



THE STATE OF FLORIDA
JUSTICE ADMINISTRATIVE COMMISSION

227 North Bronough Street, Suite 2100
Tallahassee, Florida 32301



Alton L. "Rip" Colvin, Jr.
Executive Director

(850) 488-2415
FAX (850) 488-8944

www.justiceadmin.org

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State Attorney
Diamond R. Litty
Public Defender
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Public Defender
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State Attorney

MEMORANDUM 025-19HR

TO: Agency Administrators

FROM: Carolyn Horwich, Esq., Director of Human Resources

THROUGH: Rip Colvin, Executive Director

SUBJECT: E-Verify

DATE: August 2, 2019

Summary: Effective November 1, 2019, the Justice Administrative Commission ("JAC") staff will no longer process I-9 Forms through the federal E-Verify system on behalf of the Judicial-related offices ("JRO") it administratively serves.

History: On January 4, 2011, then Governor Rick Scott issued Executive Order 11-02. In that Executive Order, Governor Scott required all executive agencies under his authority to verify the employment eligibility of current and prospective employees through the federal E-Verify system. Also in that Executive Order, the Governor encouraged those agencies not under his authority to do the same.

The same day, the previous JAC Human Resources Director issued Memorandum #001-11HR alerting all JROs to the Executive Order and its content. The following day, the JAC Human Resources Director issued Memorandum #004-11HR indicating that JAC was ready to "begin adding Program Administrators to the JAC Corporate account."

Shortly following those memos from JAC to the JROs, JAC entered into a Memorandum of Understanding ("MOU") with the U.S. Department of Homeland Security ("DHS") and the Social Security Administration ("SSA") in order to participate in the E-Verify system. This agreement is still in effect today. Article I of the MOU identifies JAC as "employer," and contains provisions throughout the agreement outlining the responsibilities for each entity under the agreement.

Analysis: Not all JROs use the E-Verify system. Many JROs that do use E-Verify go through JAC. When asked in February of 2017 if they would consider using E-Verify at the local level rather

than through JAC, the majority indicated a willingness to do so.

Subsequently, and as the issue of employment eligibility has been gaining greater prominence over the last several months, JAC Human Resources (HR) examined its MOU more closely to ensure JAC was in full compliance with its legal duties. In furtherance of this renewed examination of the MOU, JAC HR requested that the JAC General Counsel's Office review the legality of JAC conducting the E-Verify submissions on behalf of the JROs.

In June of 2019, the General Counsel's Office confirmed that JAC is not the "employer", as defined in the MOU, of any persons employed by the 49 JROs it administratively serves. Moreover, by virtue of not being the "employer", JAC has found it increasingly difficult to ensure that federal time requirements and other auditable components of the E-Verify system are strictly adhered to.

Conclusion: As per the General Counsel's Office, JAC HR's continued processing of I-9 forms through the E-Verify system may place JAC at potential risk for penalties pursuant to federal law. Specifically, doing so may be considered a breach of the MOU. Additionally, JROs using JAC as its conduit to the E-Verify system may also be at risk of violating federal regulations.

Next steps: Between now and November 1, 2019, JAC HR will distribute links, tutorials, and other resources to enable each JRO that chooses to use the E-Verify system an easy transition from JAC providing that service to having the JRO assume that role for itself. If requested, JAC HR will schedule a webinar to ensure all JROs are ready to move forward. Please note there is no cost associated with using E-Verify.

As always, JAC HR is available to respond to any questions a JRO may have.

Thank you.