

Form G-1617-012 Revision - Responses to 60-day FRN Public Comments

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Comment ID/Topic	Comment Summary	USCIS Response
Topic 1. Mismatch correction and worker notice.	Commenter: Makita Thatcher	
0098	<p>1. Mismatch correction and worker notice.</p> <p>USCIS should ensure that any tentative nonconfirmation, final nonconfirmation, case closure, referral, duplicate case, photo mismatch, document mismatch, or data mismatch is accompanied by clear worker notice in plain language.</p> <p>The notice should explain the specific issue, the record or agency source involved, the worker's deadline, the steps required to contest or correct the result, and what the employer may and may not do while the case is pending.</p> <p>2. Employer obligations.</p> <p>The collection instruments, memoranda of understanding, training materials, and user screens should clearly instruct employers that they may not terminate, suspend, reduce hours, delay training, withhold pay, or otherwise penalize a worker solely because of a tentative or unresolved E-Verify result.</p> <p>USCIS should require employers to preserve proof that required notices were provided and that workers were given a meaningful opportunity to contest a mismatch.</p> <p>3. Audit logs and preservation of the record.</p> <p>USCIS should preserve records sufficient to reconstruct each case, including information entered by the employer, system responses, timestamps, notices generated, referral dates, worker decisions to contest or not contest, employer actions, case closures, final determinations, and any later correction or reopening.</p> <p>If an E-Verify result later affects employment, immigration eligibility, benefits, enforcement,</p>	<p>Response: Please see USCIS's responses below. https://www.e-verify.gov/e-verify-records-retention-and-disposal-fact-sheethttps://www.e-verify.gov/fag/how-do-i-correct-a-case-with-invalid-informationhttps://www.uscis.gov/i-9</p> <ol style="list-style-type: none"> USCIS currently provides the requested information to employees and employers in a Further Action Notice or FAN. The FANs go through extensive clearance, including plain language review, before publication. The requested guidance is currently found in all versions of the Memorandum of Understanding. They are also outlined in the proposed Terms of Service. Regarding the request for USCIS to require employers to preserve required notices, USCIS does not have the authority to dictate a company's internal records retention policies. Form I-9 retention obligations are outlined in 8 CFR 274a.2(b)(2). Guidance on E-Verify records retention policies can be found on the E-Verify Records Retention Download Instructions webpage: https://www.e-verify.gov/e-verify-records-retention-download-instructions. USCIS currently stores the suggested data for the time period required under the National Archives and Records Administration (NARA) records retention and disposal schedule (N 1-566-08-7). Under this schedule, USCIS annually disposes of E-Verify employer records that are 10 years old or older. This reduces security and privacy risks associated with the U.S. government retaining personally identifiable information. To access such information beyond the required retention period, a company's program administrator or corporate administrator

<p>or adjudication, the worker and reviewing authorities should be able to trace the record.</p> <p>4. <i>Correction before consequence.</i></p> <p>USCIS should provide clear correction procedures for mistaken, incomplete, outdated, or mismatched records before an E-Verify result becomes a final employment consequence.</p> <p>The process should address errors involving name changes, transliteration, document numbers, Social Security records, DHS records, citizenship or immigration status records, expired or renewed documents, employer data-entry mistakes, and duplicate or prematurely closed cases.</p> <p>5. <i>Language access and digital access.</i></p> <p>E-Verify notices and instructions should be available in languages commonly used by affected workers, and the process should not depend on digital access alone. A worker should not lose employment because the correction pathway was linguistically inaccessible, technically inaccessible, or unclear.</p> <p>6. <i>Burden and cost.</i></p> <p>USCIS should include the time and burden placed on workers, not only employers or agency users. A worker may need to read notices, contact an agency, gather records, travel, take time away from work, obtain assistance, or correct records held by more than one system.</p> <p>The burden estimate should reflect the practical burden on workers who must resolve mismatches.</p> <p>7. <i>Aggregate auditability.</i></p> <p>USCIS should maintain aggregate data on tentative nonconfirmations, final nonconfirmations, contests, corrections, case closures, employer compliance findings, appeals or reopened cases, known error patterns, language-access needs, and average resolution times.</p>	<p>may download and save a Historical Records Report, See https://www.e-verify.gov/e-verify-records-retention-and-disposal-fact-sheet, to retain such E-Verify case information.</p> <p>4. With respect to data entry errors, an E-Verify user may edit case information before submitting the case. From the Review Case screen, the user can correct information before submitting the case by selecting the Edit Case Details button. Users can also use the Close Case link at the bottom of the review page to close the case without submitting it, then create a new case with the correct information. This guidance is provided in the E-Verify Manual, as well as in E-Verify FAQs here: https://www.e-verify.gov/fag/how-do-i-correct-a-case-with-invalid-information. When a duplicate case is being created in E-Verify, users receive a warning and must select the reason for the duplication from a dropdown.</p> <p>With respect to correcting errors in federal databases, such correction methods are set by the agency which provides such data, not E-Verify. Instructions on contacting these agencies are provided in a Further Action Notice (FAN), if applicable, which an employer may provide to the employee in whichever manner the employer elects, including digitally, printed, translated, etc.</p> <p>5. The longstanding USCIS policy to complete the Form I-9 in English. Only employers located in Puerto Rico may complete the Spanish-language version of Form I-9 instead of the English-language version. Any employer may use the Spanish-language form and instructions as a translation tool. As a tool to assist employers in meeting their employment verification obligations, the same policy applies. See https://www.uscis.gov/i-9. In addition, Supplement A of the Form I-9 allows for a translator or interpreter to assist with completing the Form I-9, which provides the data an employer runs in E-Verify.</p> <p>All materials, including FANs, may be printed by an employer from E-Verify.</p>
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	<p>This data should be available for appropriate oversight by Congress, Inspectors General, courts, and the public so that the program can be evaluated for accuracy, fairness, and burden.</p>	<p>Employers and/or employees are free to enlist interpreter services, if needed.</p> <p>6. Burden estimates determine the average time it takes a respondent to complete an information collection, to include time to review documentation, gather any required documentation and information, preparing statements, and attach any necessary documentation. The impacted respondents for completion of this information collection include employers, recruiters, referrers, state employment agencies, and; employees</p> <p>Regarding the estimated burden for mismatches (TNCs) and corrections, this has always been covered in the burden estimate accounted for employees. In the case of a correction, it would require the employee to take steps outlined in the Further Action Notice.</p> <p>7. E-Verify data is available for internal use, applicable law enforcement investigations, and for oversight purposes, as appropriate, such as requests by Congress. USCIS disagrees that this information should be publicly available since it contains Personally Identifiable Information (PII).</p>
<p>Topic 2. The Proposed Expansion of E-Verify to Include Reverification Raises Significant Statutory and Practical Questions</p>	<p>Commenter: The American Immigration Lawyers Association</p>	
<p>0099</p>	<p>One of the most significant changes included in this information collection is the proposal to add reverification functionality to E-Verify. According to the Summary of Changes, E-Verify will now "support electronic reverification when an employee's work authorization expires," with the stated objective of aligning the system more closely with the existing Form I-9 reverification</p>	<p>Response: Please see USCIS's responses below.</p> <p><i>Reverification:</i> The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Pub. L. No. 104-208, 110 Stat. 3009, created three pilot programs for employment eligibility confirmation. E-Verify is one of these pilot programs. IIRIRA does not explicitly limit the use of E-Verify in the</p>

	<p>process. Left unclear is whether the program will mandate such an action.</p> <p>AILA is concerned that this proposal raises threshold questions regarding the scope of USCIS's statutory authority. Congress authorized E-Verify as an electronic employment eligibility verification pilot program for newly hired employees. By contrast, reverification has long existed as a separate employer obligation completed through Supplement B (formerly Section 3) of Form I-9 pursuant to implementing regulations. The materials accompanying this proposal do not explain the statutory basis for extending E-Verify beyond its traditional hiring function or whether Congress intended reverification to fall within the scope of the existing E-Verify program. Because the proposal appears to represent a significant expansion of E-Verify's role, USCIS must fully explain the statutory and policy basis for this change before the information collection is approved.</p> <p>Separate from those threshold statutory questions, the proposal also raises important concerns under the Paperwork Reduction Act. The addition of reverification introduces an entirely new E-Verify workflow governing existing employees rather than newly hired employees. Yet the published materials consist primarily of interface screenshots and a high-level summary, making it difficult for stakeholders to meaningfully evaluate how the proposed workflow is intended to operate, assess its practical utility, or determine whether the associated burden has been accurately estimated.</p> <p>For example, the proposal does not indicate whether reverification is intended only for employees who were previously submitted through E-Verify or whether employers will also be expected to initiate reverification cases for employees who have never had an E-Verify case. Similarly, while the proposed workflow appears to permit updates to certain identifying information, the published materials do not describe how the process is intended to account for an employee's change in citizenship status to lawful permanent resident after the original E-Verify case was created.</p>	<p>reverification process. Regulations under INA § 274A define "hire" as "the actual commencement of employment of an employee for wages or other remuneration." 8 C.F.R. 274a.1(c). DHS's implementation of regulations for the employment verification process under INA § 274A (i.e., the Form I-9 process) requires reverification of expired temporary work authorization on Form I-9. 8 C.F.R. 274a.2(b)(1)(vii). At no point did either INS or DHS ever vary from the position that reverification is a necessary and integral component of the Form I-9 process, and that failure to reverify as required is a violation of the requirement in 8 U.S.C. 1324a(1)(B) not "to hire for employment in the United States an individual without complying with the requirements of [8 U.S.C. 1324a(b)]." Although the E-Verify program historically limited its verification processes to new hires, that was due to systems limitations, not statutory restrictions. Thus, the addition of reverification to E-Verify is consistent with the continuing obligation on the employer to verify that an employee with temporary work authorization continues to be work authorized. The addition of reverification to the E-Verify process also supports the provision of Executive Order 14159 that mandates "ensuring that employment authorization is provided in a manner consistent with section 274A of the INA (8 U.S.C. 1324a), and that employment authorization is not provided to any unauthorized alien in the United States." Executive Order 14159, <i>Protecting the American People Against Invasion</i> (Jan. 20, 2025).</p> <p>Similar to the current reverification and rehire process for Form I-9 required by 8 C.F.R. § 274a.2(b)(vii), the employer would not collect identity documents or verify identity during reverification in the E-Verify reverification process. Instead, employers will be required to enter the updated employment authorization documentation information the employee provided into E-Verify. The proposed E-Verify reverification process does not change the employer's obligation to update Form I-9 Supplement B with the required reverification information and retain Form I-9 as required by law.</p> <p>As to concerns about which employees will be impacted and how and when to complete a reverification case in E-Verify, this will be outlined in updated training and guidance materials. USCIS acknowledges the questions raised and will address them as part of the implementation process. The published materials were intended to provide high-</p>
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	<p>These are not merely technical implementation details. They directly and substantively affect an employer's ability to understand the proposed collection, evaluate its practical utility, and determine how the new workflow should be incorporated into existing Form I-9 compliance procedures. Accordingly, USCIS must provide additional explanation regarding the operation of the proposed reverification workflow, clarify the circumstances under which employers will be expected to use it, and more fully explain the statutory and policy basis for this significant expansion of E-Verify.</p>	<p>level description of an intended enhancement for which a workflow is yet to be complete.</p> <p>The new information collected will be used and treated in the same manner as the information that is already collected on the Form I-9 and E-Verify. Submission of the information an employee provides on their Form I-9 to USCIS in E-Verify is a voluntary action. USCIS does not see this as a substantial additional burden because, for most employers, a minority of their employees have expiring employment authorization documents. In addition, with limited exceptions, use of E-Verify is not mandatory.</p>
Topic 3. USCIS Must Further Explain the Estimated Burden Associated with Reverification	Commenter: The American Immigration Lawyers Association	
0099	<p>As discussed above, the proposal introduces a significant new workflow supporting reverification within E-Verify. The Federal Register notice estimates that employers will require approximately 0.06 hours (3.6 minutes) to complete each reverification transaction. While that estimate may reasonably reflect the time required for an experienced user to complete a straightforward reverification once the functionality has been fully implemented, the published materials do not explain whether the estimate also accounts for the broader implementation activities that necessarily accompany the introduction of a new information collection.</p> <p>The burden associated with a new information collection extends beyond the time required to complete an individual transaction. Before employers can begin using the proposed reverification functionality, they will need to review revised guidance, evaluate how the new workflow interacts with existing Form I-9 reverification obligations, update internal policies and procedures, revise training materials, and ensure that human resources personnel understand when and how reverification through E-Verify should be used. These implementation activities represent a meaningful component of the overall burden associated with the proposal, yet the published materials do not indicate whether</p>	<p>Response: Analysis of the burden is based on the number of cases in E-Verify whose employment authorization expires, which would then generally require reverification. At this time, the amount of time to complete a reverification case in E-Verify is an estimate based on user testing since it is new functionality.</p>

	<p>they were considered as part of the agency's burden estimate.</p> <p>The published materials also include estimates regarding both the anticipated number of respondents and the estimated time associated with the various E-Verify activities. However, the notice does not explain the methodology or assumptions used to develop these figures. Moreover, based on the information provided, it is difficult to reconcile the published total annual burden with the individual respondent counts and per-response burden estimates set forth in the notice. The materials appear to assume additional information, such as the anticipated number of annual responses, that has not been disclosed. Without additional explanation regarding these assumptions, stakeholders cannot meaningfully evaluate whether the estimated burden has been accurately calculated.</p> <p>Accordingly, AILA recommends that USCIS supplement its burden analysis to more fully describe the assumptions underlying the estimated burden for reverification in E-Verify, including both the estimated time required to complete individual transactions and the methodology used to estimate anticipated program participation. Providing additional transparency regarding these assumptions would better enable stakeholders to evaluate the necessity, practical utility, and burden of the proposed information collection under the Paperwork Reduction Act.</p>	
Topic 4. Additional Recommendations to Improve the Clarity and Utility of the Proposed Information Collection	Commenter: The American Immigration Lawyers Association	
0099	<p>In addition to the comments above regarding the proposed reverification functionality, AILA offers the following recommendations to improve the clarity, practical utility, and implementation of other aspects of the proposed information collection.</p> <p>A. Provide Additional Information Regarding the Proposed Terms of Service</p>	<p>Response: Please see USCIS's responses below.</p> <p>A. <i>Terms of Service:</i> USCIS disagrees that changing from "Memorandum of Understanding" to "Terms of Service" is confusing or misleading. This change is being made in response to feedback from E-Verify participants (received through E-Verify Listens, previous information</p>

	<p>The proposal would replace the longstanding Memorandum of Understanding (MOU) with a new Terms of Service (TOS) governing enrollment in E-Verify. While AILA appreciates USCIS's efforts to consolidate program documentation, the proposed TOS itself does not appear to have been published as part of the information collection materials. Instead, references to the TOS appear only within screenshots of the proposed enrollment workflow. Because the TOS will establish the legal obligations governing participation in E-Verify, stakeholders should have an opportunity to review the document itself before submitting comments on the proposal.</p> <p>Separately, AILA has concerns regarding the proposed change in terminology from "Memorandum of Understanding" to "Terms of Service." For more than two decades, employers, practitioners, state legislatures, and agency guidance have consistently referred to the governing enrollment document as the Memorandum of Understanding or simply MOU. Replacing that well-established terminology with "Terms of Service" may inadvertently suggest that the agreement is comparable to a standard software license or online click-through agreement rather than a document establishing substantive program obligations. If USCIS proceeds with this terminology, additional explanation regarding the purpose and legal significance of the revised agreement would be beneficial.</p> <p><i>B. Explain the Practical Utility of the Proposed Document Information Questions</i></p> <p>The proposal would add three new questions within the Document Information portion of the E-Verify case creation process asking (1) how the employer examined the employee's documents, (2) whether the documents submitted by the employee appear to be correct, and (3) whether the employee is a remote hire. AILA recommends that USCIS more fully explain the practical utility of collecting this additional information.</p>	<p>collection requests and through various other channels), that DHS should create one streamlined, consolidated TOS agreement to replace the six MOUs currently in use. This TOS is intended to provide all E-Verify participants with the terms and conditions governing their rights and responsibilities in E-Verify enrollment and use in one unified document.</p> <p>Under the new TOS, like other commonly used agreements for accessing electronic services, employers and other participants wishing to enroll in E-Verify will review and "click to accept" the electronic E-Verify TOS agreement, which will provide the most efficient means for agreeing to the terms and conditions governing E-Verify enrollment and use. The TOS document has been written with a goal of maintaining current user requirements, responsibilities, and protections while enhancing its organization, readability, and ease of use, as well as updating some terms in relation to E-Verify policies that have changed since DHS last updated the six E-Verify MOUs.</p> <p>For program participants, the TOS will be easier to read and access and eliminate the need for an employer or other entity to have to re-execute its MOU upon a change in its business relationship with E-Verify. For example, if an employer decides to become an E-Verify Employer Agent to create cases on behalf of others, but is otherwise maintaining its legal name and form, then it will not be required to execute a new agreement to reflect that change. In addition, the TOS will more readily allow participants to familiarize themselves with their E-Verify responsibilities when enrolling in and using E-Verify. Other potential benefits for participants include decreased enrollment time, easier enrollment for small business users, and increased transparency in that participants can more easily review the requirements associated with all of the different E-Verify user types.</p>
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<p>First, the proposal appears to collect substantially the same information through two separate questions. Employers are first asked how they examined the employee's documents, with the available responses being either physical document examination or remote document examination under DHS's alternative procedure. Employers are then separately asked whether the employee is a remote hire. However, the accompanying helper text appears to define a remote hire by reference to the same alternative procedure identified in the earlier question. During USCIS' April 14, 2026 listening session regarding Version 32 of the E-Verify Interface Control Agreement (ICA), USCIS explained that these questions are intended to capture different concepts – specifically, the employee's work location and the method used to examine documents. That distinction, however, is not apparent from the proposed information collection materials. USCIS should revise the accompanying instructions or helper text to clearly explain the purpose of each question and the circumstances in which the responses may differ. In addition, USCIS should explain the practical utility of collecting this information and how it will be used in administering the E-Verify program</p> <p>C. Explain the Practical Utility of Additional Interface Control Agreement Data Elements</p> <p>Concurrently with this information collection, USCIS has announced revisions to the E-Verify Interface Control Agreement (ICA) version 32, which governs Web Services integrations used by E-Verify employer agents and E-Verify web services employers. Among other changes, the updated ICA introduces several new data elements, including an I-766 extension method, TPS designated country, and DED covered country fields that appear intended to support the functionality proposed in this information collection.</p> <p>Because employers are instructed that information entered into E-Verify should be taken from the completed Form I-9, it is not apparent how employers are expected to accurately provide these additional data elements. Unlike many of the data elements currently submitted to E-Verify, this</p>	<p>B. "Terms of Service" is already being used for E-Verify+ users (both employees and employers) and USCIS has received no negative feedback, nor comments that it is confusing. <i>Document information questions:</i> As part of a final rule and optional alternative procedure published on July 25, 2023, and in connection with the latest published Form I-9, certain employers enrolled in E-Verify are able to verify an employee's employment eligibility remotely. See 88 Fed. Reg. at 47990 (Final Rule) and 47749 (Optional Alternative).</p> <p>Responses to the proposed questions in E-Verify will assist DHS in monitoring employer adoption and use of the rule, identifying possible avenues of necessary guidance and addressing specific noncompliance and fraud issues as it monitors employer compliance with the E-Verify TOS and the DHS optional alternative rule.</p> <p>This feature not only informs future guidance but also aids DHS account compliance in addressing specific noncompliance issues, assisting employers to return to full compliance and, if necessary, to make external referrals to agency and inter-governmental partners. In addition, knowing if an employee was verified remotely versus in person ensures the program has a better understanding of how remote document examination is being used and whether there is a correlation between detection of fraudulent documentation and the form of examination, which will help drive decision making about possible future policy and rulemaking improvements.</p> <p>C. <i>Additional Interface Control Agreement Data Elements:</i> USCIS will not address this comment because it is outside the scope of the current action. However, we will take this feedback regarding the updated ICA into consideration and address at the appropriate time.</p> <p>D. <i>Hiring Sites:</i> If an employer has multiple hiring sites, USCIS proposes that the employer will choose the employee's specific hiring site from a pre-populated</p>
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	<p>information generally is not recorded on Form I-9, nor does existing Form I-9 guidance instruct employers to capture or document it during the employment eligibility verification process. AILA recommends that the agency provide additional explanation regarding these issues before implementing the proposed changes. To the extent that it is, USCIS can infer the required information – the type of extension being used – by running the document number through its own databases.</p> <p><i>D. Explain the Purpose and Practical Utility of the Proposed Hiring Site Requirement</i></p> <p>The proposal would require employers to identify the applicable hiring site when creating an E-Verify case. While this information may be readily available for some employers, many long-standing E-Verify participants have not routinely maintained or updated hiring site information within their E-Verify accounts because doing so has not previously been necessary for case creation.</p> <p>As a result, employers may need to create or update hiring site information before they can submit an E-Verify case. These additional administrative steps may increase the time required to complete cases, particularly where employers discover outdated account information during the three-business-day period for creating an E-Verify case.</p> <p>The proposal also does not explain the practical utility of collecting hiring site information or how USCIS intends to use the data. AILA recommends that USCIS explain the purpose of this new requirement and consider whether the resulting administrative burden is justified by the anticipated benefit.</p> <p><i>E. Publish Implementation Guidance Prior to Deployment</i></p> <p>Given the significance of the proposed changes, particularly the addition of reverification functionality within E-Verify, AILA encourages USCIS to publish updated policy guidance and educational materials sufficiently in advance of implementation. Advance guidance addressing the operation of the new workflow, common compliance</p>	<p>dropdown when creating a case. This may require that employers update their profile; however, it will allow DHS to be more responsive to users' questions and provide compliance guidance as the law on the use of E-Verify varies from state to state. This feature will also further aid the government in identifying opportunities for training by being able to see patterns of activity and potential noncompliance with E-Verify rules at a specific location(s) within the employer's operations.</p> <p>E. <i>Guidance materials</i>: USCIS policy has been to publish updated training and guidance materials for E-Verify at the time new features are available in the system. USCIS believes that publication prior to implementation would cause confusion.</p> <p>USCIS appreciates the thorough review, feedback, and comments.</p>
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	<p>scenarios, and the interaction between E-Verify and Form I-9 Supplement B would promote more consistent employer compliance, reduce avoidable errors, and ultimately lessen the administrative burden on both employers and the agency.</p> <p>Conclusion</p> <p>AILA appreciates the opportunity to comment on the proposed revisions to the E-Verify Program information collection. We respectfully encourage USCIS to provide additional explanation regarding the statutory basis, practical utility, and estimated burden associated with the proposed changes, including the proposed reverification functionality. Doing so will assist stakeholders and OMB in meaningfully evaluating the proposed collection under the Paperwork Reduction Act. AILA appreciates USCIS's consideration of these comments.</p>	