



Ohio E-Verify Compliance Guide: A Step-by-Step Guide for Contractors

☐ Step 1: Determine whether the law applies

The law applies to:

- Nonresidential construction contractors
- Subcontractors
- Labor brokers

Working on:

- Commercial buildings
- Industrial facilities
- Highways
- Bridges
- Utilities and related infrastructure

It generally does **not** apply to purely residential construction, manufactured homes, mobile homes, or certain agricultural structures.

☐ Step 2: Enroll in E-Verify

If not already enrolled, the company must register with the federal E-Verify program and designate personnel responsible for employment verification. Each employer must enroll separately; a general contractor's enrollment does not cover its subcontractors.

☐ Step 3: Continue completing Form I-9s

The Ohio law does **not** replace the federal Form I-9 process.

Employers must:

1. Complete Form I-9 for every new hire.
2. Review acceptable I-9 documents.
3. Create the E-Verify case using the I-9 information.

☐ Step 4: Run E-Verify on covered new hires

For employees hired to work on covered nonresidential construction projects, employers must create an E-Verify case for each new hire. Several legal analyses note that the law may also require E-Verify use in certain reverification situations, although that portion of the law may create conflicts with federal E-Verify procedures. Employers should consult counsel on those situations.

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☐ **Step 5: Maintain records**

Maintain:

- Form I-9s
- E-Verify confirmation numbers
- Case results
- Documentation regarding tentative and final nonconfirmations
- Internal compliance records

Records must generally be retained for the later of:

- Three years from hire, or
- One year after termination.

☐ **Step 6: Establish procedures for nonconfirmations**

Create a written process for handling:

- Tentative Nonconfirmations (TNCs)
- Final Nonconfirmations (FNCs)

The law requires employers not to continue employing individuals who receive Final Nonconfirmation.

☐ **Step 7: Flow requirements down to subcontractors**

This is the most important step for general contractors.

Require subcontractors and labor brokers to:

- Certify E-Verify enrollment.
- Certify compliance with Ohio's law.
- Maintain required records.
- Notify you of any violations or investigations.
- Indemnify your company for their noncompliance.

Many attorneys are recommending that contractors update subcontract agreements to include these provisions.

Recommended contractor documentation

Request and retain:

- E-Verify enrollment confirmation (MOU or enrollment documentation)
- Annual compliance certification
- Written immigration compliance policy
- Contractual representation that all covered hires are processed through E-Verify
- Proof of training for HR personnel handling I-9s and E-Verify

Avoid requesting copies of employees' immigration documents unless necessary for I-9 compliance, as federal anti-discrimination rules still apply.

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Step 8: Audit periodically

Ohio's Attorney General can investigate complaints and enforce penalties. Companies should conduct periodic audits of:

- I-9 completion
- E-Verify timeliness
- Record retention
- Subcontractor certifications
- Contract language

This helps identify issues before they become enforcement matters.

Step 9: Update procurement and contracting procedures

If your company hires nonresidential construction contractors, add to your procurement process:

- Verification that the contractor is enrolled in E-Verify.
- A signed compliance affidavit or certification.
- Contract clauses requiring compliance with Ohio Revised Code Chapter 4113 (E-Verify Workforce Integrity Act).
- Rights to audit or request proof of compliance.

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