 contractor describing such noncompliance and
3 any actions such subcontractor must complete
4 to return to full compliance.

5 “(B) CONSEQUENCE FOR CONTINUED
6 NONCOMPLIANCE.—If a subcontractor fails to
7 return to full compliance during the 30-day pe-
8 riod beginning on the date on which such sub-
9 contractor receives notice pursuant to subpara-
10 graph (A), such subcontractor shall be referred
11 to the Administrator of General Services for
12 suspension and debarment proceedings in ac-
13 cordance with subpart 9.4 of the Federal Acqui-
14 sition Regulation.”.

15 (b) CLERICAL AMENDMENT.—The table of sections
16 for chapter 47 of title 41, United States Code, is amended
17 by adding at the end the following:

“4715. E—Verify compliance requirement.”.

18 **SEC. 3. IMPLEMENTATION.**

19 (a) IN GENERAL.—Not later than 180 days after the
20 date of the enactment of this Act—

21 (1) the Federal Acquisition Regulatory Council
22 shall amend the Federal Acquisition Regulation to
23 implement and the amendments made by section 2;
24 and

1 (2) the Administrator of the Office of Federal
2 Procurement Policy shall develop and implement all
3 policies and procedures necessary to implement such
4 amendments, which, after consultation with the Di-
5 rector of the Office of Management and Budget,
6 shall include clarification of the responsibilities and
7 expectations of Executive agencies in monitoring
8 contractor enrollment in, and compliance with, the
9 E-Verify Program.

10 (b) DATA COLLECTION.—Not later than 1 year after
11 the date of the enactment of this Act, to help ensure the
12 accuracy of Federal procurement data and to better mon-
13 itor contractor compliance with the E-Verify Program,
14 U.S. Citizenship and Immigration Services shall—

15 (1) develop and implement information collec-
16 tion measures detailing Federal contractors enrolled
17 in the E-Verify program; and

18 (2) notify Executive agencies of such informa-
19 tion collection measures once such measures have
20 been developed and implemented.

21 (c) LIMITATIONS ON REGULATIONS, POLICIES, AND
22 PROCEDURES.—Regulations, policies, and procedures
23 issued pursuant to subsection (a) may not reduce or limit,
24 or authorize waivers for, any of the requirements described
25 in of the amendments made by section 2.

1 **SEC. 4. ANNUAL REPORT.**

2 (a) IN GENERAL.—Section 1131 of title 41, United
3 States Code, is amended—

4 (1) in the section heading, by striking “**re-**
5 **port**” and inserting “**reports**”;

6 (2) by striking “The Administrator” and insert-
7 ing the following:

8 “(a) IN GENERAL.—The Administrator”; and

9 (3) by adding at the end the following:

10 “(b) E-VERIFY COMPLIANCE REPORT.—The Admin-
11 istrator, in consultation with the Director of U.S. Citizen-
12 ship and Immigration Services, shall annually submit a
13 report to the appropriate congressional committees that—

14 “(1) summarizes the information posted on
15 each executive agency’s public website pursuant to
16 section 4715(e)(3)(B); and

17 “(2) identifies the number of entities that have
18 been referred to the Administrator of General Serv-
19 ices during the reporting period pursuant to section
20 4715(f)(2) due to continued noncompliance with the
21 E-Verify Program.”.

22 (b) CLERICAL AMENDMENT.—The table of sections
23 for chapter 11 of title 41, United States Code, is amended

- 1 by striking the item relating to section 1131 and inserting
- 2 the following:

1131. Annual reports.

