U.S. Department of Homeland Security

U.S. Citizenship and Immigration Services
Customer Service and Public Engagement Directorate
Washington, DC 20529

U.S. Citizenship and Immigration Services

Executive Summary

ROLE OF THE E-VERIFY MONITORING AND COMPLIANCE BRANCH

Overview

On Tuesday, April 23, 2013, the U.S. Citizenship and Immigration Services (USCIS) Customer Service and Public Engagement Directorate (CSPED) and the Verification Division hosted a teleconference to discuss the role of the E-Verify Monitoring and Compliance (M & C) Branch. During the teleconference, M&C subject matter experts provided an overview of their role and responsibilities as part of the E-Verify employment eligibility verification process. M&C also welcomed participant feedback regarding experiences with the M&C branch, current communication materials, compliance tools, and opportunities to enhance M&C communication with E-Verify users.

Background

M&C has the responsibility of protecting the integrity of the E-Verify Program by ensuring that employers properly use the E-Verify system to verify the employment eligibility of their new hires. As part of the Verification Division, M&C supports the division's efforts to provide credible, reliable, and timely employment eligibility information in a secured, safeguarded, customer-focused environment.

M&C's role in the division is focused on monitoring behaviors and use of the system and to ensure compliance with the program's statutes and guidelines. The authority to provide oversight of the use of the system is derived from two basic sources, the E-Verify statute (formerly known as the "Basic Pilot" statute) codified at Title 8 of US Code, 1324(a) note and Memoranda of Understanding (MOUs) entered into between the Department of Homeland Security (DHS) and E-Verify employers.

Specifically, Section 404(d) of the E-Verify statute requires that the DHS ensure the security and integrity of the E-Verify system through monitoring and compliance activities. In addition, Sec. 402(c) of the E-Verify statute permits DHS to require employers to enter into a Memoranda of Understanding (MOU) which sets the standards for program use.

M&C operates from three sites in Washington, DC, Buffalo, New York, and Lincoln, Nebraska. A headquarters staff located in Washington DC, is responsible for the leadership, policy, and direction of the program, as well as coordinating activities and information with our stakeholders and communicating with senior leadership. The operational functions of M&C are based at the two field offices located in Buffalo, New York and Lincoln, Nebraska. The field offices are responsible for the operational activities which result in direct contact and assistance to E-Verify participants, which include compliance activities such as, conducting site visits and desk reviews.

M&C's mission is overseeing the usage of the E-Verify system and to detect and reduce misuse. Several tools are used in order to ensure compliance and to provide assistance to employers. For instance, if an employer appears to be experiencing difficulty using the system, M&C will contact the employer with advice as to how they can become compliant with E-Verify policies and procedures. "Being compliant" means meeting the terms of the MOU each employer signs when they sign up for E-Verify and following the guidelines and procedures in the E-Verify and Form I-9 manuals.

In addition to assisting employers improve their use of the program, M&C works to safeguard personal identifiable information, monitors the system to prevent fraudulent use, and refers instances of possible fraud, discrimination, and illegal or unauthorized use of the system to other federal agencies, such as DHS's Immigration and Customs Enforcement (ICE), the Department of Justice, and/or the Office of Special Counsel (OSC).

Both ICE and OSC receive referrals from M&C related to employer behavior which is viewed as intentional misuse of the system rather than an administrative or process issue. M&C refers employers only after additional internal analysis is conducted and the employer's transactional history indicates possible fraudulent misuse which merits additional review by ICE, such as multiple uses of a Social Security Number linked to a deceased US Citizen.

OSC receives referrals from M&C based on employer behavior that indicates possible discrimination in the use of E-Verify, such as requesting specific documents from employees or a disproportionate failure to print tentative nonconfirmation (TNC) or referral notices for employees in specific status categories.

Some of the common errors, M & C observes are:

- Creating duplicate cases for the same employee
- Immediately terminating employees who receive a TNC
- Failing to create a case by the third day after the employee started work for pay
- Creating cases for employees who were hired before the E-Verify participant enrolled in E-Verify
- Not reviewing acceptable documents or a document containing a photo

Methods of Communication

The M & C branch utilizes a variety of means to contact participants with E-Verify non-compliance issues. These include, compliance assistance emails, phone calls, desk reviews, and site visits.

The most common modes of communication are emails and phone calls between M & C and E-Verify participants. Last year, M & C distributed over 62,000 emails to employers and initiated or responded to over 7,200 telephone calls.

In addition to emails and phone calls, employers may also be contacted to participate in a desk review or site visit. Last year M & C conducted 48 desk reviews and 32 site visits. During these types of compliance assistance actions, M & C provided information and guidance to the employer, but also gathered information to better understand the E-Verify participant's business processes. This type of communication helps improve the E-Verify program and assist companies to use the system properly.

A desk review gives M&C an opportunity to review a company's use of the E-Verify system and make recommendations on how to become compliant with E-Verify policies. The desk review is not an audit, nor is it an inspection but an exchange of information. Participants selected for a desk review provide M&C with E-Verify employment-related documents, such as copies of TNC notices, referral letters, and electronic copies of human resources procedures (like a standard operating procedure or checklist) for processing I-9 forms and E-Verify cases. M&C reviews and analyzes these documents and then assists the employer to correct any problems and provide an enhanced level of customer assistance. Employers are selected to participate in a desk review if a standard review of their company's E-Verify usage indicates they may be experiencing some difficulties with the system.

M&C also offers employers the opportunity to discuss their usage during what is known as a site visit. A site visit is a coordinated consultation between M&C staff and E-Verify participants conducted at the E-Verify participant's place of business. During a site visit, two M&C staff members provide comprehensive compliance assistance. The M&C staff members discuss observations on how the E-Verify participant manages its account and processes E-Verify cases. These observations allow M&C to provide the E-Verify participant with advice and direction on how to follow E-Verify policies and procedures. Similar to desk reviews, M&C may contact an E-Verify participant for a site visit if our records show a participant appears to be experiencing difficulties or issues when using E-Verify. Participants selected for a site visit receive a telephone call or email from M&C to participate in a site visit.

Tools and Resources

There are a variety of tools and resources available to E-Verify users and can be easily accessed from the E-Verify web-page at http://www.dhs.gov/e-verify. On the left side of the opening page you will find the *Publications* link, this link will lead you to the *Manuals and Guides* page, which contains all of the user manuals, quick reference guides, and the *E-Verify Self-Assessment Guide*.

It is a best practice for E-Verify participants to be familiar with the most recent version of the *E-Verify User Manual*. The Verification Division published a new user manual in September 2012 and can be found on the *Manuals and Guides* page. User manuals provide guidance on E-Verify processes and outlines the rules and responsibilities for employers enrolled in E-Verify. All users must follow the guidelines found in the *E-Verify Memorandum of Understanding for Employers (MOU*) and the rules and responsibilities outlined in these manuals.

The second resource on the *Manuals and Guides* page is the E-Verify Self-Assessment Guide. This guide, published in June 2012, is a resource to assist participating employers in complying with the user requirements of the program and to help improve participants' overall use of the program. An effective compliance and self-assessment process can enhance the efficiency and effectiveness of a company's employment operations and human resource management control functions.

Another resource on the E-Verify website is a link to sign up for free webinars. This resource puts users and participants in contact with live experts. E-Verify subject matter experts conduct these live webinar sessions and are able to guide the user organization through the employment verification process and answer any questions. These webinars are free, easy to access, and provide a wealth of information as well as an outstanding venue for Q&As. Visit the Free Webinar page to enroll in a free webinar.

Finally, another key resource is E-Verify Listens. E-Verify Listens is a web application and gives E-Verify user's an opportunity to discuss our products and services with each other and tell us what they think of E-Verify by answering: What can we do to improve your E-Verify experience? This application is found on the E-Verify home-page on the right side. This opens the E-Verify Listens page where E-Verify users can register and submit new ideas, view previously posted ideas, and comment on other posts.

These resources will assist E-Verify users to remain in compliance with E-Verify account requirements.

Feedback

More than 250 stakeholders joined the April 23 teleconference and expressed an overall positive experience with E-Verify's M & C Branch. While there was limited feedback provided, stakeholders praised the listening session format and encouraged USCIS to continue to hold such engagements in the future.

Additional Helpful Links

E-Verify - link to E-Verify Homepage

Customer Contact - link to contact E-Verify with questions and/or concerns

Manuals and Guides – link to Manuals and Guides