

CHAMBER OF COMMERCE  
OF THE  
UNITED STATES OF AMERICA

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August 12, 2008

The Honorable Stewart A. Baker  
Assistant Secretary for Policy  
U.S. Department of Homeland Security  
3801 Nebraska Avenue, NW  
Washington, DC 20393

Dear Assistant Secretary Baker:

As you know, the U.S. Chamber submitted extensive comments yesterday, August 11, 2008, critical of the proposed regulations implementing Executive Order 13465 addressing mandatory enrollment of federal contractors in the E-Verify program.

Our basic arguments were that 1.) The rule is unauthorized under federal procurement law and is contrary to the statute that implements the E-Verify program which states that participation should be voluntary, 2.) There are many practical compliance issues which will unnecessarily make even more complex the federal procurement process, and 3.) The costs were underestimated. The Chamber retained its own economist for the purposes of analyzing the cost and benefits of the regulations.

Upon reviewing the DHS website relating to E-Verify, we were extremely disturbed to find the statement on the E-Verify overview page that "E-Verify is a voluntary program for all employers, *with the exception of federal contractors.*" (Emphasis added.) [http://www.dhs.gov/xprevprot/programs/gc\\_1185221678150.shtm](http://www.dhs.gov/xprevprot/programs/gc_1185221678150.shtm)

Obviously, this statement is at best misleading and, at worse, simply incorrect. The mandate imposed by Executive Order 13465 is not self executing and does not apply until the implementing regulations are finalized. Further scrolling through the various links on the site, while referencing the proposed regulations as providing

guidance, does nothing to clarify this point, although there is much driving the reader to enroll through "E-Verify registration."

It is not until the persistent searcher references the link "Federal Contractors Frequently Asked Questions (FAQs)," not directly linked to this page, that one finds the answer "Not at this time. At this time, the E-Verify program remains a voluntary program for employers, *including federal contractors*" (emphasis added) in response to the question "As a current or prospective Federal contractor, am I required by the Executive Order or the proposed rule to enroll in E-Verify now?"

I would respectfully ask that the website be corrected promptly to remove this confusion to any reasonable user searching for accurate guidance.

Thank you for your consideration of this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Randy Johnson", with a large, sweeping flourish underneath.

Randy Johnson