SUPPORTING STATEMENT

E-Verify Program

(No Agency Form Number; File OMB-18)

OMB No. 1615-0092

A.   Justification.

1.   Section 401(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA); Section 401(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA); Public Law. 104-208, dated September 30, 1996, provided for the establishment of a Basic Pilot Program to last 4 years.   The Basic Pilot Program's operation has been repeatedly extended by Congress; See Basic Pilot Extension Act, Public Law 107-128 (2002); Basic Pilot Program Extension and Expansion Act, Public Law 108-156 (2003); Consolidated Security, Disaster Assistance, and Consolidated Appropriations Act, 2009, Public Law 110-329 (2008). DHS renamed the Basic Pilot "E-Verify" in August 2007.

The E-Verify Program allows employers to electronically verify the employment eligibility status of newly hired employees by matching information provided by employees on the Form I-9, Employment Eligibility Verification, against existing information contained in the Verification Information System (VIS), a composite information system that checks against Social Security Administration (SSA), Department of Homeland Security and the U.S. Department of State.

2.   Employers participating in the E-Verify Program must first read and agree to the Memorandum of Understanding (MOU) with the Department of Homeland Security (DHS) and the SSA. The E-Verify Program has four different employer access methods: Employer, E-Verify Employer Agent, Corporate Administrator, and Web Services.   Employer access method is designed for employers to run queries themselves while E-Verify Employer Agents run queries on behalf of

other employers. The Corporate Administrator access method is used only for managing multiple employer accounts and does not allow corporate administrator users to create and manage E-Verify cases. The Web Services access method requires a company to develop software that interfaces with E-Verify to perform employment eligibility verifications of newly hired employees and/or employees assigned to a federal contract.

Each method requires completion of a separate MOU which provides the specific terms and conditions governing the rights and responsibilities of all parties involved, as well as specific information on the employer.

The E-Verify enrollment process begins with an employer agreeing to the terms of the MOU, and once agreed to, the employer completes the process by providing company and relevant information into the system. (see attached screen shots).

3   The MOU is a signed agreement between the Department of Homeland Security, SSA, and the employer, and provides the most efficient means for collecting and processing the required data. The MOU is available to the public online at: E-Verify Employer MOU and electronic registration is also available online at: E-Verify enrollment .

4.   A review of USCIS' Forms Inventory Report revealed no duplication of effort, and there is no other similar information currently available that can be used for this purpose.

5.   This collection of information does not appear to have a significant impact on small businesses or other small entities. This is a voluntary program for those employers wishing to participate and a requirement for certain contractors and subcontractors that choose to do work for the Federal government. In addition, some state and local laws require that employers participate in E-Verify. This program is intended to benefit these small entities by allowing them to quickly

verify whether an alien is legally eligible to work, and therefore comply with 8 CFR part 274A.

6. If this information collection is not conducted or is conducted less frequently, the Department of Homeland Security and the SSA will not be able to comply with IIRIRA. In addition, without this information collection, Executive Order 13465 would not be able to be implemented. Without approval for the collection of necessary data from employers, the program cannot proceed.

7. The special circumstances contained in item 7 of the supporting statement are not applicable to this information collection for the E-Verify web interface. Once the employer is enrolled in the E-Verify Program, the employer will be conducting a query each time a new employee is hired.   Certain Federal contractors, subcontractors, and employers located in states or local jurisdictions that mandate E-Verify will also be required to perform queries on existing employees assigned to a covered contract.

8. On August 1, 2011, USCIS published a 60-day notice in the Federal Register at 76 FR 45843. USCIS received comments from two commenters on the 60-day notice. The following is a discussion of the comments and USCIS' response:

    F1-OPT and FAQs

    One commenter was concerned that F-1 students that are authorized for Curricular Practical Training (CPT) under 214.2(f)(10)(i) often receive nonconfirmation in E-Verify. The designated school official (DSO) approves CPT for a student by endorsing the student's Form I-20 as well as updating the Student and Exchange Visitor Information System (SEVIS) record to reflect the authorization. SEVIS is managed by the Student and Exchange Visitor Program (SEVP).

    Currently, students authorized CPT may receive a tentative nonconfirmation from E-Verify because E-Verify does not interface electronically with SEVIS. The lack of interfacing between the systems results in the TNC on initial verification.

However, the student's employment authorization can be verified by E-Verify's Management and Program Assistants so long as the DSO has updated SEVIS with the employment information. USCIS is aware of this problem and has been working with SEVP to build an interface with SEVIS that will allow E-Verify to automatically verify the DSO's endorsement for employment.

The same commenter asked that USCIS clarify two of the FAQs on the public website. USCIS is currently reviewing all of the FAQs on the E-Verify public website. We appreciate the commenter's request that two FAQs be clarified and will revise those FAQs.

Registration and Enrollment Process

The commenter suggested that it would be helpful for companies to have access to the DHS and SSA TNC notices and Referral letters before they enrolled. Access to these letters would give them the opportunity for their legal counsel to review and customize them for specific company procedures. Currently, both the notices and letters are publically available at www.dhs.gov/E-Verify in the Publications section. As for customizing the letters to fit specific company procedures, companies are not permitted to customize or change these notices and letters.

The commenter also noted that when individuals who are regularly rotated to different locations throughout their company, they must obtain a new user id when they arrive at the new location. This is due to the fact that the each company site has signed up to use E-Verify individually. As a result the commenter suggested that the users should be able to retain their user id regardless of the location from which they are entering cases. E-Verify supports this suggestion and as a result we have been exploring ways to allow users to keep their user ID when they move to a new location without impacting negatively the integrity of the system and the privacy of the individuals who have been run through E-Verify.

The commenter also suggested users who are responsible for more than one location should not be required to have multiple user IDs. Currently, E-Verify allows companies to enroll multiple locations under one MOU, which would allow the user to have only 1 user ID. To ensure that companies are more aware of this option, E-Verify will add an FAQ to the public website.

The commenter noted that their members have encountered difficulties when attempting to convert the enrollment of a newly-acquired company that was previously enrolled in E-Verify to the acquiring company's Corporate E-Verify account. E-Verify is updating its Corporate Administrator training to provide instructions on this subject. Additionally, E-Verify is developing a manual for Corporate Administrators that will also include guidance on this subject.

The commenter noted that their members have suggested that it would be helpful if Corporate Administrators could access a report that shows the activities of all of their users and includes specific fields. E-Verify supports improving the reports that Corporate Administrators use. As a result, we will review the five reports that Corporate Administrators have in order to determine if these can be updated using the suggestion from its members or if a new report would need to be developed.

The E-Verify Tutorial
Another commenter had concerns that the E-Verify Tutorial can take up to two hours and be problematic when a single user is responsible for several locations. The commenter also noted that E-Verify has procedures in place to waive this requirement for users with multiple accounts. As a result, E-Verify will explore ways to improve this issue.

The commenter as suggested that on-demand instructional videos be added to the USCIS website. Currently, E-Verify has three instructional videos available for viewing at www.dhs.gov/E-Verify.

Creating a Case

The same commenter noted that their members have found creating a case in E-Verify to be fairly clear, but have several suggestions for possible improvements.

According to the commenter, one member preferred not to have a drop-down list for dates and states. In order to ensure consistent data entry and reduce the possibility of erroneous TNC due to mistyped information E-Verify added a drop-down field for states and for dates. Even though these fields are drop-down lists, the enhancement still enables users to use their keyboard to select a month and date by doing the following:

- To select the month, type the first letter of your desired month. For letters that have multiple months, repeat typing the first letter until your desired month is selected. For example, to select the month of the June, press the "j" key twice.
- To select the day, type the two-digit day. For example, to select the sixth day of the month, type "0" then "6."
- To select the year, type the four-digit year. Typing "2" for the first digit will default to the current year. For example, to select the year 1980, type "1" then "9" then "8" then "0."

According to the commenter, some of their members who create a considerable number of cases find that the time required to provide driver's license information can significantly increase the amount of time it takes to create these cases.

While we understand that this may pose a burden to some organizations, but this is the trade off to ensure that E-Verify addresses identity fraud issues.

According to the commenter, some members felt that the sequence of information needed to create a case is not as logical as it could be. Furthermore, they

suggested that the requested information should match the flow of Form I-9. E-Verify mimics the flow of Form I-9 where possible. In fact, E-Verify recently made a change so that the data entry sequence for Section 1 was mimicked in E-Verify. However, there are reasons why E-Verify does not fully follow the sequence of information in Form I-9. Some of the reasons are as follows:

- By asking for certain information first, like the citizenship status, E-Verify reduces the possibility that the employer will select the incorrect document for that status thereby generating a TNC.

- Not all data elements are required for each type of status or document presented. By asking for the citizenship status and document status first, E-Verify has reduced the data entry requirements for the employer.

According to the commenter, some companies find that the photo-matching tool for new hires presenting U.S. Passports is time consuming and burdensome. In fact, the commenter states that this burden often prevents the company from automating the process. In order to deter fraudulent use of these documents, the photo-matching tool was extended to U.S. Passports. While we understand that this may pose a burden to some organizations, this is the trade off to ensure that E-Verify addresses identity fraud issues.

The commenter suggested that there is a need to developing a batch processing system for companies processing significant number of new hires at one time. E-Verify is committed to exploring new technologies to improve the company's experience with the program and to reduce the overall burden. As a result, E-Verify allows employers to develop their own web service interface with E-Verify. Additionally, E-Verify is exploring the possibility of adding a batching method for E-Verify cases.

Responding to TNCs

The commenter noted that while most members find the TNC process to be satisfactory, they do have a few concerns. One comment concerned the

occasional system sluggishness on providing the necessary letters and forms. E-Verify does not believe this to be a problem with the system but could be caused by the user's internet connection speed. Since users must use their own internet connection, the amount of time it takes to generate a TNC notice is based upon their internet connection speed.

The commenter mentioned that a number of its members have commented on the extending length of time it takes for a case receiving "DHS Processing" to be resolved. While there is no "DHS Processing" designation within E-Verify, additional comments seem to indicate that the commenter is talking about the DHS or SSA Referred status. This status occurs after the TNC has been issued and after the employer refers the case to the appropriate agency. With that said, Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) requires that E-Verify must provide the employer a response to the referred TNC within 10 Federal government business days. A list of these responses can be found in the most recent E-Verify User Manual. Additionally, as part of those 10 days, employees are given 8 Federal government business days to contact that agency. The sooner the employee contacts either SSA or DHS to resolve their TNC the sooner a response can be issued. Finally, in order to reduce the number of TNCs that employers must process, E-Verify is exploring new data sources that can be used for the electronic verification process.

In addition to the length of time it takes to resolve a "DHS Processing" case, the commenter mentioned that the original information that is entered is often confirmed by DHS or SSA after the TNC was issued. This occurs for a variety of reasons. For example, if a person gets married and used their married name on Form I-9 but have failed to update their records with SSA, the individual will be issued a SSA TNC because the name didn't match SSA's records. In this instance the employee takes proof of their name change to SSA which prompts them to update the individual's social security record. Furthermore, to protect the

privacy of the employee, E-Verify does not provide the employer information on what may have been changed in their record.

The commenter suggested that E-Verify allow for electronic signature on the SSA and DHS Referral letters. E-Verify supports the use of electronic signature for both the SSA and DHS TNC notices and Referral letters. As a result, E-Verify is exploring options on how to integrate electronic signature for these notices and letters.

Case Resolution

The commenter reported that a member has had an open case in continuance since 2010. According to DHS procedures, no DHS case should be in a Case in Continuance status for 30 days, while SSA procedures allow for case to have that status for up to 120 days. As a result of the commenter's report, E-Verify will research the issue to determine what action needs to be taken.

The same commenter noted that e-mail should be used to communicate changes in case status. E-Verify supports the idea of using email to communicate this information to users and is willing to explore options on how this can be done. In the mean time, E-Verify has deployed a tickler system in the actual E-Verify program which informs users when an action is required on specific cases.

Web Services

The commenter noted a number of suggestions from its members with respect to Web Services. Specifically, the commenter recommended:

- That E-Verify require only 1 major upgrade per year,
- Remove the requirement for Web Services developers to obtain a Web Application ID and complete the certification, and
- Remove the dependency on Web Services Extensions (WSE) 3.0 and replace it with Windows Communications Foundations.

E-Verify is currently exploring ways to improve Web Services. The commenter's suggestions will be taken into consideration when evaluating our options.

Another commenter noted that on July 13, 2011, USCIS published a 60-day notice, Memorandum of Understanding to Participate in the Basic Pilot Employment Eligibility Program; Verify Employment Eligibility Status in the Federal Register at 76 FR 41279, that was later corrected in the Federal Register at 76 FR 45843. The commenter expressed concern that USCIS may have published the first notice in error without consideration of stakeholders' interests and without clearly identifying the purpose of the notice or what USCIS was asking stakeholders' to comment on.
USCIS has reviewed the comment; however, no action is required as the observations were based on issues that the corrected notice addressed.

On October 12, 2011, USCIS published a 30-day notice in the Federal Register at 76 FR 63321. USCIS has not received any comments on the 30-day notice.

9.   The USCIS does not provide payments or gifts to respondents in exchange for a benefit sought.

10.   There is no assurance of confidentiality. The system used to support the E-Verify Program is operated and maintained according to Department of Homeland Security and privacy requirements. The system of records notice associated with this information collection is the E-Verify Program System of Records. Published in the Federal Register on May 19, 2010 at 75 FR 28035. The associated privacy impact assessment is the E-Verify Program: Use of Commercial Data for Employer Verification.

11.   There are no questions of a sensitive nature.

12.   **Annual Reporting Burden**.

Information Collection Activity	No. of Respondents	# Responses per Respondent	Avg. Burden per Response (in hours)	Total Annual Burden (in hours)	Avg. Hourly Wage Rate	Total Annual Respondent Cost
New Enrollment	65,000	1	2.26	146,900	$30.46	$4,474,574
Yearly Training	425,000	1	1	425,000	$30.46	$12,945,500
Queries	425,000	55	0.129	3,015,375	$30.46	$91,848,323
				3,587,275		$109,268,397

The total number of respondents for this information collection is as follows:

- New Enrollment   65,000
- Yearly Training   425,000
- Queries   23,246,667
- **Total**   **23,736,667**

Annual Reporting Burden.

Total annual reporting burden hours are 3,587,275. This figure was derived by multiplying:

- Multiplying the number of newly enrolling respondents (65,000) * number of responses (1) * 2.26 hours (2 hours 16 minutes) per response (enrollment time includes review and signing of the MOU, registration, new user training, and review of the user guides); plus

- Multiplying the number of already-enrolled respondents receiving training on new features and system updates (425,000) * number of responses (1) * 1 hour per response; plus

- Multiplying the number of respondents submitting queries (425,000) * average number of queries (or "responses") per respondent (55) * .129 (approximately 8 minutes) per query. (Please note that the response time is the weighted average of the time required for the initial query and the time required to assist an employee with the Tentative Non-Confirmation

(TNC)[1] contestation process when necessary. The weighted average was calculated as follows: {(98.3% (percent of queries resolved without TNC) * .12 (time, in hours, to submit the initial query)} + {(1.7% (percent of queries that receive a TNC) * 0.5 (time, in hours, spent assisting employee with the contestation process)} = .129 (7.75 minutes) per query.

13. **Capital or Start-Up Costs**

The Estimated Average Annual Capital Cost is $1,887,000. A computer, printer and internet access are required to use the E-Verify Program. While we believe that employers will already have a computer, printer and an internet connection, there may be a very small number of companies that do not have a computer, printer, or internet connection at their hiring site. Many companies have hiring sites or multiple hiring sites that are not co-located with the company headquarters or the location where the employees perform work for the government. Each firm requiring a computer would need internet access as well.

- Multiplying the average annual estimated number of firms 2,550 x $740 ($400 estimated cost of a computer + $100 estimated cost of a printer/copy/scanner/ fax machine + $240 estimated cost of internet for a year).

14. **Government Cost**

The estimated cost to the Government is $6,877,281. This figure is calculated by:

- Multiplying the total estimated number of queries 23,246,667 x $.26 (estimated average cost per query); plus
- Multiplying the number of people that either went to SSA to resolve their issue or called DHS to resolve their issue (note: not all employees who receive a tentative non confirmation take steps to resolve the issue)

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[1] A Tentative Non-Confirmation (TNC) is issued after the case cannot be resolved as "Employment Authorized" during the initial electronic check. It is a tentative status, meaning that the employee has the right to contest the mismatch with the relevant government agency and receive an "Employment Authorized" finding if manual review finds them to be so.

48,865 x $17.05 (average DHS and SSA cost per tentative non-confirmation resolution).

15. There has been a change in the total estimated annual hour burden from 3,882,482 to 3,587,275, a decrease of 295,207. This decrease is a result of USCIS better estimating the average number of respondents and the hour burden per response for each of the activities in this collection.

The previous submission listed the first activity as "Implementation" and the third activity as "ID/IQ". To better reflect the first activity, USCIS has renamed this "New Enrollment" and as the ID/IQ process takes place during the New Enrollment phase, the two activities have been combined into one with a weighted average calculation employed to account for the ID/IQ process (formerly combined 3.86, now 2.26 hours). The prior average annual hour burden for these two activities was 1,834,386 combined and the new average annual hour burden for this activity is now 146,900, for a difference of 1,687,486 (based on the old estimate of 125,000 enrollees entering each year but a new estimate of 65,000 entering each year). The prior submission listed the average number of responses as 17, but enrollees are only required to register once.

The previous submission listed "Training" as the second activity, and the new title for this collection activity will be "Yearly Training". The prior average annual hour burden for this collection activity was 1,177,763, and the new average annual hour burden 425,000, for a difference of 752,763. This change is due to a better estimation of the average number of enrollees that will be in the system.

The previous submission listed the last two activities as "Initial Queries" and "Secondary Queries". This has now been combined as "Queries" because the secondary queries are further actions on some of the initial queries. The prior average hour burden per response was totaled at 2.06 hours, and the new weighted average for Queries is .129 hours, and it is expected that each enrollee will perform an average of 55 queries per year. The prior submission appeared to have incorrectly listed multiple enrollments instead of multiple queries. The prior

submission listed a combined total annual hour burden of 870,333 and the new estimated annual hour burden is 3,015,375, an increase of 2,145,052.

USCIS seeks to make the submission more reflective of the program actions for each of the information collection activities and to more accurately reflect the estimated annual hour burden of the collection through the use of better future estimates.

The total cost to the government has also increased primarily due to the better estimation of 55 responses per respondent for the number of queries submitted. The prior submission listed $1,839,639 and the new estimate is $6,877,281, an increase of $5,037,642.

- Automated reminders for employers when Employment Authorization Documents (EADs) are expiring;
- Enhanced security features, such as masking Social Security numbers, to further protect privacy;
- Real-time validation of employers enrolling in E-Verify against commercial data to ensure that only valid companies enroll in E-Verify;
- A new 'case alerts' feature that alerts employers when they're required to take action or when there's an update in the status of a case;
- Streamlined tutorials for employers; and,
- Improved text and instructions to help employers avoid data entry errors.

16.	USCIS does not intend to employ the use of statistics or the publication thereof for this collection of data.

17.	USCIS will display the expiration date of OMB approval for this information collection.

18.	USCIS does not request an exception to the certification of this information collection.

B.   **Collection of Information Employing Statistical Methods.**

Not applicable.

C.   **Certification and Signature.**

PAPERWORK CERTIFICATION

In submitting this request for OMB approval, I certify that the requirements of the Privacy Act and OMB directives have been complied with including paperwork regulations, statistical standards or directives, and any other information policy directives promulgated under 5 CFR 1320.

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Sunday Aigbe,   **Date**

Chief,

Regulatory Management Division,

Office of the Executive Secretariat,

U.S. Citizenship and Immigration Services,

Department of Homeland Security.