

63G-12-302 Status verification system -- Registration and use -- Performance of services -- Unlawful practice.

- (1) As used in this section:
 - (a) "Contract" means an agreement for the procurement of goods or services that is awarded through a request for proposals process with a public employer and includes a sole source contract.
 - (b) "Contractor" means a subcontractor, contract employee, staffing agency, or any contractor regardless of its tier.
- (2)
 - (a) Subject to Subsection (5), a public employer shall register with and use a Status Verification System to verify the federal employment authorization status of a new employee.
 - (b) This section shall be enforced without regard to race, religion, gender, ethnicity, or national origin.
- (3)
 - (a) Subject to Subsection (5), beginning July 1, 2009:
 - (i) a public employer may not enter into a contract for the physical performance of services within the state with a contractor unless the contractor registers and participates in the Status Verification System to verify the work eligibility status of the contractor's new employees that are employed in the state; and
 - (ii) a contractor shall register and participate in the Status Verification System in order to enter into a contract with a public employer.
 - (b)
 - (i) For purposes of compliance with Subsection (3)(a), a contractor is individually responsible for verifying the employment status of only new employees who work under the contractor's supervision or direction and not those who work for another contractor or subcontractor, except as otherwise provided in Subsection (3)(b)(ii).
 - (ii) Each contractor or subcontractor who works under or for another contractor shall certify to the main contractor by affidavit that the contractor or subcontractor has verified through the Status Verification System the employment status of each new employee of the respective contractor or subcontractor.
 - (c) Subsection (3)(a) does not apply to a contract:
 - (i) entered into by the entities referred to in Subsection (3)(a) prior to July 1, 2009, even though the contract may involve the physical performance of services within the state on or after July 1, 2009; or
 - (ii) that involves underwriting, remarketing, broker-dealer activities, securities placement, investment advisory, financial advisory, or other financial or investment banking services.
- (4)
 - (a) It is unlawful for an employing entity in the state to discharge an employee working in Utah who is a United States citizen or permanent resident alien and replace the employee with, or have the employee's duties assumed by, an employee who:
 - (i) the employing entity knows, or reasonably should have known, is an unauthorized alien hired on or after July 1, 2009; and
 - (ii) is working in the state in a job category:
 - (A) that requires equal skill, effort, and responsibility; and
 - (B) which is performed under similar working conditions, as defined in 29 U.S.C., Sec. 206 (d) (1), as the job category held by the discharged employee.
 - (b) An employing entity, which on the date of a discharge in question referred to in Subsection (4) (a) is enrolled in and using the Status Verification System to verify the employment eligibility

of its employees in Utah who are hired on or after July 1, 2009, is exempt from liability, investigation, or lawsuit arising from an action under this section.

(c) A cause of action for a violation of this Subsection (4) arises exclusively from the provisions of this Subsection (4).

(5) On and after the program start date:

(a) a public employer, after hiring an employee, shall verify the employment eligibility of the new employee:

- (i) through the status verification system if the individual does not hold a permit; and
- (ii) through the u-verify program if the individual holds a permit; and

(b) a contractor is considered to be in compliance with this section if, after hiring an employee, the contractor verifies the employment eligibility of the new employee:

- (i) through the status verification system if the individual does not hold a permit; and
- (ii) through the u-verify program if the individual holds a permit.

Renumbered and Amended by Chapter 18, 2011 General Session