



# Questions and Answers

## **On the findings of the E-Verify Program Evaluation**

### **What is the E-Verify Program?**

The E-Verify Program is a voluntary nationwide program for electronic employment eligibility verification which helps employers determine whether their workers are authorized to work in the United States. After registering for E-Verify, employers submit information for newly hired employees from the Form I-9 (SSN, name, date of birth, citizenship status, and if relevant, A-number) to the Social Security Administration (SSA) and, if necessary, U.S. Citizenship and Immigration Services (USCIS) over a secure Internet connection. If the employee information can be immediately verified, an automatic authorization notification is issued to the employer through the system. If the employee's records require additional manual review, a Tentative Nonconfirmation (TNC) is issued. Employees have the right to contest TNCs by visiting an SSA office or calling USCIS and must be allowed to continue working without penalty while the issue is resolved. If not contested or if the issue cannot be resolved, the findings become Final Nonconfirmations (FNCs), and the employer should terminate employment.

### **Who performed this independent evaluation?**

The evaluation discussed in this report was conducted by Westat, a Rockville, MD-based research firm under contract to USCIS. The evaluation was funded and managed by the USCIS Office of Policy and Strategy independent of the E-Verify Program office, run by the USCIS Verification Division.

### **Why is an independent evaluation necessary?**

The independence of the evaluation is important for several reasons. It ensures confidentiality for participants that answer survey questions, which makes them more likely to give truthful answers about their policies and actions related to the E-Verify Program. It provides Congress and other stakeholders with a non-biased assessment of the program and prevents a conflict of interest in the findings. It allows valuable double checking of program statistics, system operations and informational materials. The evaluation team approaches the program from "outside the box" and can give important feedback on how the system works from an outsider's perspective.

### **What data is this report based on?**

The evaluation used several sources of data from September 2007 to June 2008 for the evaluation, including a stakeholder conference, interviews with Federal staff and



contractors, system testing, employer focus groups, a Web survey of 2,320 E-Verify Program employers, in person interviews with 109 E-Verify employers and 424 of their workers who had received TNCs, record reviews for 1,246 workers who had received TNCs, and E-Verify Program transaction and registration data. For the first time, the evaluation also created models to estimate ranges for the E-Verify Program total inaccuracy rate and separate inaccuracy rates for both authorized and unauthorized workers in addition to the estimate of the erroneous TNC rate (the percent of all workers ever found work authorized who received TNCs prior to authorization).

### **Why was it necessary to develop models to make these estimates?**

Two of the most basic questions addressed in this report relate to accuracy of the E-Verify Program and its effectiveness in identifying workers without employment authorization. Ideally, calculations of system accuracy would be based on the true employment authorization status of the workers verified, so that their true status could be compared with the E-Verify Program finding. Unfortunately, this information is not known and in some cases it is in the workers best interest to make sure it remains unknown. If this information were available, calculating inaccuracy rates would be a simple ratio of the E-Verify Program finding to the total number of workers with that status. However, since it is not available, it is necessary to use estimates of the number of workers in each status. The evaluation team used models to develop estimates of these numbers. The model supplements the information in the Transaction Database<sup>1</sup> by making a number of assumptions informed, where possible, by the available literature and/or the empirical results found in the evaluation.

### **What is the E-Verify Program estimated 4.1 percent total inaccuracy rate?**

The evaluation used model-based estimates to determine when the E-Verify Program's findings were inconsistent with workers' actual work-authorization status. It is estimated that 0.7 percent of the 4.1 percent inaccuracy rate is attributed to cases in which authorized workers who are not initially found to be employment authorized had to resolve their cases with the government, and 3.3 percent were unauthorized workers who were found to be work authorized.

### **What is the estimated total inaccuracy rate for authorized workers and what is USCIS doing to address it?**

Although the overwhelming percentage of authorized workers are found to be employment authorized, Westat estimates that less than one percent of work-authorized individuals are flagged if there is a discrepancy found when comparing data provided by the employee to the government's records as potentially unauthorized by the E-Verify Program and have to follow up with the government. Updated statistics for the quarter following the period covered in the report show that this number had dropped to 0.3

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<sup>1</sup> Transaction Database – data generated by the E-Verify Program during the verification process.



percent in the period from July to September 2008. USCIS is working to decrease this rate further by adding new data sources, improving helper text to decrease typos, and strengthening data-matching criteria. Steps USCIS has previously taken, such as adding a typographical error check and including naturalization and passport data, has dramatically reduced this rate since the last Westat evaluation in 2007.

**What is the total inaccuracy rate<sup>2</sup> for unauthorized workers and what is USCIS doing to address it?**

Westat estimates that approximately 3.3 percent of all E-Verify Program findings are for unauthorized workers incorrectly found work authorized. They also estimate that 2.9 percent of all E-Verify Program findings are for unauthorized workers correctly found unauthorized. Thus, using model-based estimates to compare when the E-Verify Program does and does not accurately prevent unauthorized workers from being found work authorized, Westat estimates that the inaccuracy rate for unauthorized workers is about half (54 percent). To address the inaccuracy rate for unauthorized workers, USCIS is looking at adding more photos to the system and partnering with states on data-sharing initiatives to prevent identity fraud and is developing methods for finding and preventing stolen identities from being used in the system.

**Why are the statistics in the Westat report different than the statistics reported by the E-Verify Program on their website and in Congressional testimonies?**

The Westat report finds that 96.4 percent of all cases are found work authorized immediately or within 24 hours and 0.5 percent are found work authorized after employees contest an initial data mismatch. The remaining 3.1 percent of cases are found unauthorized either because the employees did not contest, said they were going to contest and did not follow through, were not aware that they could contest, or contested and were found unauthorized. These statistics cover the time period of April through June 2008. However, USCIS has worked with Westat to produce updated statistics for the subsequent quarter (July-September 2008), during which 96.9 percent of all cases were determined to be work authorized immediately or within 24 hours and .3 percent were found work authorized after contesting. The remaining 2.8 percent of cases were found unauthorized either because the employees did not contest, said they were going to contest and did not follow through, were not aware that they could contest, or contested and were found unauthorized.

**How many employees are instantly verified by the system?**

The E-Verify Program instantly confirms employment eligibility for 95 percent of cases, compared to 92 percent in July through September 2004 and 79 percent in the original Basic Pilot. Fewer cases require manual verification in part because the accuracy of the

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<sup>2</sup> Inaccuracy rate - The inaccuracy rate is equivalent to the term “error rate” encountered in research literature.



SSA and USCIS databases is improving. USCIS has completed several enhancements since the last evaluation that significantly improved the confirmation rate by adding electronically searchable information about naturalized citizens and passport information.

### **Is the E-Verify Program preventing unauthorized employment?**

For the first time, this evaluation estimated the percent of unauthorized workers that were erroneously verified by the E-Verify Program because unauthorized workers presented information that related to persons who had work authorization. These estimates show that between 37 and 64 percent of unauthorized workers are incorrectly found work authorized because of identity fraud. In other words, the E-Verify Program is believed to be detecting from about one-third to two-thirds of unauthorized workers. While far from perfect, it is important to note that E-Verify is much more effective than the Form I-9 verification process used by employers not enrolled and using the Program. USCIS has also made enhancements since June 2008 to improve E-Verify's ability to detect identity fraud and continues to research and implement measures to address this issue.

### **What is USCIS doing to increase the ability of the E-Verify Program to detect identity fraud?**

The E-Verify Program currently includes a Photo Tool that limits identity fraud. The Photo Tool returns system photographs of workers presenting USCIS-issued green cards and employment authorization documents. By comparing the photo to the identification the worker presents, the employer can confirm that the document has not been altered. USCIS is exploring means of increasing the types of document photographs that could be included in the Photo Tool. Additional means such as photo comparison and developing approaches for detecting incidences of fraudulent identities being run through E-Verify are under study.

### **Who is most likely to receive a TNC?**

Workers attesting to being noncitizens on the Form I-9 are more likely to receive erroneous TNCs (2.1 percent) than are workers attesting to being U.S. citizens (0.3 percent.) Work-authorized, foreign-born workers are more likely to require additional verification than are U.S.-born workers. Naturalized U.S. citizens are the most likely group to require manual verification – 3.2 percent received a TNC in April to June 2008, compared to 0.1 percent of native-born U.S. citizens and 2.1 percent of noncitizens. The disparity in TNC rates between native and foreign-born U.S. citizens and between U.S.-born and foreign-born workers have both decreased over time. This is in large part because of changes made for processing naturalized citizens following the last evaluation.

### **Why do naturalized U.S. citizens have more problems?**

Historically, SSA and USCIS databases were not built for verification purposes or to share information between the two agencies. The SSA database includes information



provided by the SSN owner the last time that person visited an SSA field office or submitted information to ask for a card to be created. When an immigrant naturalizes, there is no automatic process for notifying SSA of his or her new citizenship status. Currently, the person needs to contact SSA to update his or her records to reflect his or her new U.S. citizenship. USCIS and SSA are exploring a series of actions to improve this process. Such options range from increased SSA presence at naturalization ceremonies, notices to new citizens of the need to update their SSA records, and the potential for future electronic sharing of information between USCIS and SSA.

### **What did SSA and USCIS do to improve the verification process for foreign-born U.S. citizens?**

USCIS worked with SSA on a three-phased plan to reduce the erroneous TNC rate for naturalized citizens. The first two phases have been completed. In the first phase, USCIS instituted a system change so that prior to SSA issuing a Tentative Nonconfirmation, the E-Verify system checks the verification request against the USCIS database of naturalized citizens. In the second phase, the two agencies changed the SSA Tentative Nonconfirmation notice to include an option for naturalized citizens to call USCIS to correct the record. This will prevent the employee from having to physically go to a local SSA office. Additionally, in February 2009 passport data was added to E-Verify, resulting in a reduction of the TNC rate for naturalized citizens. The third phase, in which the feasibility of USCIS updating the SSA database with a constant feed of information on newly naturalized citizens is being explored, is still underway.

### **Are employers complying with the requirements of the program?**

Employer compliance has increased, and USCIS continues to work to bring the rate of noncompliance even lower. Noncompliance increases the risk of unauthorized employment and verification-related discrimination. Among other program violations, the following are of particular concern:

- Circumvention of training requirements on proper use of the program
- Verification of non-new hires (screening job applicants or existing employees)
- Failure to terminate employees with FNCs
- Not notifying or allowing employees to contest when they are not immediately verified
- Taking prohibited actions against employees while their verification is pending

### **What about employers who are not following the E-Verify Program procedures?**

USCIS has established a Monitoring and Compliance Unit to identify and provide corrective assistance to employers who are not properly following the E-Verify Program procedures, and will also provide referrals to U.S. Immigration and Customs Enforcement (ICE) and the Department of Justice Office of Special Counsel for Immigration Related Unfair Employment Practices (OSC) for employers who



egregiously misuse the E-Verify Program system. This unit was under development during the evaluation period but is now operational, having developed and instituted several standard operating procedures for specific types of program misuses.

**What else is USCIS doing to reduce discrimination and protect civil rights in the E-Verify process?**

In addition to monitoring employer use of E-Verify, USCIS is creating bilingual training videos for employers and employees on their rights and responsibilities, updating the E-Verify Tutorial to make it clearer what an employer's responsibilities are, and developing an employee self-check portal to allow employees to check their own work authorization. USCIS, in conjunction with other government agencies and non-governmental organizations, is also identifying other strategies to better educate employees on their rights under the E-Verify Program.

**Where can employees go to learn more about their rights under E-Verify?**

For more information on employee rights under E-Verify, go to [uscis.gov/e-verify](http://uscis.gov/e-verify) and click on "For Employees" in the menu on the left.

**What about privacy concerns?**

The evaluation found little increased risk of misuse of the E-Verify Program information by Federal employees. Additionally, Federal employees have a fiduciary responsibility to protect the privacy of both users of E-Verify and employees whose information is used to query employment eligibility. As the findings outline, SSA and USCIS take measures to ensure the security of all of their databases, including E-Verify. Employers who wish to use E-Verify must sign a Memorandum of Understanding with the Federal government and each employer has access only to the cases it submits. Each person using the system also has an individual user identification number and password that must be changed regularly.

In FY 2010, USCIS will begin checking employer registrations against a commercial data source to ensure the legitimacy of employers who register with the E-Verify Program. This will help prevent unauthorized use of E-Verify that could harm employees and other citizens.

The evaluation also found instances of employers not consistently conveying information about TNCs to employees in a private setting as required by the program. While the need to preserve confidentiality during the E-Verify process is already emphasized in the E-Verify User Manual and Tutorial, USCIS is currently developing additional materials outlining employer responsibilities and employee rights that will emphasize the need for employers to protect passwords and keep all E-Verify results private.



### **What has USCIS done to improve user-friendliness of E-Verify?**

In 2010, USCIS plans to unveil an upgraded version of E-Verify that will make the user experience easier by adding a case alert system, options to enter documents that may expire and require reauthorization, and tips for navigating the system and closing cases.

USCIS continues to improve the E-Verify Tutorial and User Manual using new features to enhance instruction and learning and to enhance the user-friendliness of the E-Verify Program.

### **What is USCIS's reaction to the findings and recommendations in the final report?**

Several of the recommendations made in the interim report have already been considered and acted upon by USCIS. Ongoing evaluation will determine the extent to which the changes have addressed the concerns. The additional findings and recommendations in the final report have led to discussion of additional program and procedural changes.

### **Is USCIS continuing to evaluate the E-Verify Program?**

Yes, USCIS has established a Monitoring and Compliance unit to routinely examine the E-Verify Program for anomalies. The Office of Policy & Strategy will continue to support independent evaluations of the E-Verify Program. The existing contract with the social science research firm Westat will support 2 more years of evaluation studies, and additional studies will be conducted in FY 2010 by the University of Arizona's Center of Excellence for Border Security and Immigration and the Federal Consulting Group. One aspect of this program of research will examine the E-Verify Program in a mandatory environment, using Arizona as the test bed. This research will allow USCIS to learn more about how the Program is working for various types of employers.

### **Where can I find a copy of the E-Verify Westat report?**

For a copy of the report, go to [uscis.gov/e-verify](http://uscis.gov/e-verify) and click on the link "Program Highlights" in the menu on the left. Scroll down to "Additional Information" and click on "Findings of the E-Verify Program Evaluation (December 2009)."