

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) to conduct the most recent in a series of evaluations 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.¹

- Effective January 1, 2008, the Legal Arizona Workers Act mandated the use of E-Verify for all Arizona employers.²
- Mississippi began phasing in the E-Verify mandate for its employers based on size beginning with larger employers. Effective July 1, 2008, Mississippi employers with 250 or

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

² The Legal Arizona Workers Act, as amended, prohibits businesses from knowingly or intentionally hiring an "unauthorized alien" after December 31, 2007. Under the statute, an "unauthorized alien" is defined as "an alien who does not have the legal right or authorization under federal law to work in the United States." The law also requires employers in Arizona to use the E-Verify system (a free web-based service offered by the U.S. Department of Homeland Security) to verify the employment authorization of all new employees hired after December 31, 2007.

more employees were required to use E-Verify; all employers in Mississippi were required to use E-Verify by July 1, 2011.

- South Carolina required all state contractors to use E-Verify effective January 1, 2010, and required all employers to use E-Verify effective January 1, 2012.
- Alabama required all state contractors to use E-Verify effective January 1, 2012, and required E-Verify use for all employers effective April 1, 2012.
- Tennessee has begun to phase in the E-Verify mandate for its employers based on size beginning with larger employers. Employers with 500 or more employees were required to use E-Verify effective January 1, 2012; employers with 200-499 employees were required effective July 1, 2012; and employers with 6 to 199 employees will be required effective January 1, 2013. Employers with fewer than 6 employees will not be required to use E-Verify.

Thirteen additional states mandate the use of E-Verify for some employers, such as state agencies and contractors (i.e., Colorado, Florida, Georgia, Idaho, Indiana, Louisiana, Minnesota, Missouri, Nebraska, North Carolina, Oklahoma, Utah, and Virginia).

Because of the constant flux in program participation requirements, as well as in the nature of the program itself, it is important to continue to gain a better understanding of the issues that should be evaluated as USCIS prepares for a mandatory national program.

This data collection for a national onsite study is essentially a case study. The protocols to be cleared request information from E-Verify employers with at least three employees who have recently received tentative nonconfirmation (TNC) findings as well as from the employees who received the TNCs. A TNC means that the Social Security Administration (SSA) and/or the U.S. Department of Homeland Security (DHS) could not confirm that the employee's information matches government records. The attached employer and worker interview protocols (Attachments A and B) are similar in content to instruments used in a previous national onsite study (FY2008) and an

onsite study conducted in Arizona where E-Verify was mandated (FY2010). However, they have been modified to address the specific requirements of the current evaluation. In particular, a few questions have been added to obtain information about employers' awareness of and experiences with the Self Check Service, a recently implemented USCIS online service for 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. This service is available to all citizens and non-citizens interested in learning about their employment eligibility. Including a few questions on the 2013 protocols will provide some initial data on employers' and workers' opinions about the Self Check service. Other topics that have been added to the protocols since the Arizona or the 2008 national onsite studies include employers' understanding about inputting complex names, whether employers check if documents appear to be fraudulent, employers' E-Verify procedures for rehires, and experiences regarding the use of photo matching for passports. Additional modifications have been made to clarify question wording or response options, and to delete items that are no longer relevant (such as a question regarding Social Security Administration "mismatch" letters). E-Verify Employer Agents (EEAs) and their clients are not included in this data collection to avoid undue burden on them, since they were the subject of an in-depth case study in 2010.

To verify that any new or modified questions for employers are clear, Westat submitted the protocols for review by their Instrument Design, Evaluation, and Analysis group and pretested new and modified questions with nine employers through individual in-person interviews. Westat modified the protocols based on input from the participants. The worker protocol was not tested because most of the questions have been used before. In addition, this population is very difficult to locate because many are not eligible to work in the United States and are therefore no longer working for the employer.

This case study is designed to better understand how well E-Verify is working and how it might be improved, how satisfied employers and workers are with various program features and resources, reasons for using the program, how well they understand and comply with the E-Verify Program requirements, and how companies and workers in voluntary as compared to mandatory environments are implementing the Program. The protocols include a number of questions contained in previous onsite studies in order to understand, in a general way, changes 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, workers, and Federal agencies are substantial, DHS believes that a timely evaluation of E-Verify focused on employers and their workers who received the TNCS 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 and workers in anticipation of the enactment of mandatory state and/or national employment eligibility verification programs for all or a substantial number of employers nationwide. 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.³

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 employers and workers with TNCs. To meet these goals the evaluation will:

- Describe how well employers with workers who have received TNC findings 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 workers' rights 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 employers' awareness, experiences, and opinions about recent major changes in the program; and
- Describe the experience of workers who have received TNCs and their opinion about the E-Verify program.

To address these issues, the proposed evaluation design requires original data collection from E-Verify employers with workers who have received TNC findings and from the workers who received TNCs. 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

³ <http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=8459535e0869d110VgnVCM1000004718190aRCRD&vgnnextchannel=534bbd181e09d110VgnVCM1000004718190aRCRD>

opinions about various features of E-Verify will be obtained from companies. Information about the job application and hiring process, experiences regarding the receipt and contesting of a TNC, and opinions about E-Verify will be obtained from workers who received TNCs.

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 information 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

Employer and worker interviews will be conducted as computer-assisted personal interviews (CAPI), in which interviewers will ask questions and record the answers in a computer-based program. Field interviewers will conduct CAPI interviews at the employer's place of business and in workers' homes using a laptop computer. CAPI will allow for the electronic transmission of responses and provide automated edit checks and skip patterns to reduce the errors resulting from missing questions that should be asked and asking questions that are not relevant for a particular set of responses. The interview will be made available in Spanish, and Westat will use bilingual field interviewers for workers who prefer to conduct the interview in Spanish.

4. Efforts to Identify Duplication and Use of Similar Information

A biannual web survey is conducted of a sample of **all** E-Verify employers, which provides some information about employer

experiences with TNCs. In contrast, the proposed onsite study includes only employers with at least three workers that have recently received TNCs and it collects more in-depth information about their experiences with TNCs. Thus, the focus is on the more complicated cases, which if not handled correctly, may result in violations of worker rights and discrimination against foreign-born workers with employment authorization. More important, the onsite study is the only E-Verify study that collects information from workers who have received TNCs, which allows for a comparison of worker and employer responses for many of the data items. The onsite study also is the only E-Verify study in which workers' E-Verify records (e.g., Form I-9, TNC documentation and notices) are examined and compared to data contained in the E-Verify Transaction Database (TDB). In addition to determining whether the information in the worker's file is consistent with that in the government database, the purpose of the record review is to determine whether employers are retaining the correct worker E-Verify documents in their files, and if these have been completed accurately (e.g., missing important dates or signatures).

Two other onsite studies have been conducted in recent years — a national study in FY2008 and a study focused on Arizona in FY 2010. Many changes have occurred in the program over time, so it is important to study to what extent employers and workers are aware of and understand these changes, particularly as E-Verify becomes mandated for increasing numbers of employers.

5. Impact on Small Businesses or Other Small Entities

Due to the criteria used to select possible employers to be interviewed (i.e., employers must have at least three workers who have received TNCs within the last 3 months prior to sample selection), few, if any, small businesses will be asked to complete the interview.

6. Consequences of Not Collecting the Information

E-Verify and the characteristics of employers using the program 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. This is the only data collection of information from workers who have received TNCs. As the population of E-Verify employers and their workers changes, it is reasonable to expect that opinions about the program, how it is used, and the extent of compliance with E-Verify procedures will change. Therefore, regular evaluation is prudent for gauging progress and detecting new challenges to direct policy and further program improvements. Without the benefit of conducting a study of both employers and their workers, policy, program, and legislative decision making would be made using out-of-date or partial information potentially resulting in suboptimal results.

7. Special Circumstances Relating to the Guidelines of CFR 1320.5

The sampling strategy is designed to collect a sample that is representative of the population of interest. However, based on previous experience with similar data collection efforts and despite aggressive recruitment efforts, the response rates for workers (many whom are undocumented and highly mobile) are low. Additionally, likely nonresponse bias has been sufficiently high to preclude claiming that the completed sample was statistically representative of the population. Therefore, in the past, we have treated the study as a case study, and are doing so for the current study.

The other 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; 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

Public comments have been solicited and addressed for this data collection effort. Any public comments were reconciled and addressed in the justification package submitted with this submission.

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:

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

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 from the earlier evaluations.

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

To increase the likelihood that the workers will agree to be interviewed, we propose an incentive of \$35, since it is expected that

respondents will include a large number of undocumented immigrants who are difficult to locate and likely to be reluctant to participate. In the 2010 Arizona onsite study, the worker incentive was \$25. Given that the response rate for workers in the 2009 onsite study was 30 percent and only 18 percent for the Arizona study, a slight increase in the incentive might increase worker participation in the study.

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 to the extent permitted by law. At a minimum, the following safeguards will be taken to ensure respondent privacy:

- All contractor personnel working on the data collection efforts will sign an Assurance of Confidentiality Statement (see Attachment C).
- No public use data files containing data from this study will be issued.
- The study contractor will remove all identifying information for individuals and organizations from the data before delivering the file to DHS.

The contractor introductory email letter for employers (see Attachment D) provides a statement of privacy to the extent permitted by law and these statements are reiterated in the fact sheet that will be sent as an attachment to the letter (see Attachment E). Additionally, a letter from the director of USCIS' Office of Policy and Strategy, which includes a disclosure statement, will be sent as an email attachment to sampled E-Verify employers (see Attachment F). In the recruitment script that the contractor will use as a follow up to the email letter, the privacy statement will be mentioned again (see Attachment G).

Workers who are recruited for the study will receive a letter, signed by the Director of Research and Evaluation that provides a privacy statement (see Attachment H). Workers will also receive the

contractor's brochure about the study, which contains a privacy statement (see Attachment I).

The following OMB notice will be included on a document given to each employer and worker respectively prior to each interview:

Fact Sheet for Employers

Public reporting burden for this collection of information is estimated to average 150 minutes per respondent, including the time for responding to the questions, demonstrating use of the E-Verify system, and pulling worker records. 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: Ms. Laura Dawkins, Chief, Regulatory Division, U.S. Citizenship and Immigration Services, 20 Massachusetts Avenue NW., Washington, DC 20529

The brochure provided to workers will include the following statement:

All responses to this interview are private to the extent permitted by law. Westat will only provide summary results to U.S. Citizenship and Immigration Services. These summaries will not permit identification of specific individuals.

Public reporting burden for this collection of information is estimated to average 60 minutes per respondent, including responding to the questions. 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: Ms. Laura Dawkins, Chief, Regulatory Division, U.S. Citizenship and Immigration Services, 20 Massachusetts Avenue NW., Washington, DC 20529.

11. Additional Justification for Sensitive Questions

The instruments in this package include a number of questions about whether employers and workers are engaging in prohibited behavior. For example, workers are asked whether they were work-authorized at

the time they applied for employment, and employers are asked whether they inform workers privately about TNC 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 in these behaviors over time.

To protect the privacy of individuals and establishments, the data 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 protocols will be published to illustrate particular types of situations; however, the contractor will review this information carefully to ensure that individual identification of respondents 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 pull worker records for review, complete the employer and worker interviews, and to demonstrate use of the E-Verify System (if employers have new hire data to enter when the contractor is onsite) was based on prior experience with E-Verify onsite studies. The interview protocols contain many skip patterns, so the amount of time needed to respond may vary widely.

Exhibit A-1. Estimates of respondent burden

Type of form and type of respondent	Anticipated respondents	Administrations per respondent	Estimated time to complete (in hours)	Total Annual Burden (in hours)
Pulling of worker records, CAPI interview with employers and demo of E-Verify System	250	1	2.30 minutes (2.50 hours)	625
CAPI interview with workers	400	1	1 hour	400
Total	650			1,025

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 based on the average full-time hourly earnings of managers in human resources departments in the private sector (<http://www.bls.gov/oes/current/oes113121.htm>). The rate for workers was estimated at \$22 per hour based on the average hourly wage for all occupations (http://www.bls.gov/oes/current/oes_nat.htm#00-0000).

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

Collection	Hourly wage	Burden hours	Total
Employer activities (pulling	\$52.21	625	\$32,631

records, CAPI interview, demo of system use)			
Worker interview	\$21.74	400	\$8,696
Total			\$41,327*

*The incentive of \$35 x 400 respondents for the worker data collection = \$14,000, which helps offset the total annualized cost of \$41,327.

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

For contract HSSCCG-11-Q-00556 to Westat, the estimated to cost of the onsite study to the Federal government is about \$1.43 million for contractual services. This estimate includes labor costs and operational expenses such as designing the study; determining sample design and selection; developing and testing the protocols; programming the management system and the protocols for computer-assisted personal interviewing (CAPI); developing the training manuals and recruiting and training the field data collectors; recruiting employers and conducting the interviews; conducting record reviews to verify that information in the employer’s files matches data in the E-Verify database⁴; travel to employer and worker sites; coding open ended responses; data processing; performing software tests; analyzing data; and preparing reports. In addition, an estimated cost of \$150,000 for federal salaries and related expenses brings the total project cost to \$1.58 million.

⁴ Please note that we are not requesting OMB approval for the record reviews since we are not collecting these data from respondents.

15. Explanation for Changes in Burden Hours

There has been a change in the estimated burden hours previously reported for this information collection. The contractor had to increase the number of completed employer interviews from 135 in previous onsite studies to 250 because of a decrease in the average number of TNC's employers have received over the last several years. This increase in employer interviews should enable Westat to conduct interviews with approximately 400 workers.

16. Plans for Tabulation and Publication

The time schedule for the conduct of the data collection, tabulation, analysis, and preparation of a report on the Onsite Study is shown in Exhibit A-3.

Exhibit A-3. Project schedule for E-Verify Onsite Study

Activity	Date to start	Date to complete
Data Collection Activities		
Recruit interviewers	2/25/13	7/15/13
Review and revise training materials for interviewers	2/25/13	7/12/13
Train supervisors and interviewers	8/4/13	8/9/13
Recruit employers	8/12/13	1/10/14
Conduct site visits and interviews	8/19/13	1/31/14
Report Writing		
Code open-ended data	11/12/13	2/15/2014
Clean close-ended data	2/3/14	2/10/14
Analyze data	2/11/14	3/31/14
Write interim study report for USCIS review	3/24/14	4/25/14
Write draft final report (based on USCIS review)	5/12/14	6/16/14
Complete final report	6/30/14	7/18/14
Prepare and conduct briefing for USCIS	7/21/14	7/28/14

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

- Has E-Verify, especially provisions related to handling TNCs, been properly implemented?
- How satisfied are employers with the E-Verify Program? What program improvements would employers like to see?
- How is the program associated with the levels of verification-related discrimination appearing in the workplace? How is program participation associated with the privacy and security of information on workers and employers?
- What financial costs and other burdens associated with E-Verify use are experienced by employers?
- What burdens are experienced by workers who have received TNCs?
- To what extent do employers perceive that recent changes such as the Self Check Service have affected their opinions about the burden of and satisfaction with E-Verify?

Analyses

Many of the analyses will consist of descriptive statistics (e.g., numbers and percentages), cross-tabulations, and graphical summaries to describe the E-Verify verification process, and the characteristics and employment verification experiences of employers and workers in the target population.

Westat will use NVivo to help perform content analyses of responses to open-ended questions on the employer and worker interview protocols.

Analyses of major data elements of the program implementation will result in an overall picture of how employers with workers who have received TNCs conduct employment authorizations, their perceptions of and experiences with E-Verify, and their awareness of and opinions about different features of E-Verify that are being implemented or may be implemented. Analyses will also provide a detailed description of the experiences of workers who receive a TNC and their opinions of E-Verify. To the extent possible, employer and worker responses to comparable questions will be compared with those from the previous national study to obtain a general sense of changes over time.

17. Plans to Display Expiration Date for OMB Approval

All protocols used under this clearance process will display the OMB clearance number and the OMB expiration date on the first page. This information will be included in a document provided to respondents.

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.

See Supplemental Supporting Statement B