

## SUPPORTING STATEMENT A

### E-Verify Program Data Collections: 2015 Survey of E-Verify Employers OMB Control No.: 1615-0127

#### 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. Since 2000, DHS has been conducting national surveys almost biennially to continue assessing changes to E-Verify and the extent to which it is meeting the goals set by IIRIRA.

As part of the ongoing evaluation of E-Verify, the proposed 2015 National Survey of E-Verify Employers will address both changes in E-Verify and its population. Specifically, the new data collection will continue to assess the impact of major programmatic changes since 2009 as well as key enhancements in 2013 that have altered the business rules of processing Tentative Nonconfirmations (TNCs). In addition, there is interest on the part of Congress in expanding the current E-Verify program and possibly instituting mandatory employment verification for all or a substantial percentage of the nation's employers. Currently the Federal Government requires most federal contractors to use E-Verify and a growing number of states have passed legislation mandating the use of E-Verify for all employers. Reflecting these shifts in the E-Verify population, recent evaluations show that the percentage of employers with federal, state, or local requirements to use E-Verify increased from 53 percent in 2010 to 62 percent in 2013.

Because of ongoing changes in program participation requirements and the nature of E-Verify itself, it is important to assess the extent to which E-Verify is meeting its goals and to track potential shifts in employer perceptions of the Program, how it is used, and levels of compliance with E-Verify procedures.

The instrument to be cleared is a revision of the instrument submitted earlier to OMB for the 2013 Survey of E-Verify Employers (OMB control number 1615-0127). The revised employer survey is similar in content to instruments used in evaluating the IIRIRA pilot programs and in prior (2008, 2010, and 2013) employer surveys. Attachment A shows the version of the 2015 survey that was pretested. Most of the questions in the 2015 survey are adapted directly from the 2010 and 2013 surveys. Given recent changes to E-Verify and its population and an apparent decreasing employer willingness to complete the survey, it is important that the 2015 survey retain only those questionnaire items that continue to address core E-Verify goals and issues while introducing new items to capture key programmatic changes. Thus, a primary consideration in the design of the 2015 study is to reduce the length of the questionnaire by dropping items that overlap with other questions, items that were overly burdensome to respondents,<sup>1</sup> and items that

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<sup>1</sup> Overly burdensome questionnaire items were identified during the administration of the 2013 survey as questions that require extensive followup efforts for data retrieval and clarification.

have not been used in previous reports of study findings (mostly because they were no longer relevant to the current research questions).

As a first step to designing the 2015 survey of E-Verify employers, the U.S. Citizenship and Immigration Services (USCIS) contractor established a working group of USCIS content experts, in-house survey methodologist, and E-Verify evaluation researchers to assess the relevance, usefulness, and burden of each survey item in relation to the core goals of E-Verify, changes in the Program, and changes in the population of E-Verify users. Based on the working group's recommendations for changes to the 2015 survey, Westat added a series of new items to address the following E-Verify changes that occurred since the implementation of the 2013 survey.

- In September 2013, E-Verify replaced the TNC Notice and Referral Letter with the Further Action Notice (FAN) and Referral Date Confirmation. These enhancements have changed the business rules for E-Verify. The new survey items ask employers if they used the FAN, how satisfied they were with it, and the procedures they followed in using the FAN and the Referral Date Confirmation.
- In 2013, E-Verify implemented email notifications to workers with TNCs. With this change, employers are required to submit their workers' email addresses to E-Verify if the worker provided this information on their Form I-9. The new survey items ask employers how often workers provided this information, how often employers submitted this information if it was provided, and reasons the employer did not always submit the information.
- The E-Verify system generates a duplicate case alert if the social security number entered matches a recently submitted case. The new survey questions ask employers if they ever encountered this alert and how they responded to it.

Other modifications were made to clarify question wording or response options and to delete items that are no longer critical to the evaluation of E-Verify. For example:

- Six questions about the financial costs of setting up and maintaining E-Verify were replaced by two questions about the extent to which these overall costs were a burden and one question about the cost-effectiveness of E-Verify to be asked of mandated and inactive employers only.
- Four questions for employment agencies were dropped because they were either too burdensome or not reported in the 2013 report of study findings.
- Five questions about company characteristics were dropped because these data were not used in the analysis of the 2013 report. For example, data on company size were taken from the E-Verify Transaction Database instead of the 2013 survey question that asked about the number of employees.

To verify that 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 (employment agencies and companies that are small, medium-sized, large, and very large), and slightly different questions were asked in each group. Each group included representatives from nine or fewer employers, with only one representative participating per

employer. All feedback from these sessions was recorded and summarized in a pretest report. Westat modified the survey based on input from the participating employers.<sup>2</sup>

As in the past, the proposed 2015 survey is designed to better understand how well E-Verify is meeting its goals and how it might be improved, how satisfied employers are with various Program features and resources, reasons for using the Program, how well employers understand and comply with the E-Verify Program requirements, and what impact the Program currently has on companies in voluntary as compared to mandatory environments. The expectation is that this information will help inform future legislation and policy making, improve E-Verify Program administration, and lead to overall 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 employers to evaluate how well E-Verify is working to meet the goals established by IRIRRA in the context of changes in the Program and changes in the population of E-Verify users. Building upon recent evaluations, the proposed study will be designed to 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 2015 study will address the following broad research questions:

- What is the profile of E-Verify employers and why do they use E-Verify?
- To what extent is E-Verify meeting its goals to reduce unauthorized employment, reduce verification-related discrimination, prevent undue burden on employers, and protect workers' privacy and civil liberties?
- How well do employers understand E-Verify requirements and comply with those requirements? To what extent do they comply with procedures related to recent E-Verify enhancements including the FAN, Referral Date Confirmation, submitting email addresses to allow for email notification to workers, and responding to duplicate case alerts?
- How satisfied are employers with E-Verify features and resources and communication with USCIS?
- How can E-Verify be further improved in the future?

The proposed evaluation design requires original data collection from employers that have signed a Memorandum of Understanding (MOU) to use E-Verify. The survey will obtain primary data about the extent to which E-Verify continues to meet its goals, the extent to which employers understand and comply with ongoing and new E-Verify requirements in a mandated and

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<sup>2</sup> A generic OMB package to pretest the revised questionnaire has been prepared and will be submitted to OMB in December 2014 or January, 2015.

voluntary environment, how employers learned about E-Verify and their reasons for using the program, and employers' opinions about various features of E-Verify.

Findings from past evaluations of E-Verify have been used extensively by DHS to improve the 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. To pretest the 2015 survey items, focus groups participants received and responded to questions using a paper version of the survey. The focus groups were conducted using WebEx, a Web based system that integrates live audio and video via participants' own telephones and computers. Upon approval, the 2015 Survey of E-Verify Employers will be posted at link that is being developed. The current placeholder URL is <https://www.everifystudy.org>.

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

There is no other similar information currently available that can be used to evaluate current use of E-Verify and trends in recent years, particularly as the Program 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., 2013, 2010 and 2008 E-Verify surveys) 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 about 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 changes, it is reasonable to expect that employers' 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**

On February 11, 2015 USCIS published a 60-day notice in the Federal Register at 80 FR 7625. USCIS did not receive comments after publishing that notice. On April 29 2015, USCIS published a 30-day notice in the Federal Register at 80 FR 23807. USCIS has not received comments to date on that notice.

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

In developing the evaluation design for the data collection efforts, the USCIS contractor has built into the design and data collection methodology the lessons learned in the data collections for the earlier evaluations. In addition, the contractor established a working group of USCIS content experts, in-house survey methodologist, and E-Verify evaluation researchers to assess the relevance, usefulness, and burden of each survey item in relation to the core goals of E-Verify, changes in the Program, and changes in the population of E-Verify users. Based on input from the first working group meeting, the contractor added a series of new items for the 2015 survey, dropped several questions from the 2013 survey, and modified a few 2013 survey items. The working group discussed these changes at a second meeting and decisions were incorporated into a second draft of the 2015 survey that was sent for USCIS review and approval. This draft will be pretested via focus groups, and a final questionnaire will be submitted to USCIS for approval. USCIS will submit the final questionnaire to OMB.

Recent evaluations have benefitted from input from several professionals in the field, including:

- o Cynthia Helba, Senior Survey Methodologist, Westat
- o Lisa Roney, formerly Director of Research and Evaluation at USCIS
- o Carolyn Shettle, formerly E-Verify Project Director at Westat and Statistician at NSF

## **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 included in a USCIS letter (Attachment B) that the study contractor will send as an attachment to an email (Attachment C).

Assessing the effectiveness of E-Verify is an integral part of this Program, as described in the Memorandum of Understanding that you signed when you registered to participate in 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 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.

To protect the privacy of the information you provide, we have instructed Westat to provide us and others who are not part of the evaluation team with summary results only. These results will not permit identification of individual respondents or corporate names or locations.

The system of records notice for this information collection is Department of Homeland Security U.S. Citizenship and Immigration Services--011 E-Verify Program System of Records. It was published in the Federal Register on August 11, 2014. The related privacy impact assessment is E-Verify Program, dated May 4, 2010.

### **The following OMB notice will be included on the first page of the National Survey of E-Verify Employers:**

An agency may not conduct or sponsor an information collection and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The public reporting burden for this collection of information is estimated at 30 minutes per response, including the time for reviewing instructions, and completing and submitting the form. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this

burden, to: U.S. Citizenship and Immigration Services, Research and Evaluation Division, Office of Policy and Strategy, 20 Massachusetts Avenue, N.W., Washington, DC 20529-2210. OMB No. 1615-0127.

## 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, survey participants 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 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. We expect the survey to take about 30 minutes to complete given the skip patterns in the web survey design and the number of items dropped from the 2013 iteration of the survey. We will either confirm or update this estimate after the 2015 questionnaire is pretested.

### 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 hr. (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 \$53.45 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	\$53.45	1,400	\$74,830
<b>Total</b>	<b>\$53.45</b>	<b>1,400</b>	<b>\$74,830</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 Option Year 2 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 \$1.1 million for contractual services. This estimate includes labor costs and operational expenses associated with designing the study; determining sample design and selection; recruiting participants; printing materials; programming and testing the Web survey and management system; collecting data and conducting nonresponse followup; 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 and conducting the briefing. In addition, an estimated cost of \$160,000 for federal salaries and related expenses makes the total annualized project cost \$1.26 million.

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

There has been no change in the estimated burden hours previously reported for this information collection.

**16. Plans for Tabulation and Publication**

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

**Exhibit A-3. Schedule for data collection, data processing and analyses, and report writing**

<b>Activity</b>	<b>Date to start</b>	<b>Date to complete</b>
<b>Data Collection Activities</b>		
Collect data for Survey of E-Verify employers	7/9/15	9/28/15
Clean data for survey	9/29/15	10/6/15
<b>Data Analysis and Report Writing</b>		
Weight survey data	10/7/15	10/20/15
Analyze survey data	10/21/15	11/4/15
Write interim study working paper for USCIS review	11/2/15	11/23/15



Write first draft of survey report for USCIS review	12/14/15	12/28/15
Complete final report draft and briefing	1/18/16	1/29/16

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

- What are the key characteristics of E-Verify employers? How do companies vary by type of industry, size, E-Verify mandatory status, number of cases transmitted to E-Verify, and number of TNCs received?
- What factors are important in employers' decisions to use E-Verify? What are the reasons that some employers enroll in E-Verify and never use it or stop using it?
- To what extent is E-Verify meeting its goals to reduce unauthorized employment, reduce verification-related discrimination, prevent undue burden on employers, and protect workers' privacy and civil liberties? Has this changed since the 2013, 2010, and 2008 evaluations?
- To what extent do employers comply with E-Verify procedures? Has this changed since the 2013, 2010, and 2008 evaluations? How does employer compliance vary by type of industry or whether companies operate in a mandatory or voluntary environment?
- How satisfied are employers with the E-Verify resources and communication with USCIS? Has this changed since the 2013, 2010, and 2008 evaluations? How does the level of satisfaction 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?

### **Analyses of Data from E-Verify Transaction Database and Survey of E-Verify Employers**

Many of the 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.

Data from the E-Verify Transaction database will be analyzed to provide a profile of E-Verify employers, including company size, industry type, number of E-Verify transactions, and number of TNCs. In addition, survey data will be used to provide a profile of employers that responded to the survey, including how companies first learned about E-Verify and their reasons for using the Program.

Analyses of survey data on major data elements of E-Verify implementation will result in an overall picture of how employers that participate in the Program 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 of reasons such as they had no cases or they found it burdensome. In general, the data to be collected are categorical.

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. While these analyses will not establish causality, they will

provide preliminary insight on the hypothesized relationships. 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 will use NVivo to help perform content analyses of responses to open-ended questions on the 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.**

See Supplemental Supporting Statement B.