

**SUPPORTING STATEMENT A,  
E-Verify Program Data Collections**

**A. Justification**

**1. Circumstances Making the Collection of Information Necessary**

The Department of Homeland Security (DHS) requests clearance from the Office of Management and Budget (OMB) for a continuing data collection of employment verification programs referred to as the Study of Employment Eligibility (SEE). The original evaluations of pilot employment verification programs were mandated in Title IV of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), which required the then Immigration and Naturalization Service (INS) to establish three pilot employment verification programs. The current E-Verify Program has built upon these evaluations, assessing changes to the program, and continuing to determine the extent to which program goals were met.

There is interest on the part of Congress in expanding the current program and possibly instituting mandatory employment verification for all or a substantial percentage of the nation's employers. Currently, the Federal government mandates the use of E-Verify by most Federal contractors, and five states have passed legislation mandating the use of E-Verify for all employers: Alabama, Arizona, Mississippi, South Carolina, and Utah. Other states are mandating some of their employers to use E-Verify.<sup>1</sup>

Because of the constant flux in program participation requirements, as well as in the nature of the program itself, it is important that we continue to evaluate the E-Verify Program and identify the likely impact of a mandatory national program.

The instrument to be cleared is a revision of an earlier instrument submitted to OMB for the 2010 study (OMB control number 1615-0115). The proposed data collection, originally scheduled for 2012 (now 2013) also requests information from general employers for the E-Verify Program Survey of Employers. The attached revised employer survey (Attachment A shows updates for the 2013 instrument tracked in the 2010 version followed by an updated version of the 2013 instrument) is similar in content to instruments used in evaluating the IIRIRA pilot programs and in prior (2006 and 2008) employer surveys. However, it has been modified to address the specific requirements of the current evaluation. In particular, a few questions have been added to obtain information about employers' experiences with the Self Check Program, a free service implemented by USCIS in 2012 that allows workers to check their own employment authorization status and correct any mismatches with SSA or DHS data before being verified by an employer participating in E-Verify. Self-check is available nationwide. Including a few questions on the 2013 Survey of Employers will provide some initial data on employers' experiences with Self Check and their opinions on its impact on the verification process. Other modifications have been made to clarify question wording or response options, to delete items that are no longer relevant (such as a question regarding Social Security Administration "mismatch" letters), and to further reduce burden on

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<sup>1</sup> <http://www.ncsl.org/?tabid=13127#table>

respondents (e.g., by splitting long grids into several questions and asking for contact information in a more user-friendly manner). E-Verify Employer Agents (EEAs) and their clients are not included in this general employer survey to avoid undue burden on them, since they were the subject of an in-depth case study in 2010. It is expected that they will be included in the 2014/15 employer survey.

To verify that any new or modified survey questions are clear, Westat conducted online focus groups with small samples of employers. Each focus group targeted a unique segment of the E-Verify employer population (such as small employers, large employers, or employment agencies) and different questions were asked within each session. Each group included representatives from nine or fewer employers, with only one representative participating per employer. All feedback from these sessions was recorded, and, Westat modified the survey based on input from the participating employers.

As in the past, this Survey of Employers is designed to better understand how well the Program is working and how it might be improved, how satisfied employers are with various program features and resources, reasons for using the program, how well they understand and comply with the E-Verify Program requirements, what impact the program currently has on companies in voluntary as compared to mandatory environments, and the companies' opinions concerning a mandatory program. The survey includes a number of questions also contained in the 2008 and 2010 surveys in order to understand changes in employer satisfaction and compliance over time. The expectation is that this information will help inform future legislation and policy making, improve E-Verify Program administration, and lead to overall E-Verify Program enhancements.

Since the potential requirements of a national automated employment verification program for employers, employees, and Federal agencies are substantial, DHS believes that a timely evaluation of E-Verify would be beneficial to ongoing immigration reform.

## **2. Purpose and Use of the Information**

The primary purpose of the data collection efforts submitted for OMB clearance is to obtain data from E-Verify employers in anticipation of the enactment of mandatory state and/or national employment eligibility verification programs for all or a substantial number of employers. For example, on September 8, 2009, Federal contractors and subcontractors were required to begin using the E-Verify Program to verify their employees' eligibility to legally work in the United States. In a final rule, the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council amended the Federal Acquisition Regulation (FAR) to reflect this change. The new rule implements Executive Order 12989, as amended by President George W. Bush on June 6, 2008. This rule directs Federal agencies to require that most Federal contractors and their subcontractors agree to electronically verify the employment eligibility of all new

employees hired during the contract term, as well as their current employees who perform contract services for the Federal government.<sup>2</sup>

This evaluation will examine the proper implementation of the E-Verify program and the advantages and disadvantages of such a program from the perspectives of different types of employers. To meet these goals the evaluation will:

- Describe how well employers implement the program;
- Identify how well E-Verify is doing in meeting the goals set by IIRIRA (i.e., reducing unauthorized employment, reducing or not increasing discrimination, protecting employees' right to privacy, preventing undue burden on employers);
- Describe how satisfied employers are with current E-Verify features and resources, and communication with USCIS in a mandated and voluntary environment;
- Describe how well employers understand the program requirements and are complying with the program;
- Identify the financial and nonfinancial implications of E-Verify;
- Describe the impacts of recent major changes in the program.

To address these issues, the proposed evaluation design requires original data collection from employers that have signed an MOU to use the E-Verify Program. Information about the effectiveness and costs of E-Verify, discrimination, privacy, how employers learned about E-Verify, reasons for using the program, employer understanding of and compliance with E-Verify requirements in a mandated and voluntary environment, and opinions about various features of E-Verify will be obtained from companies.

The past evaluations of electronic employment verification programs have been used extensively by the Administration to improve the E-Verify program and by Congress in considering legislation designed to expand or modify the program. External researchers, think tanks, and members of the general public interested in immigration have also widely used the published reports based on data collected from the evaluations when discussing employment verification programs, immigration-related policies and related immigration issues. Similar uses are expected for the proposed data collection efforts.

### **3. Use of Information Technology**

The survey of employers will be Web based. The Employer Survey focus groups will also be Web based, using WebEx, a hosted service for teleconferencing, integrating live audio and video via participants' own office computers. The survey can be accessed at <https://www.everifystudy.org>

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<sup>2</sup> <http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=8459535e0869d110VgnVCM1000004718190aRCRD&vgnnextchannel=534bbd181e09d110VgnVCM1000004718190aRCRD>

#### **4. Efforts to Identify Duplication and Use of Similar Information**

There is no other similar information currently available that can be used to evaluate the wide ranging features and use of the E-Verify program, particularly as it becomes mandated for increasing numbers of employers. Prior evaluations were designed to evaluate the voluntary E-Verify program, and explore mandatory participation through a case study in Arizona which was the first state in the nation to mandate that all employers use E-Verify. This data collection is critical in that it continues efforts begun in 2010 to look at the voluntary and mandatory impacts of the program on a broader group of employers. Results of these evaluation activities will be used to compare the E-Verify program with the most recent national data (i.e., 2010 and 2008 E-Verify Surveys of Employers) to monitor trends in compliance, satisfaction, and the impact of program improvements.

#### **5. Impact on Small Businesses or Other Small Entities**

The design of the employer survey is such that it will not have a significant impact on small businesses. The employer survey will take only 30 minutes to complete and the sample has been designed to oversample larger employers.

#### **6. Consequences of not collecting the Information**

E-Verify and the characteristics of its employers are rapidly changing. The various features of the program have continually changed to incorporate enhancements recommended by previous evaluations and a series of ongoing general program improvements. Additionally, the types of employers that are mandated to use E-Verify are constantly changing based on legislative actions by states as well as Federal regulation. Moreover, as the population of E-Verify employers and their workers change, it is reasonable to expect that employer opinions about the program, how it is used, and the extent of their compliance with E-Verify procedures will change. Therefore, regular evaluation on a bi-annual timeframe is a prudent and reasonable timeframe for gauging progress and detecting new challenges to direct policy and further program improvements. Without the benefit of ongoing evaluation, policy, program, and legislative decision making would be made using out-of-date information potentially resulting in suboptimal results.

#### **7. Special Circumstances That Would Cause Information Collection**

The special circumstances contained in item 7 of the supporting statement (i.e., more than quarterly; responded to in less than 30 days; where records must be retained more than 3 years; where statistical surveys are not designed to produce reliable results; requiring statistical data not approved by OMB; when a pledge of confidentiality is not supported by statute or regulation; which requires the respondent to submit proprietary trade secrets) are not applicable to this information collection.

## **8. Comments in Response to the Federal Register Notice and Efforts to Consult Outside Agencies**

Consultants knowledgeable about issues related to immigration, employment, discrimination, and privacy have been employed at various times by the contractors in order to provide advice for this and the earlier evaluations. They are as follows:

- o Joseph Drew, Southeastern University, Washington, D.C.
- o Michael Leeds, Temple University
- o Alison Konrad, Temple University
- o Matt Huffman, University of California, Irvine
- o Janet Spitz, St. Rose College
- o Barry Chiswick, University of Illinois at Chicago
- o Lisa Roney, formerly Director of Research and Evaluation at USCIS.

Information from stakeholders representing the Federal government, states, and special interest groups was obtained through stakeholder meetings held on November 27, 2007, and March 9, 2009. The input from these meetings has helped shape the proposed evaluation. (See Attachments B and C, respectively for the 2009 and 2007 meeting summaries.)

In developing the evaluation design for the data collection efforts, the U.S. Citizenship and Immigration Services (USCIS) contractor has built into the design and data collection methodology the lessons learned in the data collections for the earlier evaluations.

On January 18, 2012, USCIS published a 60-day notice in the Federal Register at 77 FR 2559. USCIS did not receive any comments on the 60-day notice. On April 3, 2012, USCIS published a 30-day notice in the Federal Register Notice at 77 FR 20045. USCIS did not receive any comments.

## **9. Explanation of Decision to Provide Payments or Gift to Respondents**

No incentives or payments will be made to respondents.

## **10. Assurance of Privacy Provided to Respondents**

Because some of the information to be collected in this study is sensitive, special care will be taken to protect the privacy of both the individuals and the firms participating in the study. At a minimum, the following safeguards will be taken to ensure respondent privacy:

- o All contractor personnel working on the data collection efforts will sign an Assurance of Confidentiality Statement (see Attachment D).

- o No public use microdata files containing data from this study will be issued.
- o The study contractor will remove all identifying information for individuals and organizations from the microdata before delivering the file to DHS.

The following disclosure statement, signed by the Director of Research and Evaluation, will be sent as an email attachment to a letter sent by the contractor to E-Verify employers to be surveyed (Attachment E):

The U.S. Citizenship and Immigration Services (USCIS) is pleased that you have volunteered to participate in the E-Verify Program, which is administered jointly by USCIS and the Social Security Administration.

An integral part of this program, as described in the Memorandum of Understanding that you signed when you registered to participate in E-Verify, is an evaluation to assess the effectiveness of the program. The goals of the evaluation are to understand whether the Program is working as intended and to determine whether the Program is protecting against discrimination, safeguarding privacy, and avoiding undue employer burden. Congress is interested in this information to help it determine whether E-Verify should be made mandatory for a larger group of employers and, if so, what modifications to the current Program need to be made. Your participation in this evaluation will, therefore, be an important factor in the future direction of employment verification in this country.

As part of this evaluation, we have authorized Westat, an independent social science research firm, to conduct a survey of 3,000 E-Verify participants. Westat will not provide DHS or others who are not part of the evaluation team with data containing identifiable information about organizations or individuals. Only summaries of results, which do not permit identification of individual respondents or corporate names or locations, will be released to the public. We plan to publish the final report with the survey results on the Web; this will give you an opportunity to see how the information that you and others provide is being used to improve the E-Verify Program.

I would very much appreciate your full cooperation with Westat's request that you participate in this important evaluation, entitled the Study of Employment Eligibility (SEE). On behalf of USCIS, I would also like to take this opportunity to thank you for your participation in the E-Verify employment verification program. If you have any concerns regarding the evaluation, please call Natasha McCann, Program Manager, at (202) 272-8122.

The following OMB notice will be included on the first page of the Web survey of employers:

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources and maintaining the data needed, and completing and reviewing the collection of information. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB number. Send comments regarding this burden of estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: Mr. Sunday Aigbe, Chief, Regulatory Management Division, U.S. **Department of Homeland Security**, 111 Massachusetts Avenue NW., 3<sup>rd</sup> Floor, Washington, DC 20529. *Do not return the completed form to this address.*

## 11. Additional Justification for Sensitive Questions

The instruments in this package include a number of questions about whether employers are engaging in prohibited behavior. For example, in the Web survey of employers, employers are asked whether they inform workers privately about tentative nonconfirmation findings and whether they limit work assignments, training, or withhold or reduce pay until they are sure the employee is authorized to work. These sensitive questions are necessary because they will provide important information about the effectiveness and costs of the program as well as the implications of the program for discrimination and privacy. Congress mandated the study of these issues regarding the earlier pilot programs and has remained interested in changes with regard to these behaviors over time.

To protect the privacy of individuals and establishments, the microdata delivered to DHS for this study will contain no organizational or individual identifiers, and DHS will not issue any public use files from the evaluation. Quantitative information in reports will be based on aggregate information. Some specific quotations and synopses of open-ended questions in the surveys will be published to illustrate particular types of situations; however, the contractor will review this information carefully to ensure that individual identification of the respondent is not possible.

## 12. Estimates of the Hour Burden of Collection of Information

With respect to the burden imposed on respondents, Exhibit 1 shows the number of anticipated respondents, the number of administrations for each type of respondent, and the estimated time to complete each administration. Burden, in hours, is totaled for all respondents. The estimated time to complete the Employer Survey was based on prior experience on similar E-Verify surveys. The survey contains many skip patterns, so there is variation in the amount of time needed to respond. Based on the results of a hardcopy pre-test conducted in 2010, the companies taking the most time will need approximately 40 minutes to complete the survey. Given the skip patterns and the Web design, we think that 30 minutes is roughly correct across all respondents.

### Exhibit A-1. Estimates of respondent burden

Type of form and type of respondent	Anticipated respondents	Administrations per respondent	Estimated time to complete	Burden in hours
Employer Survey	2,800	1	.50 (30 min.)	1,400
<b>Total</b>	<b>2,800</b>			<b>1,400</b>

The estimates of annualized cost to the public (respondents) associated with the collection of information are calculated as the total hours of burden (see Exhibit A-1 above) times the appropriate hourly wage category divided by the length of time of the study. The wage rate for employers nationally was estimated at \$52 per hour (<http://www.bls.gov/oes/current/oes113121.htm>). These estimates are based on the average full-time hourly earnings of managers in human resources departments in the private sector.

Exhibit A-2 shows the annualized costs to the public (respondents) for the hour-burden for data collection.

**Exhibit A-2. Annualized costs to the public for hour-burden E-Verify data collections**

<b>Collection</b>	<b>Hourly wage</b>	<b>Burden hours</b>	<b>Total</b>
Employer Survey	\$52.00	1,400	\$72,800
<b>Total</b>	<b>\$52.00</b>	<b>1,400</b>	<b>\$72,800</b>

**13. Estimate of Other Total Annual Cost of Burden to Respondents to Support Recordkeeping Requirements**

There are no capital or start-up costs associated with these collections. Any cost burdens to respondents as a result of this collection are identified in question A.12. There is no fee associated with collecting this information.

**14. Estimates of the Annualized Cost to the Federal Government**

The Base Year cost, for contract HSSCCG-11-Q-00556 to Westat, which also includes costs for analyzing the Transaction Database using existing data, is estimated to cost the Federal government about \$1.15 million for contractual services. This estimate includes labor costs and operational expenses such as designing the study; determining sample design and selection; recruiting participants; printing materials; programming the Web survey and management system; coding responses; paying for overhead and support staff; conducting online focus groups with employers to pretest protocols; and costs for data processing; compiling secondary data; performing software tests; conducting analysis; and preparing reports. In addition, an estimated cost of \$150,000 for federal salaries and related expenses, making the total annualized project cost \$1.3 million.

**15. Explanation for Changes in Burden Hours**

There has been an increase of 120 estimated burden hours previously reported for this information collection (OMB 1615-0115). This can be attributed to an increase in the number of respondents from 2,480 to 2,800. This collection has been submitted as a new collection, however, USCIS will discontinue previously approved E-Verify Program Data Collection (1615-0115).

**16. Plans for Tabulation and Publication**

The time schedule for the conduct of the data collection, tabulation, analysis, and preparation of reports on the E-Verify Survey of Employers is shown in Exhibit A-3.



### Exhibit A-3. Project schedule for E-Verify Survey of Employers

Activity	Date to start	Date to complete
<b>Data Collection Activities</b>		
Collect data for Web survey of E-Verify employers	3/6/13	6/3/13
Clean data for Web survey	6/5/13	6/10/2013
<b>Report Writing</b>		
Weight Web survey data	6/11/2013	6/14/2013
Analyze Web survey data	6/17/2013	6/28/13
Write interim study Web survey working paper for USCIS review	7/1/13	7/19/13
Write first draft of Web survey report for USCIS review	8/9/13	8/29/13
Complete final draft of Web survey report	9/18/13	10/9/13
Informal briefing for USCIS	10/9/13	1/18/14

Examples of the key research topics to be addressed in the Web survey report:

- o Has E-Verify been properly implemented, and does employer compliance vary based on industry or whether they operate in a mandatory or voluntary environment?
- o How satisfied are employers with the E-Verify Program? Has this changed since the 2010 and 2008 Web surveys? How does this differ between employers that are mandated to use E-Verify and those that use it voluntarily? How does it differ between employers that have had TNCs recently and those that have not had TNCs?
- o How is the program associated with the levels of verification-related discrimination appearing in the workplace? Does this differ between employers using E-Verify voluntarily and those mandated to use it?
- o How is program participation associated with the privacy and security of information on workers and employers?
- o What are the financial costs and other burdens associated with E-Verify use? Has this changed since 2010 and 2008?
- o What factors are important in employers' decisions to use E-Verify?
- o What are the reasons that some employers sign up to use E-Verify then either don't use it or stop using it?

### Web Survey Analyses

Many of the Web survey analyses will consist of descriptive statistics (e.g., percentages, means, medians, and standard deviations, as appropriate), cross-tabulations, and graphical summaries to describe the E-Verify verification process, and the characteristics and employment verification experiences of employers in the target population. In addition, the descriptive analyses will provide a starting point for subsequent analyses. While these

analyses will not establish causality, they will provide preliminary insight on the hypothesized relationships.

Analyses of major data elements of the program implementation will result in an overall picture of how employers that participate in E-Verify conduct employment authorizations, their perceptions of E-Verify, and their opinions concerning different features of E-Verify that are being implemented or may be implemented. It will also help to quantify the percentages of employers that signed up for E-Verify but are not using it simply because they had no cases, found it burdensome, etc. As a rule, the data to be collected are categorical; however, means and medians may still be used based on scales that combine multiple responses (e.g., the number of tests used as part of the hiring process).

Comparative analyses will be used to compare employer responses to the 2013, 2010, and 2008 surveys to determine changes over time. Additional analyses will be done to determine the relationship of employer characteristics such as industry and size with outcome variables such as satisfaction, burden, and compliance. Tests of significance will be conducted using statistics such as chi-squared, *t*-tests, or logistic or multiple regression. WesVar will be used in these analyses as appropriate to take into account the complex sampling that will be used in this study.

We anticipate using NVivo to help perform content analyses of responses to open-ended questions on the Web survey.

#### **17. Plans to Display Expiration Date for OMB Approval**

All surveys conducted under this clearance process will display the OMB clearance number. The Web survey will include the OMB expiration date on the login page.

#### **18. Explanation of Any Exceptions to the Certification Statement**

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

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

Supplemental Supporting Statement B