

SUMMARY OF THE EVALUATION OF THE ACCURACY OF E-VERIFY FINDINGS

This document summarizes the major findings and recommendations from a report authored by the Westat Corporation, dated July 2012 and entitled *Evaluation of the Accuracy of E-Verify Findings*. U.S. Citizenship and Immigration Services (USCIS) retained the services of Westat, a social science research firm, to evaluate the E-Verify Program. Westat has over 15 years of experience evaluating the E-Verify Program. The previous independent evaluation Westat conducted of E-Verify, in 2009, drew positive conclusions about the accuracy of E-Verify for employment-authorized workers. USCIS requested a more in-depth assessment of the accuracy of E-Verify findings to analyze what types of cases are most likely to have inaccurate findings (regardless of whether the reason for the erroneous finding was attributable to the Federal government, the employer, and/or the worker). This new report provides further validation that E-Verify is an accurate and robust tool, and provides recommendations for how USCIS could further improve the E-Verify Program's already-strong accuracy rate.

METHODOLOGY

The most important data source for the Accuracy Report was the E-Verify Transaction Database, which provides information on employer use of E-Verify and the results of cases based on employer input and the federal verification process. Most of the analyses in the report use data for the 8.2 million E-Verify cases employers submitted in FY 2009. Other information sources for the report include: interviews with federal staff and contractors; document reviews, including manuals that explain E-Verify procedures to employers, workers, and federal personnel; logs maintained by the Department of Justice's Office of Special Counsel (OSC) for immigration-related unfair employment practices (DOJ/OSC); and Social Security Administration (SSA), USCIS, Customs and Border Protection (CBP), and Department of State documentation on operations, databases, and systems that affect the quality of information available to E-Verify.

Previous evaluations of E-Verify (such as the 2009 Westat Evaluation Report) were based solely on analyses of data relevant to the Tentative Nonconfirmation (TNC) rate. This most recent report, however, focuses not only on the accuracy rate of the TNC (i.e., those authorized workers who ultimately are properly identified as authorized to work by E-Verify but received a TNC during the verification process), but also uses a new, enhanced measure to examine aspects of E-Verify not previously explored: the Final Nonconfirmation (FNC) Accuracy rate. The FNC accuracy rate is the estimated percentage of workers receiving FNCs who are, in fact, *unauthorized* to work in the United States.

KEY FINDINGS

- **As measured by the E-Verify erroneous TNC rate (percentage of workers found to be employment authorized who initially received a TNC),¹ E-Verify accuracy has been**

¹ Note that the term erroneous as used in the report applies to cases that initially received a TNC but were eventually found work authorized. However, from an E-Verify systems integrity perspective, USCIS does not consider these TNCs to have been issued in error because E-Verify accurately flagged a data mismatch.

increasing over time. This report found the TNC error rate declined from 0.7 percent (calculated for the period April through June 2005 in the Westat report from 2009) to 0.3 percent (calculated for the period April through June 2010 in the current Westat report).

- **The FNC accuracy rate in 2009 was approximately 94 percent.** Approximately 94 percent of FNCs were accurately issued to unauthorized workers. Of the approximately 191,000 workers receiving FNCs, an estimated 176,000 were accurately identified by E-Verify as not work-authorized.
- **The USCIS secondary review performed prior to issuance of a TNC is effective.** In cases referred by SSA, the secondary review performed by USCIS resulted in a 90 percent FNC accuracy rate versus a 58 percent FNC accuracy rate where USCIS did not conduct a secondary review prior to the issuance of a TNC.
- **USCIS is correctly identifying substantial numbers of unauthorized workers who would not have been identified prior to FY 2006,** when USCIS first became responsible for verifying all noncitizen cases. In FY 2009, E-Verify identified an estimated 18,000 cases belonging to unauthorized workers who would not have been identified before FY 2006.
- **Significant lags in entering information into some key DHS databases have adverse effects on the quality of E-Verify verifications.** USCIS and CBP have made concerted efforts to increase the accuracy and timeliness of updating information about new immigrants, nonimmigrants, and changes in immigration and citizenship status. However, data lags of several weeks still persist in some cases, which results in the issuance of TNCs for some employment-authorized workers.
- **Some inaccurate FNCs are issued because some employers fail to notify workers about their TNC or do not clearly explain the TNC process.** If employers informed all workers of their TNCs and how to contest them in ways workers understood, the report estimates that the FNC accuracy rate in FY 2009 would have been almost 99 percent instead of 94 percent.
- **The top four problems leading to TNCs explain approximately 80 percent of the estimated FNCs issued to employment-authorized workers:**
 1. Inability to confirm citizenship status of a worker attesting to being a U.S. citizen on the Form I-9 (35 percent)
 2. SSA name mismatch (33 percent)
 3. Inability to locate workers' Form I-94 number (7 percent)
 4. USCIS name mismatch (5 percent)
- **Federal forms which are the source of data used in E-Verify sometimes result in data mismatches and erroneous TNCs.** Some federal forms for immigration and citizenship benefits lack sufficient space to clearly write compound or long names. Furthermore, some forms and instructions lack sufficient guidance to cover commonly encountered situations such as how to enter complex names.
- **SSA and DHS systems do not share a common identifier, such as a Social Security number (SSN). Thus information about foreign-born U.S. citizens contained in USCIS**

naturalization databases may not be locatable when SSA information is inadequate to confirm that the worker has permanent employment authorization. Since many naturalization records, especially older records, do not contain SSNs, and since previously used A-numbers are not collected on the Form I-9 for citizens, naturalized citizens are especially prone to erroneous TNCs.

RECOMMENDATIONS

Westat's recommendations are summarized below. USCIS has noted in italics steps it has taken, or will be taking, to address these recommendations.

- Establish a program for the Federal government to notify workers about their TNCs and the procedures for contesting them *in addition to* having the employer notify them.

USCIS has developed a feature in E-Verify that will allow for direct email notifications of TNCs and other information to workers. The newly updated Form I-9 includes an optional field for the worker to provide an email address and if that field is collected and entered into E-Verify, then the worker will be able to receive a TNC notification electronically. Providing an email address is strictly voluntary and employers are still required to notify employees when there is a mismatch of information and a TNC is received.

- Prior to receiving a TNC, workers attesting to being U.S. citizens should be *permitted* to provide U.S. passport and/or former A-numbers to assist in locating their records on DHS databases.

As part of the Form I-9 process on which the E-Verify query is based, workers are already permitted to provide their U.S. passport for employment verification purposes if they so choose. Note that an Alien Registration Number (also known as an A-number or USCIS number) can also be submitted for the Form I-9 for those workers who attest to being a lawful permanent resident or alien authorized to work. Currently, employees with a citizenship TNC may call USCIS on a toll free number and resolve the case over the phone and present additional information as needed. USCIS also encourages the use of [Self Check](#), a service workers can use to check their own employment eligibility before they start employment.

- Review decision rules used to determine whether a TNC should be issued to certain groups of noncitizens. This review should pay special attention to:
 - Algorithms used in matching Form I-9 names with names contained in federal databases.
 - Whether additional information from existing or future databases would be helpful.

To prevent TNCs for certain groups of noncitizens that may have higher TNC rates, such as individuals with Temporary Protected Status (TPS), USCIS is developing a plan that would provide automatic verification for these workers if possible. USCIS continues to evaluate revisions to the matching algorithms to allow for more robust name matching for non-citizen populations and evaluates where in the process to insert additional matching techniques.

- Expedite plans to increase the timeliness and accuracy of databases used in E-Verify. Until that is accomplished, issue a *provisional authorization* finding to nonimmigrant workers whose I-94

records cannot be located; this authorization status should be automatically rechecked after adequate time has elapsed for entering the information into DHS databases.

USCIS is capturing additional data on the newly revised Form I-9, such as foreign passport number and country of issuance, in an effort to better locate I-94s for nonimmigrant workers. USCIS also added another database, the Arrival and Departure Information System (ADIS), which provides more timely data on recent arrivals and I-94 number.

- USCIS should issue a new E-Verify finding of *conditionally employment authorized* for students, exchange visitors, and nonimmigrant workers authorized to work for specific employers; employers would then be responsible for confirming that they are authorized/approved to hire these workers.

In virtually all cases, the Form I-9 documentation possessed by nonimmigrant aliens authorized to work for specific employers is acceptable only by that specific employer. Other employers cannot accept such documentation; thus, the Form I-9 would not be completed, the alien could not be employed, and absent a complete Form I-9, the E-Verify query would not arise in the first place. However, issuing a “conditionally authorized” finding for these nonimmigrant workers is something USCIS is analyzing as an option as an additional safeguard to prevent unauthorized employers from relying mistakenly on an E-Verify verification of authorization to work for a different specific employer.

- Federal agencies with immigration responsibilities should review and revise their forms and related instructions with assistance from an external expert in form design. Special attention should be paid to fields used in E-Verify (name, date of birth, aliases, document numbers, and information related to citizenship and immigration status)

USCIS recently revised the [Form I-9](#) to provide more space to write complex surnames to help with more accurate data entry into E-Verify. USCIS also instituted an Agency-wide working group that is coordinating changes to existing forms and the development of new forms. The goal of the group is to more efficiently manage the information collection process so that all Agency programs, including E-Verify, can be served.

- Use more stringent USCIS name-matching decision rules in the automated review rather than relying on employers to compare names input into and returned by E-Verify, since that comparison appears to be infrequently done.

USCIS is analyzing differences in how USCIS captures names versus how SSA captures names to see whether any efficiency can be gained.

USCIS continues to make improvements to the E-Verify system and is focused on continuing the trend of improved E-Verify accuracy rates. Below are some of the changes and enhancements USCIS has made to the E-Verify program since the Westat evaluation was conducted:

- *Re-design of E-Verify Web Interface (2010) which created greater efficiency and ease-of-use through improved navigational tools such as drop down boxes to minimize input errors, icons to aid understanding, and reminders to employers when employment authorization documents are ready to expire.*

- *E-Verify system added U.S. Passport photos (2010). To protect E-Verify against identity fraud, employers can match the photo displayed in E-Verify to the photo on the employee's U.S. Passport or U.S. Passport Card to ensure the card was not tampered with or fraudulently produced.*
- *Launch of [Self Check](#) (2011): Self Check allows workers to verify their own work authorization through E-Verify. This service provides employees with their own work authorization status information and can help reduce TNCs for employers because an employee can resolve any Self Check mismatches before he or she applies for a job.*
- *Addition of Driver's License data (2011). This new E-Verify enhancement includes a driver's license check capability to verify the authenticity of a state driver's license or ID card. The states of Mississippi and Florida are currently participating in this program.*
- *Expansion of monitoring and compliance efforts to make sure that employers are informing workers of their TNCs (2012). USCIS developed an Employee Rights Toolkit so workers can learn about their rights throughout the E-Verify process and in 2010, USCIS launched an Employee Hotline so employees also can report complaints about E-Verify system misuse.*
- *Development of a FNC review process to address FNCs that are issued to authorized workers.*