FINDINGS OF THE CASE STUDY OF E-VERIFY EMPLOYER AGENTS AND THEIR CLIENTS

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EXECUTIVE SUMMARY

1. BACKGROUND

The Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), enacted in September 1996, established the Basic Pilot Program to test the feasibility and desirability of electronically verifying the employment-authorization status of all newly hired employees. The Program was expanded and in June 2004, a web version of the Basic Pilot Program (later called E-Verify) was implemented. This voluntary program—except for most Federal contractors and a few states or other localities that require its use—requires participating employers to enter data from the Form I-9 into E-Verify. The data are then compared electronically with data in Social Security Administration (SSA) records and in Department of Homeland Security immigration records to determine if new hires are authorized to work in the United States.

In 1999, a few years after IIRIRA was enacted, the former Immigration and Naturalization Services (now U.S. Citizenship and Immigration Services—USCIS) in conjunction with SSA, implemented the Designated Agent (DA) Basic Pilot Program. This program was also voluntary and allowed employers to use a third-party provider to act on behalf of a company to submit cases to E-Verify for client companies' newly hired employees. The program has evolved into the current E-Verify Employer Agent (EEA) program.

Two types of EEAs are available: Direct Connect EEAs and Web Services EEAs. A Direct Connect EEA uses the web browser that was built and is maintained by USCIS to process E-Verify cases for a client. A Web Services EEA builds and maintains its own interface with the E-Verify Program that meets USCIS specifications.

The purpose of this exploratory case study of Direct Connect and Web Services EEAs and their clients is to understand:

- How EEAs and clients work together to implement the E-Verify Program;

- The burdens and advantages of using EEAs;

- How EEAs advertise for their services;

- How employers find EEAs and what criteria they use to hire them;

- The extent to which EEAs and their clients comply with the E-Verify requirements;

- Challenges faced by EEAs and their clients and how they address them; and

- Opinions of EEAs and clients about the desirability of a certification requirement for EEAs.

2. METHODOLOGY

This report presents the results of an exploratory case study of Direct Connect and Web Services EEAs and their clients. Since little research had been conducted on EEAs, a case study approach was used to

understand the key issues identified above. The selected respondents were not representative of all EEAs or clients of EEAs. Thus, the data presented summarize the information provided by the respondents but cannot be generalized to other EEAs or clients.

The EEA and client samples were drawn from the Transaction Database, a database that captures data from E-Verify transactions. The sample database was limited to the E-Verify transactions made by EEAs from January through March 2010. Only EEAs with three or more client companies that had at least one worker receiving a Tentative Nonconfirmation (TNC) finding during January through March 2010 were eligible for the study; 61 EEAs met these criteria. Both Direct Connect and Web Services EEAs were included in the sample. A total of 35 EEAs participated: 12 Direct Connect and 21 Web Services EEAs. The remaining two EEAs that were software developers and sold their products to other EEAs that work directly with clients were excluded from most of the analyses in this report.

The initial study design was to include only Direct Connect EEAs in the sample. However, due to challenges in classifying the type of EEA, the evaluation team had difficulty identifying type based on information in the Transaction Database. Accordingly, during the recruitment and data collection process, it was discovered that some of the EEAs initially identified for the study were Web Services EEAs (i.e., EEAs that build and maintain their own interface with the E-Verify Program), and many Direct Connect EEAs chose not to participate in the study.

A total of 49 clients of the sampled Direct Connect and Web Services EEAs were included in the study. The greatest number of clients for any one EEA was five.

Two open-ended telephone interview protocols were used to collect the data: an EEA protocol and a protocol for clients of EEAs. The telephone interviews were conducted from August through November 2010. In addition, the websites of the sampled EEAs were reviewed and information was collected using specific criteria related to the E-Verify Program. The interview and website data were organized and coded in NVivo, qualitative research software that assists users to organize and analyze nonnumerical data.

3.   FINDINGS

This section highlights key findings in the following four areas:

- Use of EEAs;

- Training;

- How EEAs work with clients to implement the E-Verify process; and

- Satisfaction with the E-Verify Program and suggestions for improvements.

3.1.   Use of EEAs

This section provides findings related to trend data on the total number of EEAs and E-Verify cases transmitted by EEAs, reasons clients hire EEAs, other EEA services used by clients, fees charged for E-Verify services, and how EEAs advertise their E-Verify services.

The total number of EEAs (both Direct Connect and Web Services) that transmitted cases has grown substantially from 11 EEAs in FY 2005 to 4,127 in FY 2009, the most recent year for which complete data are available. During the first nine months of 2010, EEAs transmitted 40.9 percent of all cases.

Common reasons for hiring an EEA mentioned by both clients and EEAs were insufficient time or staff, mandated use of E-Verify, and assurance of a legal workforce. The majority of clients did not have any specific criteria for choosing their EEA because they used one that already provided other human resource services for them.

Almost all EEAs began offering E-Verify services after they already offered other services. The majority of EEAs reported that they provide E-Verify services to about one-fifth of all their clients.

The majority of clients reported using EEAs for services other than E-Verify, while a small number indicated they only use E-Verify services. Other services most frequently used by clients were background investigations, record retention and destruction of both electronic I-9s and general records, and legal expertise.

EEAs reported a range of ways they charged fees for their E-Verify services, including per transaction only, volume of transaction, receipt of TNCs, and monthly or yearly charges.

The majority of EEAs (20 of 32) reported using word of mouth or the Internet to advertise their E-Verify services. A review of the EEAs' websites confirmed that a majority of the EEAs in the sample advertised their E-Verify services on the Internet.

Although USCIS does not approve, certify, recognize, or authorize any EEAs, some EEAs (12 of 20) used the following terms on their websites to describe the quality of the E-Verify services they provide: federally approved, certified, federally recognized, and an authorized third party.

3.2.   Training

This section provides findings on EEA staffing, the education and training of EEA staff, and the training of clients of EEAs.

The majority of EEAs had fewer than 100 employees and 50 percent or fewer of their staff worked on E-Verify services. EEAs reported that their staff have education or experience in a variety of areas, with the most common being human resources.

Nearly all EEA staff that provide E-Verify services had completed the E-Verify tutorial and mastery test. The majority of EEAs also reported that their staff that provide E-Verify services had some additional training related to E-Verify or the Form I-9 beyond USCIS-provided materials.

EEAs provided training for clients primarily on E-Verify and internal procedures, relying on both USCIS materials to train their clients and materials they developed internally. The majority of clients were pleased with the training provided by their EEA. In addition to training from their EEA, clients received training from USCIS and an assortment of independent sources. Most clients regarded themselves as knowledgeable about E-Verify.

3.3.   How EEAs Work With Clients to Implement the E-Verify Process

This section provides findings on the division of responsibilities between EEAs and their clients, including the protection of worker rights and challenges EEAs and clients face in meeting E-Verify requirements.

The majority of clients said they understood their responsibilities under the Memorandum of Understanding (MOU), though a small number said they understood because their company had previously been enrolled in E-Verify on their own. Almost half of the clients interviewed said that their EEA explained the MOU to them.

Clients of EEAs were almost always responsible for notifying workers of TNCs and, in a majority of cases, the clients' contact information appeared on the TNC forms. Most clients that used a Web Services EEA downloaded or printed TNC forms from their EEA's website, while clients that used a Direct Connect EEA were sent TNC forms via e-mail or fax from their EEA. The majority of EEAs said that they provided clients with the prefilled TNC forms that were generated by the E-Verify system.

While most EEAs provided clients with TNC forms and some general instruction on how to notify the worker of the TNC, a small number of EEAs mentioned that notifying workers was the client's responsibility and they could not be sure of exactly how or if the client informed workers of TNCs. Clients generally followed the same procedures as traditional E-Verify employers when notifying workers of TNCs.

The majority of clients said that when a worker received a Final Nonconfirmation (FNC), the worker either quit or the client terminated the worker's employment.

The FNC process varied slightly among EEAs, with an equal number of EEAs reporting they notified clients when a worker received an FNC as those reporting the client notified the EEA of the action they took with the worker receiving the FNC.

A majority of clients of EEAs reported that they alone were responsible for explaining to workers their rights under the E-Verify Program; however, clients were fairly evenly split regarding whether workers understood their rights under the E-Verify Program.

The majority of EEAs said that they only use E-Verify for newly hired employees (unless the client was a Federal contractor).

The majority of clients reported that they did not take adverse actions against workers who were going through the contesting process.

The majority of EEAs (24 of 32) said that they experienced challenges in following the three-day requirement for entering worker information into E-Verify. In contrast, the majority of clients interviewed indicated that they were aware of and followed the three-day rule for processing workers through E-Verify. EEAs and clients face more challenges than other employers in meeting the three-day requirement.

3.4.   Satisfaction With the E-Verify Program and Suggestions For Improvements

This section provides findings on EEA satisfaction with the Program, client satisfaction with EEA services, communication between EEAs and their clients, opinions of EEAs and clients on the certification of EEAs, challenges, and suggestions for improvement.

EEAs were satisfied with the Program overall.

The majority of EEAs reported being satisfied or very satisfied with the level and quality of communication received from USCIS about E-Verify; however, when asked if they would prefer more, less, or about the same amount of information from USCIS, nearly half of EEAs would prefer more frequent communication. When asked for their preferred communication mode from USCIS, EEAs overwhelmingly cited e-mail or other electronic correspondence.

The majority of EEAs said USCIS has been responsive to their questions and answered them both thoroughly and in a timely fashion. The majority of EEAs reported that they received adequate notice for changes to the system, although several Web Services EEAs were less satisfied with the timing of notices.

EEAs were generally pleased with the EEA training materials provided by USCIS, although they did have some suggestions for improvement or expansion. Most EEAs (25 of 29 responding) agreed that it would be beneficial if USCIS offered web-based training targeted to EEAs. EEAs also were generally satisfied with the E-Verify user's manual.

Almost all clients were satisfied with the E-Verify services they received from their EEA, and this satisfaction did not vary between clients that were mandated to use E-Verify and those that used it voluntarily. Almost all clients planned to continue using the services of their EEA.

Most clients were satisfied with the level and quality of communication they had with their EEA. EEAs and clients communicated about a variety of topics, most often about technical issues with the EEA's system/website (25 of 49 clients) or about TNCs (24 of 49). Nearly all clients said that their EEAs answered their questions very well and promptly. Some EEAs said that clients' questions were difficult to answer, in which case the EEA often contacted USCIS for guidance. Almost half of the clients said that their EEA notified them of changes to E-Verify. The most common methods of communication between EEAs and their clients were by e-mail and phone.

The majority of EEAs (19 of 32) and nearly all clients (46 of 49) thought there should be a certification process for becoming an EEA. Some EEAs indicated that certification would help clients feel more comfortable about hiring an EEA for their E-Verify needs and would result in more knowledgeable EEAs. When asked what types of qualifications EEAs should have, several EEAs said that companies should pass a test or certification from USCIS, have experience using E-Verify, and have security procedures in place to protect worker information. The majority of clients said that a list of certified EEAs would have made it easier for them to locate an EEA.

EEAs described an assortment of challenges in their role as an EEA, primarily with ensuring that clients comply with E-Verify requirements (11 of 33 EEAs). Several EEAs reported experiencing difficulty ensuring clients correctly followed E-Verify procedures, such as sending paperwork or entering new hires into the Web Services EEA interface within three days, and clearly communicating the TNC process to workers.

All EEAs thought a USCIS helpline or resource desk dedicated to EEAs would be beneficial and all reacted positively toward a compilation of best practices. The majority of EEAs were also supportive of there being a list of registered EEAs and a majority supported the development of an EEA network. In addition, EEAs offered a variety of suggestions for changing the MOU, such as allowing the MOU to be submitted in formats other than TIF files, simplifying the language, and including specific references to EEAs, clients, and their unique relationship.

4. SUMMARY OF RECOMMENDATIONS

The following summary of recommendations address training/information gaps, communication, compliance, and certification-related issues.

Recommendations for addressing the training/information gaps:

- Revise the EEA manual to tailor it more specifically to EEAs and involve EEAs in the revision process; for example, include more information on the interaction between EEAs and their clients, as well as the responsibilities of both parties.

- Send e-mails to all EEAs and clients informing them of resource materials.

- Further expand and formalize relationships with EEAs and use information from stakeholder and/or working group meetings to revise USCIS materials.

- Design just-in-time information for clients of EEAs on how to handle TNCs.

Recommendations regarding communication:

- Establish a mechanism for ongoing, proactive two-way communication between EEAs and USCIS, such as establishing an EEA electronic communication network or convening periodic EEA working groups on various topics through the use of an electronic communication system.[1]

- Give Web Services EEAs sufficient advance notice of any E-Verify changes that will require reprogramming.

Recommendations regarding compliance:

- Review the language of the MOU, emphasize the obligations of clients and EEAs, and require mini-tutorials.

- Extend the three-day rule.[2]

- Encourage use of electronic I-9s.

Recommendations regarding certification and the dissemination of information about EEAs:

- Establish a process for certifying EEAs, if feasible from a legal perspective, using a model similar to that developed by the Internal Revenue Service for tax preparers.

- Develop a searchable public database of EEAs that have registered and passed a mastery test designed specifically for them to help companies identify potential candidates.

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[1] USCIS is preparing to launch a periodic stakeholder call for EEAs and is exploring options for bulk e-mail.

[2] Changing the three-day rule would need to be done by Congress.

- Until a certification process can be developed, compile a best practices document with EEAs and clients that identifies key challenges and highlights effective practices.

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CHAPTER I. INTRODUCTION

1.   INTRODUCTION

The Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), enacted in September 1996, established the Basic Pilot Program to test the feasibility and desirability of electronically verifying the employment-authorization status of all newly hired employees. The Basic Pilot Program was expanded in scope and extended several times. In June 2004, a web version of the Basic Pilot Program (later called the E-Verify Program) was implemented, incorporating many improvements growing out of experiences with the original Basic Pilot Program and evaluations of the Basic Pilot Program as well as two additional pilot programs that were terminated. In October 2009, the Program's authorization was extended until September 30, 2012.

In 1999, a few years after IIRIRA was enacted, the former Immigration and Naturalization Service (now U.S. Citizenship and Immigration Services—USCIS) in conjunction with the Social Security Administration (SSA), implemented the Designated Agent Basic Pilot Program. The Designated Agent (DA) Basic Pilot Program was voluntary and allowed employers to use a third-party provider to act on behalf of a company to submit cases to E-Verify for client companies' newly hired employees. The DA Basic Pilot Program has grown to about 4,000 and evolved into the current E-Verify Employer Agent (EEA) Program.[3]

Two types of EEAs are available: Direct Connect EEAs and Web Services EEAs. A Direct Connect EEA uses the web browser was built and maintained by USCIS to process E-Verify cases for a client. A Web Services EEA builds and maintains its own interface with the E-Verify Program.

Some EEAs are also professional employer organizations (PEOs), which are companies that enable clients to cost-effectively outsource their management of human resources, employee benefits, payroll, and workers' compensation. A PEO provides integrated services to effectively manage critical human resource responsibilities and employer risks for clients by establishing and maintaining an employer relationship with the workers at the client's worksite and contractually assuming certain employer rights, responsibilities, and risk.

It is anticipated that more employers might choose to use EEAs in the future as the use of E-Verify is required for more employers. Effective January 1, 2008, the Legal Arizona Workers Act mandated the use of E-Verify for all Arizona employers.[4] Additionally, the state of Mississippi began phasing in the E-Verify mandate for its employers based on size beginning with larger employers in July 2008; all employers in Mississippi are required to use E-Verify by July 1, 2011. Currently, 12 other states mandate use of the Program for all or some categories of their employers, although the requirement has not yet gone into effect in all of these states.[5] In addition, the Federal government mandates its use by most

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[3] In September 2010, Designated Agents became known as E-Verify Employer Agents.

[4] 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.

[5] The states are Colorado, Georgia, Idaho, Minnesota, Missouri, Nebraska, North Carolina, Oklahoma, Rhode Island, South Carolina, Utah, and Virginia.

Federal contractors. Congress is considering legislation that would expand the current Program and possibly institute mandatory electronic employment verification for all or a substantial percentage of the nation's employers.

In this mandatory environment, the use of EEAs is of special interest because of concerns about potential burden on small employers required to use E-Verify; EEAs are seen as a possible resource to meet the needs of this sizable group of employers. Yet little is known about them, how they work with clients to implement the E-Verify process, or what unique challenges EEAs and their clients face.

2.   PURPOSE OF THIS STUDY

The purpose of the linked, exploratory case study of EEAs and their clients is to understand:

- How EEAs and clients work together to implement the E-Verify Program;

- The burdens and advantages of using EEAs;

- How EEAs advertise for their services;

- How employers find EEAs and what criteria they use to hire them;

- The extent to which EEAs and their clients comply with the E-Verify requirements;

- Challenges faced by EEAs and their clients and how they address them; and

- Opinions of EEAs and clients about the desirability of a certification requirement for EEAs.

The research team was also interested in hearing any suggestions for improving program procedures, registration, and communication between EEAs and their clients and with USCIS.

This exploratory study presents background information on the EEAs and their clients as well as the results of individual discussions with them about their experiences as partners in the E-Verify process. As a case study, it was not designed to provide statistically valid results, and the data cannot be generalized to all EEAs. However, these qualitative data do provide an important perspective on the functioning of the Program and can be used to design a nationally representative sample of these employers in the future and conduct an assessment of them.

The study focused on Direct Connect EEAs because there has been less contact between them and USCIS compared to Web Services EEAs and therefore less is known about them. Of particular interest to USCIS is the interaction between Direct Connect EEAs and their clients in the handling of Tentative Nonconfirmations (TNCs).

The key research questions were:

- Why do companies decide to use EEAs and how are EEAs selected?

- How are EEAs trained regarding E-Verify?

- What E-Verify services are provided by EEAs and how much do they cost?

- How do EEAs work with their clients to implement E-Verify processes, especially the TNC process?

- Are EEAs and their clients following the proper E-Verify procedures?

- Are EEAs and their clients satisfied with the E-Verify and EEA Programs?

3. PRIOR EXAMINATION OF EEAS

In August 2009, USCIS documented the state of EEAs (then known as DAs) as part of a reengineering project to determine how to make the EEA Program more efficient and effective. This effort focused on the documentation of the workflow processes and observations of Web Services EEA system demonstrations. Issues related to security, management, and privacy were also examined. The analysis included six Web Services EEAs and two Direct Connect EEAs. Clients of EEAs were not a part of the study.

The Web Services EEAs participating in the study were hypothesized to be among the most technically advanced EEAs and exemplars of robust verification systems.

Findings from the USCIS analysis of eight EEAs included the following:

- The process of enrolling EEAs' clients in E-Verify frequently requires client involvement— exactly what the client is hoping to avoid by hiring an EEA.

- Because existing government-supplied manuals are not appropriate for their clients who will not be accessing E-Verify directly, EEAs develop their own training materials.

- All respondents want an EEA section on the E-Verify public website.

- Web Services EEAs need planning information on system changes far earlier than they now get it.

- An increasing number of workers are hired and/or work remotely. Some EEAs can accommodate these employees.

- EEAs are conscious of protecting the civil rights and civil liberties of their clients' employees.

- All EEAs are aware of privacy and security concerns of E-Verify and their clients' employees.

- EEAs do not want E-Verify to undergo drastic change.

The USCIS effort described above resulted in an improved enrollment process and additional resources for EEAs. However, a more in-depth study of both types of EEAs and their clients will help identify program strengths as well as additional areas for improvement.

4. BRIEF DESCRIPTION OF THE E-VERIFY PROGRAM

Under IIRIRA, all workers hired after November 6, 1986, along with their employers, are required to complete the USCIS Form I-9, which is used to certify that new hires are authorized to work in the United States. As part of this process employers also must examine documents that are evidence of the worker's identity and work authorization, such as secure immigration documents, U.S. passports, Social Security cards, and driver's licenses.

To participate in E-Verify, employers must sign a Memorandum of Understanding (MOU) agreeing to comply with all of the E-Verify requirements. After employers enter worker data from the Form I-9 into USCIS' E-Verify system through the Internet, E-Verify automatically sends the information to SSA for comparison with data in SSA records. Data for most noncitizens and some citizens are also compared with data in DHS immigration and naturalization records.[6] Most often employers receive immediate notification that the new hires are authorized to work; however, in some cases Federal records do not permit immediate confirmation of the worker's employment-authorization status. When E-Verify cannot immediately confirm that a worker's E-Verify information matches SSA records, a TNC is issued. USCIS does a manual record search at this point to try to reconcile the record; if this check, which usually takes less than 24 hours, cannot find the worker employment authorized, a TNC is issued. A TNC might indicate that a new hire is not authorized to work, but it also might occur for other reasons such as typographical errors when entering the data, because a worker did not register a name change with SSA or USCIS, or USCIS data on immigration status were not current. Employers are required to inform workers about TNCs and give them the opportunity to contest these findings by contacting SSA in person or USCIS by telephone or fax to resolve any problems with their records. If a worker fails to contact SSA or USCIS within eight Federal workdays, the E-Verify system issues a Final Nonconfirmation (FNC) finding and employers are expected to promptly terminate the worker's employment.

5. ORGANIZATION OF THIS REPORT

Chapter I provided an overview of the EEA and E-Verify Programs, the purpose of this study, and a summary of a prior study of EEAs. Chapter II describes study methodology, and Chapters III through VI provide study results. Chapter III discusses the growth in EEA usage, while Chapter IV focuses on training, Chapter V describes how EEAs work with clients to implement the E-Verify process, and Chapter VI examines the satisfaction with E-Verify using EEAs. Chapter VII contains conclusions and recommendations. A more extensive overview of the design of the E-Verify Program is provided in Appendix A. The interview protocol for the EEAs is in Appendix B, and the protocol for clients of EEAs is in Appendix C. The status of state legislation as of October 31, 2010 related to E-Verify appears in Appendix D. A glossary of E-Verify terms appears in Appendix E.

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[6] In some cases, data on naturalized citizens may also be compared with DHS and U.S. passport records.

CHAPTER II. METHODOLOGY

1. CASE STUDY AND LIMITATIONS

Since limited research has been done regarding E-Verify Employer Agents (EEAs; formerly called Designated Agents or DAs), a case study approach was used to explore what issues are important and to obtain in-depth knowledge and understanding about them. While key questions were generally asked of all respondents, follow-up questions varied depending on answers provided.

The selected respondents were not representative of all EEAs or clients of EEAs. Thus, the data presented summarize the information provided by the respondents of this study and cannot be generalized to other EEAs or clients.

2. SAMPLE SELECTION AND RECRUITMENT

Two samples were used to conduct this study: a sample of EEAs and a sample of the clients of EEAs (hereafter referred to as clients). A total of 35 EEAs and 49 of their clients participated.

2.1. E-Verify Employer Agents

The EEA sample was drawn from the Transaction Database, a database that captures data from E-Verify transactions. The sampling database was limited to the E-Verify transactions made by EEAs from January through March 2010. Only EEAs that had three or more client companies—each of which had at least one worker receiving a Tentative Nonconfirmation (TNC) finding during January through March 2010—were eligible for the study. Altogether, 61 EEAs met these criteria based on information available at the time of sample selection. Attempts were made to recruit all 61 of these EEAs, with a goal of a 50 percent response rate (30 EEAs).

The initial study design was to include only Direct Connect EEAs in the sample, that is, EEAs that use the web browser built and maintained by the U.S. Citizenship and Immigration Services (USCIS) to process E-Verify cases for a client. Although USCIS provided assistance in classifying the type of EEA, the evaluation team had difficulty in identifying type based on information in the Transaction Database. Accordingly, during the recruitment and data collection process it was discovered that some of the EEAs initially identified for the study were Web Services EEAs (i.e., EEAs that build and maintain their own interface with the E-Verify Program). In addition, some Web Services EEAs were software developers that sold their products to other EEAs that work directly with clients.[7]

Therefore, a few additional EEAs were recruited to ensure that a sufficient number of Direct Connect EEAs were included in the study, bringing the total completed sample to 35 (Exhibit II-1). Of these, 12

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[7] Software developers are companies that develop programs that integrate with the E-Verify system. Some EEAs develop their own platforms, but software developers sell their product directly to EEAs. Software developers explained in interviews that after clients of EEAs begin using the program, the developers mainly provide technical assistance to EEAs when they experience problems or have questions about the software. Based on limited interviews with software developers, it appears they rarely interact with the clients of the EEA to whom they sold their products, but contact can occur. Additionally, some clients of EEAs that use software developers are aware that the software developer is a third party, while others are not. In any case, software developers are prohibited from only developing and selling E-Verify software if they are not also submitting cases to E-Verify.

were Direct Connect EEAs, 21 were Web Services EEAs,[8] and two were software developers that sold their products to other EEAs.

Exhibit II-1. Number of Client Interviews Conducted, by the Number of EEAs

Number of client interviews conducted	Number of employer agents
0	13
1	8
2	7
3	2
4	2
5	1
Total interviews **49**	**33[1]**

[1]The two software developers were excluded from this table.
SOURCE: Interviews of E-Verify Employer Agents and Clients of E-Verify Employer Agents.

2.2. Clients of E-Verify Employer Agents

2.2.1. Challenges in Recruiting Clients

According to the original sampling plan, three clients were to be recruited for each EEA interviewed for a total of 90 clients. Due to the interest in determining how EEAs and their clients work together to implement the TNC process, only clients whose workers received at least one TNC during January through March 2010 were eligible for the study. For some EEAs, only three clients met the study eligibility requirements; other EEAs had many clients meeting the eligibility criteria, with the maximum being 38 clients. When there were more than three clients for an EEA that met the eligibility criteria, three were selected randomly from the initial list.

Several issues arose during the process of recruiting and interviewing clients. First, some sampled companies had been acquired by other companies that were also in the sample, which was not apparent from the contact information available in the Transaction Database. In these circumstances, the team interviewed only the most knowledgeable person at the acquiring company headquarters. Second, for some EEAs, the same client contact was listed for multiple companies. In these circumstances, the team conducted an interview with one of the companies and considered the rest ineligible. Third, some EEAs listed themselves as the client contact. In these cases, the team called the company and/or reviewed the company's website to find the appropriate contact, which was generally someone in the human resources department. Due to the challenges encountered in recruitment described below, no client interviews were conducted for 13 of the EEAs. A few additional client interviews were conducted for several employer agents. However, the greatest number conducted for any one employer agent was five (see Exhibit II-1). Overall, 49 clients were interviewed.

Of the 49 interviewed clients of EEAs, 42 accessed the Program through Web Services EEAs and seven accessed the Program through Direct Connect EEAs. One company originally selected for the sample as a client was determined to be an EEA that purchased software from a developer and then worked directly with clients. Since this company did not meet the definition of a client used in this study, it was classified as ineligible.

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[8] Three Web Services EEAs had clients that would mail, fax, or otherwise send worker information to the EEAs, who then input the information for them.

The complexities discussed above made it challenging for the evaluation team to recruit EEA clients. For instances in which the EEA's contact information for the client was missing or incorrect or when the person listed did not work at the company, the evaluation team had the option of contacting the EEA to obtain the client information. However, it was agreed that the evaluation team would not inform EEAs that some of their clients were also being interviewed for the study unless they asked. The purpose in not sharing this information with EEAs was to ensure they would not prepare their clients for the interview. Once the recruiters were able to talk to some clients of Direct Connect EEAs, the most common reason they cited for refusing to be interviewed for the study was that they had no time to participate. Additionally, the 25 eligible EEA clients in Arizona either did not respond to the recruiters' attempts to reach them or indicated they only participate in E-Verify because of the mandate and had no interest in participating in this study, and they could not be convinced otherwise. (Only four clients in Arizona participated in the study.)

2.3. Characteristics of EEAs and Clients in the Study Sample and in the Population

The number of employees for EEAs participating in the study was similar to all EEAs transmitting cases in January through March 2010. However, EEAs participating in the study differed from all EEAs on access method, industry, and location in mandatory versus nonmandatory states. Participating EEAs and all EEAs had a similar breakdown of number of employees, with the largest percentage of EEAs in both groups having 10 to 99 employees (Exhibit II-2). However, approximately a third of EEAs in the study were located in states requiring the use of E-Verify at the time of sampling, while almost half of all EEAs in the population were located in these states. Nearly 90 percent of all EEAs were Direct Connect EEAs, while only 29 percent of EEAs participating in the study were Direct Connect EEAs. About 16 percent of all EEAs were in industries with a high percentage of undocumented workers, but none of the EEAs in the study were from these industries.

Exhibit II-2. Characteristics of EEAs Participating in the Study and All EEAs Transmitting Cases

EEA characteristic	Study participants		All EEAs	
	Number	Percent	Number	Percent
Total	**35**	**100.0**	**2,174**	**100.0**
Access method[1]				
Direct Connect	10	28.6	1,901	87.4
Web Services	25	71.4	273	12.6
Number of employees				
1 to 9	8	22.9	568	26.1
10 to 99	15	42.9	814	37.4
100 and over	12	34.3	792	36.4
Location				
In states requiring use of E-Verify at the time of sampling	12	34.3	997	45.9
All other states	23	65.7	1,177	54.1
Industry				
Industries with high percent of undocumented workers[2]	0	0.0	355	16.3
All other industries	35	100.0	1,819	83.7

[1]These numbers from the Transaction Database differ from what was found during data collection. Throughout the report, the access method used in analysis was based on the results of data collection as presented in Section 2.1. Twelve Direct Connect EEAs and 21 Web Services EEAs were included in most of the analyses. The two software developers were generally excluded from analyses, unless otherwise noted.

[2]These industries were Agriculture, Forestry, Fishing, and Hunting, excluding farm labor contractors and crew leaders; Construction; Food Manufacturing; Services to Buildings and Dwellings; Food Services and Drinking Places; and Personal and Laundry Services. The definition of this category is based on the following report: Jeffrey S. Passel, Senior Demographer, Pew Hispanic Center, and D'Vera Cohn, Senior Writer, Pew Research Center, *A Portrait of Unauthorized Immigrants in the United States*, April 14, 2009 (http://pewhispanic.org/files/reports/107.pdf).

NOTE: Sum does not add to 100 percent because of rounding.
SOURCE: E-Verify Transaction Database: January–March 2010.

Clients participating in the study differed from all clients in the population on number of employees and location (Exhibit II-3). Most of the clients participating in the study had 100 or more employees, while the percentages of clients in the population were evenly distributed across the three size categories (1 to 9, 10 to 99, and 100 or more). About a third of clients in the study were located in states requiring the use of E-Verify at the time of sampling, while almost two-thirds of clients in the population were in these states. However, 27 percent of participating clients were in industries with a high percentage of undocumented workers compared to 18 percent of all clients.

Exhibit II-3. Characteristics of Clients of EEAs Participating in the Study and All Clients of All EEAs

Client characteristic	Study participants		All clients of all EEAs	
	Number	Percent	Number	Percent
Total	**49**	**100.0**	**7,364**	**100.0**
Number of employees				
1 to 9	1	2.0	2,122	28.8
10 to 99	7	14.3	2,542	34.5
100 and over	41	83.7	2,700	36.7
Location				
In states requiring use of E-Verify at the time of sampling	16	32.7	4,283	58.2
All other states	33	67.3	3,081	41.8
Industry				
Industries with high percent of undocumented workers	13	26.5	1,328	18.0
All other industries	36	73.5	6,036	82.0

SOURCE: E-Verify Transaction Database: January–March 2010.

3. INSTRUMENT DESIGN AND DEVELOPMENT

3.1. Interview Protocols

The evaluation team prepared two telephone interview protocols to use in this study: an EEA protocol and a protocol for clients of EEAs. In addition, the team identified specific criteria that were used for reviewing the websites of EEAs.

The main resources used in the development of the interview protocols were:

- Materials USCIS provided for EEAs on the USCIS website;

- Draft USCIS reports on a web browser (Direct Connect) and Web Services Designated Agents (as they were referred to at the time); and

- Results from the most recent national evaluation, *Findings of the E-Verify Program Evaluation*, December 2009.

Since this was an exploratory study, it used open-ended questions. Potential probes were provided, but interviewers had the flexibility of asking additional questions to obtain more details or further explanation as necessary.

The main categories of questions for EEAs were:

- Types of services offered and how they are advertised;

- Motivation for and costs of using EEAs;

- Education and training of EEAs and their staff;

- E-Verify training provided to clients;

- How the E-Verify process works;

- Communication between EEAs and their clients; and

- Satisfaction with the E-Verify Program.

The main categories of questions for clients were:

- Reasons companies decided to hire an EEA and how they located their EEA;

- Process for deciding on an EEA and services offered/fees charged by the EEA;

- Training on E-Verify;

- How the E-Verify process works;

- Communication between client and EEA; and

- Satisfaction with the E-Verify services provided by the EEA.

The questions were informally pretested during the training process as described below in Section 4.

3.2.   Website Review Criteria

The review of EEA websites consisted of examining the following variables:

- Availability of a website;

- Inclusion of E-Verify in the description of services offered;

- Mention of type of EEA (e.g., Web Services or Direct Connect);

- Language used to describe their background and capabilities to provide E-Verify services, such as mention as certified or federally approved; and

- Mention of advantages of using an EEA to conduct E-Verify queries, such as seamless integration with other systems, auto-notification, and customized reports.

4.   SELECTION, TRAINING, AND MONITORING OF TELEPHONE INTERVIEWERS AND NOTE-TAKERS AND QUALITY CONTROL EFFORTS

The interviews were conducted by five highly experienced interviewers and notes were taken by one of six note-takers. Since this was an exploratory qualitative study, interviewers were expected to develop their own follow-up questions based on responses provided. Therefore, senior interviewers who had

worked at Westat for many years were selected for this study. Most had also worked on other phases of the E-Verify evaluation.

Both interviewers and note-takers participated in a one-day training session. The training included a presentation on E-Verify with a particular emphasis on the role of EEAs, a detailed review of the protocols, a viewing and discussion of the USCIS E-Verify video "How to Respond to Tentative Nonconfirmations," and a presentation on study logistics. It culminated in the live observation of a demonstration telephone interview with an EEA, followed by a discussion of the interview. Based on the responses from the EEA interviewed during the training, the evaluation team made a few changes to clarify the language in the protocol for the clients of EEAs.

Several quality control measures were implemented to monitor and review interviewers' work for consistency and thoroughness. First, whenever possible, staff who conducted interviews with EEAs were also assigned to conduct interviews with the clients linked to those EEAs. If scheduling did not permit using the same interviewer, whichever interviewer was assigned to conduct the client interview reviewed the notes from the linked EEA interview prior to the client interview. Second, the qualitative task leader monitored the interviewers and note-takers by reviewing the transcripts and interview notes, especially for the first two or three interviews conducted by each interviewer, and then randomly. Supervisors also provided ongoing feedback to the interviewers individually and collectively. Third, the interviewers, note-takers, and recruiting supervisors met weekly with the qualitative task leader and project director to review the status of the recruiting and interviewing, share information and questions about the interviews, identify problems and strategize solutions, identify issues that should be reviewed with USCIS, and discuss logistical issues.

5.   DATA COLLECTION

The initial contact with the EEAs and clients was an e-mail from Westat providing information about the study and requesting their participation with an attached letter from USCIS endorsing the study and asking for their cooperation. The Westat letter explained the purpose of the study, the importance of their participation in the telephone interviews, the safeguards that are in place to ensure confidentiality, and that the interview would be audio-recorded. The e-mail was followed by a recruitment telephone call.

In preparation for recruiting EEAs and clients to participate in the study, experienced Westat recruiters participated in a half-day training on using a screener to identify eligible EEAs and were provided with responses to frequently asked questions about the evaluation of the E-Verify Program. Most of the recruiters had done similar work on previous phases of the evaluation.

The recruitment screener for the EEAs contained the following screening and informational questions:

- Confirm respondent was an EEA, and if so, what type of EEA (i.e., Direct Connect or Web Services);

- The number of staff that submit E-Verify cases for clients;

- The most recent month and year the EEA signed up as an EEA;

- Date the company was established;

- Current number of E-Verify clients;

- Whether any of the clients were Federal contractors; and

- States the EEA serves.

The client screener asked the following questions:

- Length of time client used an EEA;

- Whether they still used an EEA;

- Confirm name of their current EEA;

- Date the client company was established;

- Whether the company had ever transmitted cases directly (i.e., without using an EEA);

- Industry type;

- Whether company was a temporary help or employment agency; and

- Whether company was a Federal contractor.

The recruiters encouraged EEAs and clients to participate in the study in a variety of ways, including telling them the following:

> The information you provide will be used to document and describe your experiences with the E-Verify Program and any best practices you have, and to share your perspectives on enhancements to the E-Verify Program for DAs and users of DAs.[9]

Supervisors assigned cases to recruiters and held weekly meetings to discuss common questions and concerns, review problem cases, and identify strategies for increasing response rates. Supervisors also monitored recruiters' cases for completes and refusals and coached recruiters individually or reassigned cases, as needed, to other recruiters to help increase response rates.

The interviews were conducted by telephone from August through November 2010. Note-takers listened in on a muted second line so that the noise from typing would not interrupt the interview. All interviews were also audio-recorded as a backup to the notes, and transcripts were made of all recordings. As necessary, note-takers incorporated information from the transcripts into the notes, which were then reviewed by the interviewer before they were finalized.

Only after an interview was completed with an EEA was recruitment begun for the clients of that EEA. The clients of Direct Connect EEAs were given priority in the recruitment process.

6. DATA ANALYSIS

The interview data were organized and coded in NVivo, qualitative research software that assists users to organize and then analyze nonnumerical data. The coding was done by a three-person team. All codes

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[9] EEAs were formerly called Designated Agents (DAs), a term most of them used at the time this study was being conducted.

were verified by a second member of the team. The first step in the analysis process was to map the interview questions to the following themes that were based on the report outline:

- Satisfaction;

- Implementation;

- EEA and client characteristics;

- EEA qualifications; and

- Client training.

Second, the interview notes, information from the recruitment screeners, and the EEAs' website information were imported into NVivo for data analysis. These data sources were coded to the appropriate themes and then further analyzed by the member of the team assigned to code the theme. All coding was verified by a second member of the team for quality assurance.

The analysis team removed client and EEA identifying information from the interview notes throughout the process. Finally, the data sources were grouped into classifications and organized to allow for extraction of certain groups such as Web Services EEAs, Direct Connect EEAs, or clients that are mandated to use E-Verify. Throughout data analysis, the three-person data analysis team debriefed their progress with other members of the project, leading to discussion, development of new ideas, and further data analysis.

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CHAPTER III. USE OF
E-VERIFY EMPLOYER AGENTS

1.   INTRODUCTION

As mentioned in Chapter 1, there has been substantial growth in the EEA Program over the last 5 to 7 years. This chapter examines the extent of this growth, offers some reasons for the growth, and presents some of the key characteristics of EEAs and the services they provide as well as characteristics of employers that use EEAs. Specifically, this chapter presents findings related to the following topics:

- Trend data on the total number of EEAs and E-Verify cases transmitted compared to EEAs in the study;

- Reasons EEAs began offering E-Verify services;

- Other services offered by EEAs;

- Types of employers that use the services of EEAs and key reasons they decided to use EEAs;

- Criteria for choosing EEAs and how they were located;

- Fees charged by EEAs for E-Verify services; and

- How EEAs advertise their E-Verify services.

2.   TREND DATA

The number of EEAs that transmitted cases has grown substantially from 11 EEAs in FY 2005 to 4,127 in FY 2009, the most recent year for which complete data are available (Exhibit III-1). For the first nine months of FY 2010, 4,747 EEAs transmitted cases, which exceeds the total for the previous year.

Exhibit III-1. Number of EEAs Transmitting Cases, by Fiscal Year
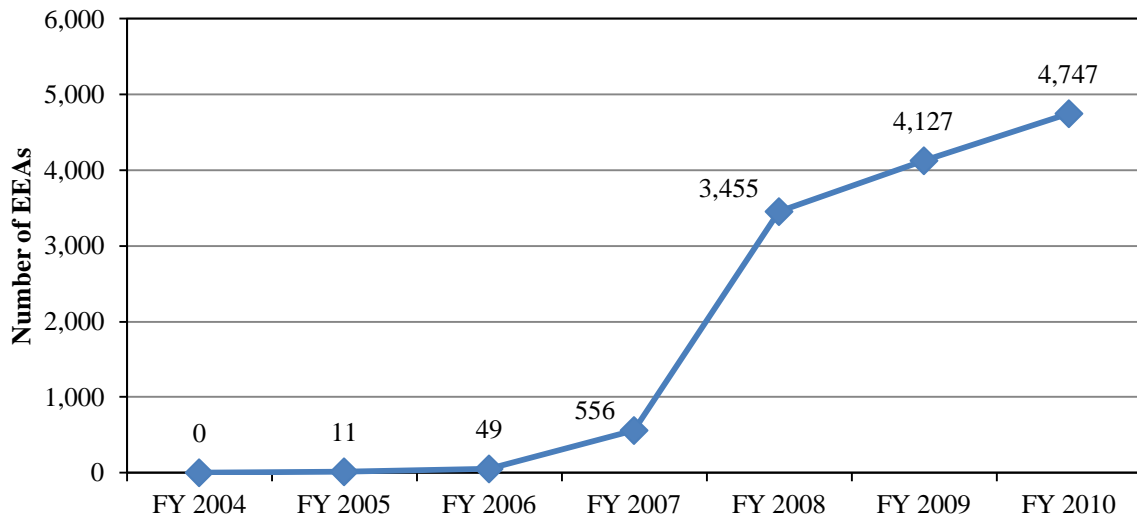
NOTE: FY 2010 includes the first nine months only.
SOURCE: E-Verify Transaction Database.

The percentage of cases transmitted by EEAs has similarly shown enormous growth from 1.4 percent in FY 2005 to 40.9 percent in FY 2010 (Exhibit III-2). At the same time the total number of cases transmitted by all employers, including EEAs, grew from 715,000 in FY 2005 to 11,418,000 in the first nine months of FY 2010 (not shown).

Exhibit III-2. Percent of Cases Transmitted by EEAs, by Fiscal Year
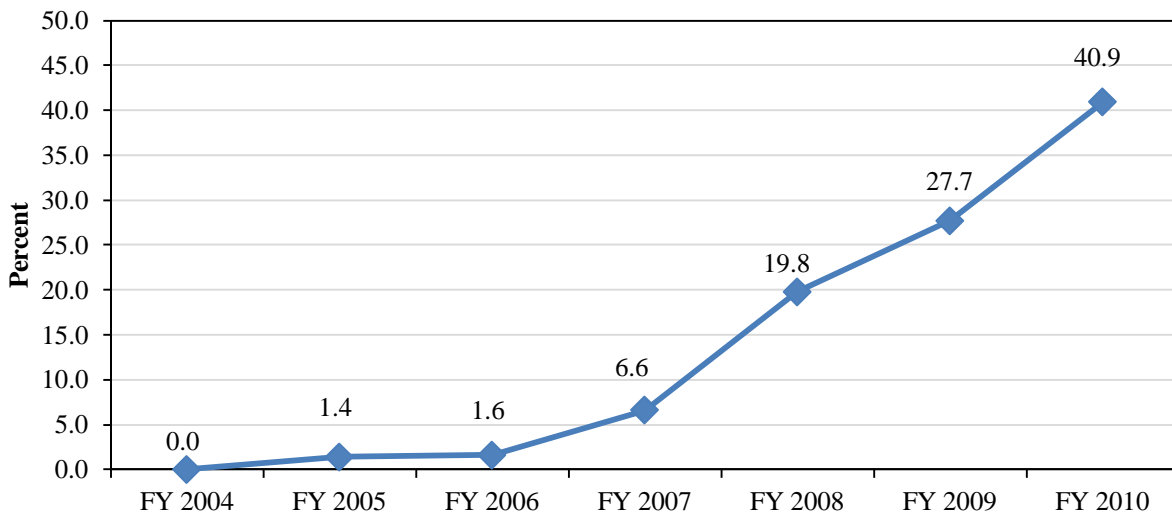
NOTE: FY 2010 includes the first nine months only.
SOURCE: E-Verify Transaction Database.

During January through March 2010, the time period used in drawing the sample for this study, a total of 341,300 cases were transmitted by the EEAs in the study, compared to 1,662,500 cases transmitted by all EEAs. Thus, the EEAs in the study transmitted 20.5 percent of all EEA cases during that time period.

3. WHEN AND WHY E-VERIFY EMPLOYER AGENTS (EEAs) BEGAN OFFERING E-VERIFY SERVICES

Almost all EEAs (27 of 30) began offering E-Verify services after they already offered other human resources or payroll/accounting services, while a few (3 of 30) reported they began offering E-Verify services at the same time as other services.

When EEAs were asked why they began offering E-Verify services, about two-thirds reported that state E-Verify legislation affected their decision. The majority of EEAs (21 of 32) began offering E-Verify services in response to state legislation requiring use of the Program (Exhibit III-3). About one-third of the EEAs (11 of 32) had a client request E-Verify services and about the same proportion (10 of 32) added E-Verify because it was related to other services they already offered, such as electronic I-9s. Five of the 32 EEAs reported serving a certain type of client that influenced their decision to start offering E-Verify services; these types of clients included federal contractors (3), prisons (1), and construction companies (1).

Exhibit III-3. Why EEAs Began Offering E-Verify Services

Reason for offering E-Verify services	Number of EEAs reporting reason
Mandated legislation to use E-Verify in some states	21
Client request	11
Already offered other related services	10
Type of client	5
To decrease unauthorized workforce	4
To increase business opportunities	4
Total number of respondents	**32**

NOTE: Sum does not add to total number reporting because some respondents provided more than one response.
SOURCE: Interviews of E-Verify Employer Agents.

3.1. Other Services Offered by EEAs

All of the 33 EEAs interviewed reported that they offer services other than E-Verify. Most of the Direct Connect EEAs (10 of 12) reported that they offer payroll or accounting, while only a few of the Web Services EEAs (2 of 21) reported offering these services (Exhibit III-4). The majority of Web Services EEAs (16 of 21) reported that they offer background investigations to their clients, while only half of the Direct Connect EEAs (6 of 12) reported providing this service.

Exhibit III-4. Other Services Offered by EEAs

Other service offered	Number of Web Services EEAs offering service	Number of Direct Connect EEAs offering service
Background investigations	16	6
General record storage and destruction	7	5
Electronic I-9 recordkeeping	6	5
Pre-employment hiring process	6	2
Legal expertise	4	3
Tax services	3	2
On-boarding	3	1
Payroll or accounting	2	10
Unemployment insurance	1	0
Employee benefits	0	6
Risk management	0	3
Consulting	0	2
Managing employees	0	1
Total number of respondents	**21**	**12**

NOTE: Sum does not add to total number reporting because some respondents provided more than one response.
SOURCE: Interviews of E-Verify Employer Agents.

The majority of clients also reported using EEAs for services other than E-Verify, while a small number indicated they only used E-Verify services. When asked what services they used other than E-Verify, the majority of clients (34 of 49) reported that they used their EEA for background investigations (Exhibit III-5), which was also mentioned most frequently by the EEAs. Clients also used their EEA for record retention and destruction of both electronic I-9s (26 of 49) and general records (16 of 49). Some clients (17 of 49) reported that they used the legal expertise of their EEA either through legal counsel or legal representation, usually in relation to background investigations. Several services reported by clients were not reported by EEAs, such as audit assistance and drug testing. A small number (2 of 49) of clients reported that they only used E-Verify services.

Exhibit III-5. Other Services Clients Use That Are Offered by Their EEA

EEA service	Number of clients using service
Background investigations	34
Electronic I-9 recordkeeping and destruction	26
Legal expertise	17
General record storage and destruction	16
Audit assistance	10
Hiring assistance	7
Drug testing	7
Payroll or accounting	5
Tax services	3
Other services	5
Total number of respondents	**49**

NOTE: Sum does not add to total number reporting because some respondents provided more than one response.
SOURCE: Interviews of Clients of E-Verify Employer Agents.

3.2.   Percentage of Clients that Use Their EEA's E-Verify Services

The majority of EEAs provide E-Verify services to about one-fifth of all their clients; however, there are some differences by type of EEA. Of the EEAs that responded to this question, two-thirds (20 of 30) reported that less than 21 percent of all their clients used their E-Verify services. Most Web Services EEAs (16 of 18) provided E-Verify services to less than 21 percent of all clients. However, only one third of Direct Connect EEAs (4 of 12) provided these services to less than 21 percent of their clients, excluding three Direct Connect EEAs that provided E-Verify services to 81 percent or more of their clients.

4.   TYPES OF EMPLOYERS THAT USE THE SERVICES OF EEAS AND KEY REASONS THEY DECIDE TO USE EEAS

Thirteen of 46 clients had registered and used E-Verify prior to hiring an EEA. The majority of these clients (8 of the 13) were mandated to use the E-Verify Program.

Common reasons for hiring an EEA mentioned by both clients and EEAs were insufficient time or staff, mandated use of E-Verify, and assurance of a legal workforce, yet some differences were also mentioned. About a third (12 of 35) of the EEAs said that clients hired an EEA because they did not want to handle E-Verify themselves, but only a few (6 of 47) of the clients offered this as a reason (Exhibit III-6).[10] Other reasons provided for clients not wanting to handle E-Verify themselves included the tutorial was too time consuming, rules were too complex, the system was not user-friendly, and the sign-up process was too complicated. More than half of the clients (26 of 47) used EEA services because their EEA already provided other human resources services for them; only about a fourth of the EEAs (10 of 35) thought this was a reason EEA services were being used.

Exhibit III-6. Reasons Clients Hired an EEA as Reported by Clients and EEAs

Reason for hiring an EEA	Number of clients reporting reason	Number of EEAs reporting reason
The EEA already provides other human resources services	26	10
Not enough time or staff	13	13
Client is mandated to use E-Verify	13	12
To ensure legal workforce even though client is not mandated	9	12
Volume of hires: either too many hires or too few hires	7	4
Do not want to handle E-Verify themselves	6	12
Benefits of electronic I-9[1]	4	11
Remote locations	4	1
Looking for guidance	3	6
Customized E-Verify reports and notifications[1]	1	9
To decrease liability	1	2
Total	**47**	**35**

[1]Reason only applies to Web Services EEAs.
NOTES: Web Services software developers are included. Sum does not add to total reporting because some respondents provided more than one response.
SOURCES: Interviews of E-Verify Employer Agents and Clients of E-Verify Employer Agents.

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[10] The two Web Services software developers were included in this analysis.

Among the 21 Web Services EEAs, approximately half (11 of 21) reported that either the benefits of the electronic I-9 or customized E-Verify reports and notifications were reasons they were hired, while only five out of 40 clients using Web Services EEAs mentioned these reasons. Some reported benefits of an electronic I-9 were reduced errors, not having to rekey information, electronic storage, and conserving paper.

4.1. Criteria for Choosing EEAs and How Clients Located Them

The majority of clients (26 of 49) did not have any specific criteria for choosing their EEA because they used one that already provided other human resources services for them. Presumably, these clients were satisfied with the services they were already using and, therefore, were not motivated to change vendors. Clients that provided a reason for choosing a particular EEA reported reasons such as costs and experience in meeting the needs of their specific industries, including financial services, medical fields, and education (Exhibit III-7). Reasons given by clients of Web Services EEAs were availability of an electronic I-9, integration of software with other systems, convenience, and reliability.

Exhibit III-7. Clients' Criteria for Choosing Particular EEAs

Criteria	Number of clients reporting criteria
Costs	5
EEA must meet industry-specific needs of the client	5
Availability of an electronic I-9*	4
Integration of software with other systems*	4
EEA must have a clear understanding of E-Verify requirements	4
Convenience of Web Services*	3
Comparisons to other EEAs	3
Experience as an EEA	2
Online reviews of EEA	2
Overall package of services	2
Demeanor and professionalism of EEA	2
Reliability of Web Services*	1
Total number of respondents	**23**

*Reason only applies to Web Services EEAs.
NOTE: Sum does not add to total number reporting because some respondents provided more than one response.
SOURCE: Interviews of Clients of E-Verify Employer Agents.

Similarly, over half of the clients did not report searching for an EEA because they used the same company that was providing other services to them in addition to E-Verify. Clients that did search for an EEA located one through:

- A referral (5);

- Request for Proposals (RFP) process (3);

- Online research (2); and

- Word of mouth (2).[11]

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[11] Some of the clients that were interviewed had not been involved in the search for an EEA and were therefore unable to provide a response.

All but one client (17 of 18) reported it was very easy or easy to locate their EEA.

The majority of clients (28 of 40) reported that using an EEA had no disadvantages. However, some clients reported disadvantages for using an EEA, such as cost (5), software problems of Web Services EEAs (4), and less control over the process (3).

4.2. Fees Charged by EEAs for Their E-Verify Services

EEAs reported a range of ways they charged fees for their E-Verify services. EEAs charged fees based on the following methods: per transaction only, volume of transactions, receipt of TNCs, and monthly or yearly charges. Twenty-one EEAs (of 33) charged a fee per transaction that ranged from $0.50 to $11. However, some EEAs (8 of 21) charged the same transaction fee for all their clients, but the majority (13 of 21) based their charge on the volume of transactions they conducted for a client (Exhibit III-8). Clients requiring a high volume of transactions were charged less per transaction than those with a low volume of transactions. For example, one EEA used a sliding scale ranging from $1 per transaction for high-volume clients to $7 per transaction for low-volume clients.

Two EEAs charged more ($3.95 and $4.95) if a Tentative Nonconfirmation (TNC) was issued. Four EEAs had a set-up fee, which ranged from $75 to over $2,000. Additional methods of charging reported by EEAs included a monthly charge, a yearly charge, a charge depending on the package of services used, and a percentage of the cost of all services. Four EEAs reported that they do not charge for their E-Verify services as these fees are presumably included in other services provided by the EEAs. None of the EEAs charged their clients for training.

Exhibit III-8. Per Transaction Fee Charged by EEAs as Reported by EEAs

Fee (in dollars)	Number of EEAs reporting fee
Fee is the same for all clients	
$0.01-2.50	1
$2.51-5.00	5
$5.01-7.50	1
$7.51-10.00	1
Fee depends on volume of transactions	
Low-volume clients	
$0.01-2.50	1
$2.51-5.00	2
$5.01-7.50	2
$7.51-10.00	2
$10.01-12.50	1
High-volume clients	
$0.01-2.50	4
$2.51-5.00	1
$5.01-7.50	1
$7.51-10.00	0

SOURCE: Interviews of E-Verify Employer Agents.

The EEA transaction fees reported by clients paralleled those reported by the EEAs. About two-thirds of the clients (31 of 49) reported that they were charged a fee per transaction, although two did not know the exact amount. Exhibit III-9 provides per transaction the fees clients reported being charged by

their EEAs. Of the clients reporting a fee per transaction, four were aware they were being charged based on the volume of transactions they required. A small number of clients (10 of 49) did not know the charge for E-Verify services because they were combined with the costs of all the services they use. Additional charges reported by clients, included a set-up fee and an annual fee, and a charge per paycheck. None of the clients reported a cost for training.

Exhibit III-9. Per Transaction Fee Charged by EEAs as Reported by Clients

Fee (in dollars)	Number of clients reporting fee
$0.01-2.50	8
$2.51-5.00	12
$ 5.01-7.50	2
$7.51-10.00	7
Total number of respondents	**29**

NOTE: Only 29 of 49 clients reported a specific cost for E-Verify services.
SOURCE: Interviews of Clients of E-Verify Employer Agents.

Sixteen of 44 clients were aware of the costs for E-Verify and other services. They were asked about how the costs for E-Verify services compared to other services offered by their EEAs. The majority (9 of 16) thought the cost of E-Verify services was very good or inexpensive, and the remaining clients (7 of 16) thought the cost was reasonable.

4.3. How EEAs Advertise and Describe Their Services

Most EEAs reported using word of mouth or the Internet to advertise their E-Verify services. Over half of the EEAs (15 of 24) reported advertising through word of mouth and almost half (11) mentioned using the Internet (Exhibit III-10). Some EEAs also advertised through conferences, sales representatives, and print media. Less frequently reported methods were webinars, brokers, and television commercials.

Exhibit III-10. How EEAs Advertise Their E-Verify Services

Method of advertising	Number of EEAs reporting method
Word of mouth	15
Internet	11
Conferences or trade shows	10
Sales representatives or cold-calling	8
Print media	6
Webinar	2
Brokers	1
Television commercial	1
Total number of respondents	**24**

NOTE: Sum does not add to total number reporting because some respondents provided more than one response. A small number of EEAs (5 of 29) did not advertise their E-Verify services.
SOURCE: Interviews of E-Verify Employer Agents.

The majority of EEAs (16 of 27) advertised E-Verify services to their existing clients. These EEAs also indicated they would advertise to companies of any size, industry, or location. Other EEAs tried to focus their advertising toward:

- Companies in states that mandate E-Verify use (6);

- Companies that are geographically close to them (2);

- Large-sized companies (2); and

- Specific industries (e.g., government agencies and industries that hire low-wage workers) (2).

One Web Services EEA advocated for increasing awareness of their services to small-sized companies, reporting:

> "The smaller [sized company] is the only place one would want to increase awareness of DA solutions. Those are best handled locally, regionally by people like CPAs and HR consultants. When you're talking about smaller companies with maybe 10-20 hires a year in anywhere but Arizona primarily, it's best dealt with from the people that are already doing payroll and reporting for the smaller companies. I would say it's best, if you're going to be a DA and your clients are running their I-9s through an electronic I-9 system that you have access to, so that you know you have a compliant and complete I-9."

A review of the EEAs' websites confirmed that a majority of these EEAs advertised their E-Verify services on the Internet. Almost two-thirds of the EEAs (20 of 32) advertised their E-Verify services on the Internet, while one-third advertised services other than E-Verify. Other services specifically advertised on the Internet included:

- Drug testing (12);

- Fingerprinting (3);

- Audit assistance (3); and

- Health screening (2).

Although USCIS does not approve, certify, recognize, or authorize any EEA, some EEAs used the following terms on their websites to describe their provision of E-Verify services:

- Federally approved (7);

- Certified (3);

- Federally recognized (1); and

- An authorized third party (1).

These terms could be misleading to clients that are not aware there is no official approval of EEAs by USCIS, other than enrollment in E-Verify. Additionally, for clients of Web Services EEAs, these terms could mislead them into thinking that the software used is compatible with the E-Verify database.

Some EEAs advertised on their websites about the use of an EEA as a means to avoid fines and incarceration. A third of EEAs (13 of 32) used the following strategies to advertise E-Verify to clients: images of employers being handcuffed, maps of locations mandating E-Verify with examples of companies in those locations that were fined for employing unauthorized workers, or simply stating they will minimize the risk factors associated with the hiring process. Benefits of participation in E-Verify were intermingled with the benefits of using an EEA.

CHAPTER IV. TRAINING

This chapter examines E-Verify training of both E-Verify Employer Agents (EEAs) and their clients to identify the resources used to provide training and to understand the degree to which EEAs familiarize clients with E-Verify and prepare their staff to provide E-Verify services. Specifically, the chapter seeks to answer the following questions:

- What is the education and training of EEA staff that provide E-Verify services?

- What training do the EEA staffers who work with clients receive from their EEA?[12]

- What training do clients receive from their EEA and outside sources, including U.S. Citizenship and Immigration Services (USCIS)?

1. EDUCATION AND TRAINING OF EEA STAFF THAT OFFER E-VERIFY SERVICES AND PERCENTAGE OF STAFF WORKING ON E-VERIFY SERVICES

EEAs were asked about the typical education/experience of staff members who provided E-Verify services. They were also asked to provide the number of employees in their company and the percentage of those employees who worked on E-Verify services.

EEA staff have education or experience in a variety of areas, with the most common being human resources. Fifteen out of 31 EEAs said their staff that provide E-Verify services have education or experience in human resources, and nine have education or experience in business administration (Exhibit IV-1). Other areas in which EEA staff had education or experience include payroll/accounting (6 out of 31), legal training (5), and computer software (4).

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[12]Two respondents interviewed as EEAs identified themselves as Web Services software developers only (i.e., they sold their software to EEAs and did not interact with clients). They were excluded from the analyses in this chapter unless otherwise noted.

Exhibit IV-1. Education/Experience of EEA Staff That Provide E-Verify Services

| Education/experience | Number of EEAs reporting, by type of EEA | | |
	Direct Connect	Web Services	Total
Specified			
Human resources	6	9	**15**
Business administration	4	5	**9**
Payroll/accounting	5	1	**6**
Legal training	2	3	**5**
Computer software	0	4	**4**
Customer service	1	2	**3**
Unspecified			
Bachelor's/master's degree	2	1	**3**
Public policy/administration	0	1	**1**
High school diploma	1	1	**2**
Other	1	3	**4**
Total number of respondents	**12**	**19**	**31**

NOTE: Sum does not add to total number reporting because some respondents provided more than one response.
SOURCE: Interviews of E-Verify Employer Agents.

The majority of EEAs had fewer than 100 employees, and for all EEAs, 50 percent or fewer of their staff worked on E-Verify services. Fourteen out of 22 EEAs reported having fewer than 100 employees, seven had between 100 and 4,999 employees, and one EEA had 10,000 or more employees (Exhibit IV-2). As seen in Section 3.1, Chapter III, EEA staff provided several other services besides E-Verify, as demonstrated by the fact that fourteen out of 20 EEAs reported that 25 percent or less of their staff worked on E-Verify services. The remaining six EEAs said that 50 percent or less of their staff worked on E-Verify services.

Exhibit IV-2. Total Number of Employees in EEA Company

| Number of employees | Number of EEAs reporting, by type of EEA | | |
	Direct Connect	Web Services	Total
1 to 4	1	1	**2**
5 to 9	0	2	**2**
10 to 19	2	2	**4**
20 to 99	2	4	**6**
100 to 499	1	2	**3**
500 to 999	0	2	**2**
1,000 to 2,499	0	1	**1**
2,500 to 4,999	0	1	**1**
5,000 to 9,999	0	0	**0**
10,000 and over	0	1	**1**
Total number of respondents	**6**	**16**	**22**

SOURCE: Interviews of E-Verify Employer Agents.

2.   TYPE OF E-VERIFY TRAINING PROVIDED BY EEAS TO THEIR STAFF WHO WORK WITH CLIENTS TO PROVIDE E-VERIFY SERVICES

E-Verify requires users who are conducting queries (i.e., creating new worker cases) to read the E-Verify tutorial and pass the mastery test. EEAs were asked about whether those staff members who worked on E-Verify services had taken the tutorial and test, and whether they had received E-Verify training from sources other than USCIS.

Nearly all EEA staff that provide E-Verify services had completed the E-Verify tutorial and mastery test. Thirty-one out of 33 EEAs reported that their staff who handle E-Verify services for clients completed the E-Verify tutorial and mastery test. Staff of one EEA read only the E-Verify user's manual. Another EEA's staff did not take the tutorial and test and also did not read the E-Verify user's manual because the EEA's E-Verify queries were "all done through web services."

The majority of EEAs reported that their staff who provide E-Verify services had some additional form of E-Verify- or Form I-9-related training other than USCIS-provided materials. Nineteen out of 33 EEAs said that staff had some additional form of training other than what was provided by USCIS. Staff were trained on Form I-9 procedures (4), the EEA's web services system (2), immigration issues (1), data entry procedures for E-Verify (1), and changes to E-Verify (1). Staff were trained online (5 out of 15), through a written manual (5), in person (4), and through videos (1).

3.   CLIENT TRAINING FROM EEA

EEAs provided training for clients primarily on E-Verify and internal procedures. Twenty-two EEAs (of 26 that specified a topic)[13] reported that they reviewed with clients the E-Verify timeframe, requirements, and clients' electronic or manual submission of worker information to the EEA. Additionally, 13 EEAs discussed how to properly complete an I-9 form and what types of documents are acceptable.

Clients reported receiving training on the same topics as those mentioned by the EEA and the Form I-9 training and documents mentioned above. Twenty-nine clients (of 41 who specified a topic) said their EEA provided training on E-Verify and the EEA's internal procedures, while 17 received Form I-9 and document training. Additionally, 16 clients reported being trained on workers' rights, such as the right to contest, the right to be treated equally while contesting, and display of their E-Verify posters. Other clients received training from their EEA as needed.

EEAs relied on both USCIS materials to train their clients, such as the E-Verify users' manual, E-Verify tutorial, and mastery test, and materials they developed internally. Eight EEAs (of 28) primarily used USCIS materials, 11 EEAs primarily used their own curriculum, often derived from USCIS sources, and nine EEAs reported using both types of resources.

Clients that recalled reviewing the E-Verify users' manual, E-Verify tutorial and mastery test found that these materials met their needs. Of the 28 clients that reported reviewing the users' manual, 19 said that it met their needs and two disagreed. Fourteen clients were unsure if they had received the users' manual, either because they could not recall, they were not employed with the client when their company began working with an EEA, or they were not the primary trainee. Of the 16 clients that reported taking the E-Verify tutorial or mastery test, 12 were very satisfied or satisfied, and only two were

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[13]EEAs provided more than one response.

somewhat satisfied. Similar to the recall difficulties with the users' manual, 17 responding clients were unsure if they had viewed the tutorial or mastery test.

The majority of clients were pleased with the training provided by their EEA. Clients that rated the training excellent (12 of 35) or good (15) explained that their EEAs made training accessible through a variety of methods:

> "They had an online meeting and a demo site, so people could practice putting in information. They also gave us printed training manuals with screen shots and instructions, and customer service back-up phone numbers. It's a beautiful system and very user-friendly. No improvements are necessary."

> "They came and trained people here. If someone couldn't make it in, they audio-conferenced them in."

> "I think the training was very good. Obviously until you start the initial training, you don't know what questions you have and what more you need. But any time that we needed to follow up with our EEA, that's when we would hold a conference call so that they could walk us through the procedures again."

Clients that found EEA training to be fair (6) or poor (2) described their introduction to E-Verify or their Web Services EEA's platform as being insufficient or incomplete.

Overall, most clients regarded themselves as knowledgeable about E-Verify. Eleven clients (of 45) rated themselves very knowledgeable, 22 believed they were knowledgeable, and four responded that they fell within this range, though they declined to select a single category. Eight clients said they were only somewhat knowledgeable, while no respondents answered that they were not at all knowledgeable about the E-Verify program.

4. CLIENT TRAINING FROM USCIS OR OTHER SOURCES

In addition to training from their EEA, clients received training from USCIS and an assortment of independent sources. Clients sought training or additional resources from USCIS (18 of 31 of those naming a source); law firms, internal attorneys, or other legal sources (11); Society for Human Resource Management (SHRM) or other human resources sources (5); industry or professional associations (4); and Immigration and Customs Enforcement (2).

Clients that received training directly from USCIS learned general information about E-Verify, as well as how to correctly enter and process workers. Most of the eight clients that recalled participating in USCIS-sponsored webinars rated them as excellent (3) or good (4). A satisfied respondent who had participated in several "excellent" seminars considered one USCIS training to be poor, expressing disappointment that it was short and did not cover implications of legislation or E-Verify system enhancements. Another client had the opposite reaction about USCIS training, explaining "I felt a little dumb because it definitely seemed to be tailored more to governments. Some of the terminology and the things they were going through were a little bit more complex than just an average employer would understand."

Clients that received training from outside sources learned primarily about E-Verify legislation or Form I-9 procedures. In the training from independent sources mentioned above, clients learned about E-Verify legislation (8 of 17 receiving training from outside sources), Form I-9 procedures (7), E-Verify requirements and procedures (2), and updates to the E-Verify system (2). Clients were pleased with this training and rated it as excellent (2) or good (5).

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CHAPTER V. HOW E-VERIFY EMPLOYER AGENTS WORK WITH CLIENTS TO IMPLEMENT THE E-VERIFY PROCESS

This chapter discusses how E-Verify Employer Agents (EEAs) and their clients work together to implement the E-Verify process, specifically:

- How are E-Verify responsibilities divided between EEAs and their clients?

- Are all required E-Verify procedures the responsibility of either the EEA or their clients?

- Do EEAs and their clients agree on their respective responsibilities?

- What challenges do EEAs and their clients have in meeting E-Verify requirements? Are these any different from the challenges experienced by other employers and, if so, how? [14]

1. REGISTRATION

The following section presents information from clients on the E-Verify registration process, specifically their understanding of the Memorandum of Understanding (MOU), and user names and passwords.

1.1. Memorandum of Understanding

E-Verify users must sign an MOU when they register with E-Verify. In addition to signing the MOU themselves, EEAs are required to print and provide their clients with the MOU when the EEA enrolls the client in E-Verify, and clients are required to sign the MOU. Clients were asked whether their EEA explained the MOU, how well they understood the MOU, and who in their company reviewed the MOU.

Almost half of the clients interviewed said that their EEA explained the MOU to them; however, most of the remaining clients did not indicate whether the EEA explained the MOU or did not know whether the EEA had explained it. Out of the 33 clients that responded, 23 said their EEA explained the MOU to them when the EEA registered them in E-Verify, with one client saying "our [EEA] went through our responsibilities." Four clients said their EEA did not explain the MOU to them. Six clients did not know whether the EEA had explained the MOU to them because either the respondent was not the person who handled interactions with the EEA at the time the client hired the EEA for E-Verify services or the respondent was not with the company at that time.

The majority of clients said they understood their responsibilities under the MOU, though a small number said they understood because their company had previously been enrolled in E-Verify on their own. Twenty-seven out of 31 clients that responded reported that they understood their responsibilities under the MOU; seven of these 27 clients had previously been enrolled in E-Verify without an EEA. For example, one client stated: "We already understood our obligation under the MOU because we had already used E-Verify ourselves before we went to the [EEA]." Four clients did not understand their responsibilities under the MOU, saying that even after reading the MOU, they "still found it confusing."

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[14] Two respondents interviewed as EEAs identified themselves as Web Services software developers only (i.e., they sold their software to EEAs and had minimal or no contact with clients). They were excluded from the analyses in this chapter.

Some clients had others in their company (besides the respondent), such as an attorney, review the MOU. Twenty-four out of 49 client respondents said someone else also reviewed the MOU, presumably to help the client understand their company's obligations. Sixteen said that their legal department/attorney reviewed the MOU. Others who reviewed the MOU included the human resources director or administrator (6), the president or vice president (2), manager (1), and payroll personnel (1).[15]

1.2. User Names and Passwords

Clients were asked whether they had user names and passwords for the E-Verify system and, if so, who provided this information to the clients.

Almost all clients said that they did not have a user name and password for E-Verify. Forty-three out of 48 clients said they did not have an E-Verify user name and password; 38 of these 43 clients used a Web Services EEA. Four clients (out of 48) said they had E-Verify user names and passwords from signing up on their own, and that they signed into E-Verify no more than two times a month to check news/updates (2) and check cases (2).

2. DIVISION OF RESPONSIBILITIES

One of the goals of this study was to determine how E-Verify responsibilities are divided between EEAs and their clients. While traditional E-Verify employers are responsible for entering worker information into E-Verify, notifying workers of Tentative Nonconfirmations (TNCs), and updating/resolving cases in the E-Verify system, EEAs and their clients may divide these responsibilities in various ways. EEAs and clients are still required to follow all E-Verify requirements; however, the approach used to implement the E-Verify process differs from EEA to clients, as discussed below.

This section covers the following processes:

- Managing the Form I-9 and related documents;

- Inputting and sending worker information to EEAs;

- Performing other actions;

- Handling TNCs; and

- Handling Final Nonconfirmations (FNCs).

2.1. Managing the Form I-9 and Related Documents

EEAs and clients of EEAs were asked a series of questions about who verified identity and employment documents that were presented by workers with the Form I-9. They were also asked how this information was transferred from clients to EEAs and ultimately entered into E-Verify, and who was responsible for the retention, storage, and dissemination of the I-9 and related E-Verify documents.

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[15] Sum does not add to total number reporting because some respondents provided more than one response.

The majority of EEAs and clients indicated that clients were responsible for examining I-9 documents. As shown in Exhibit V-1, most EEAs reported that their clients were responsible for examining any documents workers provided when completing the Form I-9 (25 out of 32). Six EEAs reported that both the EEA and the clients were responsible for examining documents, and one EEA said that they were responsible for examining documents. Similarly, nearly all clients (47 out of 48) reported that they were responsible for examining documents provided with the Form I-9, with one of these 47 clients saying, "Once we look at [the I-9 documents] and they appear to be valid, we enter the documents into the [EEA's] system." One client reported their EEA alone checked I-9 documents. Both this client and EEA identified the EEA as a professional employer organization (PEO).[16]

Exhibit V-1. Party Responsible for Verifying I-9 Documents as Reported by EEAs and Clients

Party responsible	Number of EEAs reporting the party responsible, by type of EEA		Client companies
	Direct Connect	Web Services	
Client	7	18	47
EEA	1	0	1
Both client and EEA	4	2	0
Total	**12**	**20**	**48**

SOURCES: Interviews of E-Verify Employer Agents and Clients of E-Verify Employer Agents.

The majority of EEAs said that they received copies of I-9 documents (such as a Social Security card, Employment Authorization Document, or Permanent Resident card) from clients. Twenty-one out of 31 EEAs said that their clients sent them copies of I-9 documents. Of these 21 EEAs, 12 EEAs indicated that clients sent copies of documents by fax, e-mail, or mail; seven said that clients uploaded documents to a secure site, and two did not specify how clients sent them copies of documents.

Nearly half of the EEAs said that both EEAs and clients were responsible for the retention, storage, and destruction of E-Verify-related documents. As shown in Exhibit V-2, 15 out of 31 EEAs said the responsibility for retaining, storing, and destroying E-Verify-related documents fell to both the EEA and the client (9 of them were Web Services EEAs). Nine EEAs said that the EEA was responsible for record retention, storage, and destruction, and six EEAs said that the client was responsible.[17]

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[16] Professional employer organizations (PEOs) are companies that enable clients to outsource the management of human resources, employee benefits, payroll, and workers' compensation. A PEO provides integrated services to manage critical human resource responsibilities and employer risks for clients. A PEO delivers these services by establishing and maintaining an employer relationship with the employees at the client's worksite and by contractually assuming certain employer rights, responsibilities, and risks. See *What is a PEO?*, National Association of Professional Employer Organizations (http://www.napeo.org/peoindustry/index.cfm).

[17] One EEA did not know whose responsibility it was to retain, store, and destroy E-Verify-related documents.

Exhibit V-2. Party Responsible for Retaining, Storing, and Destroying E-Verify-Related Documents

| Party responsible | Number of EEAs reporting the party responsible, by type of EEA | | Total |
	Direct Connect	Web Services	
EEA	3	6	**9**
Client	1	5	**6**
Both client and EEA	6	9	**15**
Don't know	1	0	**1**
Total	**11**	**20**	**31**

SOURCE: Interviews of E-Verify Employer Agents.

2.2. Inputting and Sending Worker Information to Employer Agents

The majority of EEAs and clients of EEAs reported sending worker information (Form I-9 and accompanying copies of identity/employment authorization documents) after the worker had been hired. Twenty-five out of 33 EEAs stated that their clients sent worker information after the worker was hired, which is consistent with E-Verify procedures (Exhibit V-3). Almost all clients (43 out of 48) reported that they sent worker information to their EEA after the worker was hired.

Exhibit V-3. When Worker Information is Sent to EEA as Reported by EEAs and Clients

| Timeframe | Number of EEAs reporting time frame, by type of EEA | | Number of clients reporting timeframe |
	Direct Connect	Web Services	
During application process/background investigation	1	1	1
When offer was made	0	0	2
After worker was hired	10	15	43
Unclear	1	5	2
Total	**12**	**21**	**48**

SOURCES: Interviews of E-Verify Employer Agents and of Clients of E-Verify Employer Agents.

A few EEAs reporting that clients sent worker information after the worker was hired noted that if a client had also requested a background investigation for a worker, it was possible that the EEA had the worker information prior to the worker being hired. However, these EEAs stated that they would wait until after a worker was hired to enter the information into E-Verify. For example, one EEA indicated:

> "Because we do a lot of other things, we get a lot of information before we hire a person—we check for past employments, references, criminal records. Once they are hired, they get them to fill the I-9 and ask us to do the E-Verify. We usually have a lot of information ahead of time, not date of hire, but name, Social Security number, date of birth, etc. Because we use this information for other searches."

Some clients had problems sending worker information to EEAs in a timely manner. Some of the clients (nine out of 23) reported they had problems submitting information in a timely manner, most often citing remote or multiple locations as the reason E-Verify processing was delayed. One client further

explained that they "recently had a large acquisition where we had 1,000 employees. Entering information for 1,000 employees in the three-day timeframe was difficult. So, we were unable to enter the information in time but only because of the volume."[18]

Clients of EEAs used several methods to send worker information to their EEAs, though the most common method was entering the information onto the EEA's website. Of the 42 clients that accessed their EEA through Web Services, 39 reported entering I-9 information (e.g., Social Security number and citizenship status) onto the EEA's website (Exhibit V-4). Eight clients that accessed their EEA through Direct Connect e-mailed, faxed, or mailed worker information to their EEA. Most clients (39 out of 49) reported sending worker information from the Form I-9 (or the actual completed Form I-9) to their EEAs, but a few clients said they sent information related to the Form W-4 or the worker's background screening.[19]

Exhibit V-4. Clients' Methods of Sending Worker Information to EEAs

Method	Number of clients reporting method, by type of EEA accessed		
	Accessed EEA through Direct Connect	Accessed EEA through Web Services	Total
EEA website	0	39	**39**
E-mail	3	2	**5**
Fax	4	3	**7**
Mail	1	0	**1**
Unclear	0	1	**1**
Total number of respondents	**7**	**42**	**49**

NOTE: Sum does not add to total number reporting because some respondents provided more than one response.
SOURCE: Interviews of Clients of E-Verify Employer Agents.

2.3.   Performing Other Actions

Clients that used a Web Services EEA mentioned performing other actions on the EEA's website in addition to entering worker information. As discussed in Section 3.2.1, all EEAs interviewed reported they offer other services in addition to E-Verify, such as background investigations, payroll/accounting, and pre-employment hiring services. The majority of clients that used a Web Services EEA (27 out of 42) said they performed other tasks on the EEA's website in addition to entering worker information for E-Verify. Such actions included providing background investigation information (11 out of 27), running reports (5), posting job openings or reviewing job applications (3), and completing Form W-4s (2). Some clients also mentioned performing E-Verify-related actions like managing/closing worker, including TNC cases (16), and printing TNC forms (9).[20]

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[18] Insufficient information was provided to determine if this client properly followed E-Verify procedures for verifying new hires (i.e., whether they completed new I-9s for these new workers), resulting from the company's acquisition. In June 2010, USCIS implemented a new system that is activated when employers transmit E-Verify cases more than three days after the hire date. A drop down box appears requiring a reason for the delay and including a free text field.

[19] Presumably all clients sent information from the Form I-9 (or the Form I-9 itself) to their EEAs, as this information was needed to create a case for the worker in E-Verify.

[20] Sum does not add to total number reporting because some respondents provided more than one response.

Nearly all clients that used a Web Services EEA responded positively when asked about the security and ease of using their EEA's website. Forty of the 41 clients who responded and used a Web Services EEA thought that the EEA's website was secure, citing password restrictions, firewalls, security protocols, and encryption. For example:

> "I know it's very secure because before we implemented we went through lots of testing. Our security people did very thorough testing and security in technology is extremely important to our company because our whole company is based on our technology. So we have top notch security people that went through a very detailed security check and they passed."

A majority of the clients (39 of 41) described the EEA's website as easy to use, although a few clients indicated there were minor issues either when first beginning to use the website or with multiple users:

> "It's easy to use now that we're used to it, although it was a big change from our internal process and took some time to get used to it. We're comfortable with it now."

> "It's very easy to use, but there are little technicalities we struggle with at the store level. When we're managing over 1,000 stores questions come up, but I think it's very easy."

2.4. Handling TNCs

Workers are issued TNCs when the worker information on the Form I-9 that is submitted to E-Verify does not match the information in SSA and/or DHS databases. EEAs and clients were asked a number of questions on the TNC process, including:

- Who was responsible for notifying workers of TNCs;

- How were TNCs communicated;

- What happened if the worker chose to contest or not contest; and

- How were TNC forms transferred to clients.

Clients of EEAs were almost always responsible for notifying workers of TNCs and, in the majority of cases, the clients' contact information appeared on the TNC forms, according to EEAs and clients. As shown in Exhibit V-5, nearly all EEAs (31 out of 33) and clients (44 out of 47) said clients were responsible for notifying workers of TNCs.[21] In addition, when asked whose contact information appears on the TNC forms generated by the E-Verify system, the majority of EEAs (25 out of 33) reported that their clients' contact information appeared on the forms.[22] All 20 Web Services EEAs that responded to this question and half of the Direct Connect EEAs (5 of 10) said that the client's contact information appeared on the forms. The remaining five Direct Connect EEAs said their own contact information was on the TNC forms.

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[21] Three of these 44 clients noted that they had not yet had a worker who received a TNC; however, since clients of EEAs were only included in the sample if they had had workers with TNCs, it is possible that the respondents did not remember receiving a TNC, were not responsible for handling TNCs, or were not with the company when workers had received TNCs.

[22] Three EEAs were unsure of whose contact information was on TNC forms from E-Verify.

Exhibit V-5. Party Responsible for Notifying Workers of TNCs as Reported by EEAs and Clients

Party responsible	Number of EEAs reporting the party responsible, by type of EEA		Number of clients reporting the party responsible
	Direct Connect	Web Services	
Client	12	19	44
EEA	2	0	1
Both client and EEA	0	0	2
Total	**14**	**19**	**47**

SOURCES: Interviews of E-Verify Employer Agents and Clients of E-Verify Employer Agents.

Most clients that used a Web Services EEA downloaded or printed TNC forms from their EEA's website, while clients that used a Direct Connect EEA were sent TNC forms via e-mail or fax from their EEA. When asked about the TNC process, 24 clients using a Web Services EEA reported that when one of their workers was issued a TNC, the client would download or print TNC forms from their EEA's website (Exhibit V-6). Five clients that used a Direct Connect EEA said their EEA e-mailed or faxed TNC forms to them. Two clients indicated they did not receive any TNC forms from their EEA.

Exhibit V-6. Clients' Methods of Receiving TNC Forms From Their EEAs

Method	Number of clients reporting, by type of EEA accessed		Total
	Accessed EEA through Direct Connect	Accessed EEA through Web Services	
EEA website	0	24	**24**
E-mail/fax	5	4	**9**
Did not receive forms from EEA	0	2	**2**
Total	**5**	**30**	**35**

SOURCE: Interviews of Clients of E-Verify Employer Agents.

The majority of EEAs said that they provided clients with the prefilled TNC forms that were generated by the E-Verify system.[23] Twenty-four out of 32 EEAs said that they provided clients with the prefilled TNC forms. There were no differences on this question by type of EEA, indicating that Web Services EEAs incorporated the E-Verify TNC forms into their systems as opposed to using forms they had created. None of the EEAs interviewed had used TNC forms in any languages other than English and Spanish,[24] and only slightly more than half of the EEAs (18 out of 32) were aware that the forms were available in seven languages other than English and Spanish (i.e., Chinese, Korean, Vietnamese, Creole, French, Russian, and Tagalog).

While most EEAs provided clients with TNC forms and some general instruction on how to notify the worker of the TNC, a small number of EEAs mentioned that notifying workers was the client's responsibility and that they could not be sure of exactly how or if the client informed workers of TNCs. When asked about how TNCs were communicated to workers, six out of 33 EEAs made comments such as the following:

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[23] Four EEAs did not know if they provided clients with the TNC forms from the E-Verify system.

[24] Five EEAs did not know if they had used TNC forms in languages other than English and Spanish.

"The general guidance is to do it in person. We give them everything they need to know, but it is impossible to oversee each one."

"[I don't] know. It's end user obligation. [I don't] facilitate distribution of communication."

It was apparent in how clients responded to questions about the notification process and referral process that they viewed them as one rather than two separate processes. The client entered the worker's information (often with the worker present) and received either an employment-authorized finding or a TNC, assuming the worker was a U.S. citizen.[25] If the worker received a TNC, the client was often able to download and print TNC forms at that time, which they provided to the worker. If the worker chose to contest, the client could then download and print the referral form and give it to the worker.

Clients generally followed the same procedures as traditional E-Verify employers when notifying workers of TNCs. Other than the way in which clients received TNC forms, they typically followed the same TNC notification procedures as traditional E-Verify employers, and the procedures did not vary based on how clients accessed their EEA (whether through Direct Connect or Web Services). Clients mentioned that they:

- Explained the TNC to workers and gave them general instructions on how to contest, i.e., how many days to contest, where to go, that they could continue working, etc. (30 out of 49);

- Provided workers with TNC forms (26);

- Informed workers in person (34); and

- Informed workers within one to two days of receiving the TNC (29).

In addition, most clients (40 out of 49) said that when a worker chose not to contest a TNC, the worker either quit or the client terminated the worker's employment. A small number of EEAs (7 out of 33) indicated that their clients either updated workers' cases in the EEA's system or notified them of updates to cases when their workers receive TNCs and do not contest.

2.5. Handling FNCs

When a worker does not resolve a TNC, E-Verify issues an FNC finding. EEAs and clients were asked about their procedures when a worker received an FNC.

The majority of clients said that when a worker received an FNC, the worker either quit or the client terminated the worker's employment. Thirty-eight clients had received an FNC and of those, 27 said that the worker either quit or the client terminated the worker's employment. Of the 11 clients that had not received an FNC, nine were unsure of the proper procedures, and two knew that the worker's employment would have to be terminated. About a third of EEAs (12 out of 33) also mentioned that workers who received an FNC either quit or their employment was terminated by the client.

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[25] If noncitizen cases are not matched automatically, the case is sent for a secondary review of other databases to try to clear it before a TNC is issued, usually within a day.

The FNC process varied slightly among EEAs. Approximately a third of EEAs (12 of 33) mentioned that they specifically notified clients when a worker received an FNC. An equal number of EEAs said that the client informed the EEA of the action they took with the worker who received the FNC (i.e., whether the employer terminated the worker's employment or the employer allowed the worker to continue employment).[26] The EEA then updated the case status in either the E-Verify system or their own Web Services system. Six of the 33 EEAs learned of the client's action with the case through their own Web Services system, and one EEA learned of the client's action through payroll processing.[27]

Similar to their comments about the TNC process, a few EEAs said that handling FNCs was the client's responsibility and there was no way of knowing if the client took the appropriate action. For example, one EEA said:

> "We will give reminders, but we don't see ourselves as enforcers. Unless they bring it to our attention again, we don't take the next step because we're not the police, but we're helping them verify information on their people. What they do with it is their responsibility, not ours."

3.   WORKER RIGHTS

In the following section, workers' rights related to the E-Verify Program are discussed. When two parties are involved in the verification process, certain issues that do not occur when a single company is involved, arise in informing workers of a company's use of E-Verify including protecting worker information, and explaining workers' rights under the E-Verify Program. This section presents information on:

- E-Verify posters;

- Compliance with general E-Verify requirements;

- Adverse actions;

- Protection of information; and

- Workers' understanding of their rights.

3.1.   E-Verify Posters

All E-Verify employers must clearly display the Notice of E-Verify Participation and Right to Work posters in an area that is visible to applicants; if it cannot be displayed, it should be printed and distributed to every job applicant. EEAs are required to provide these posters to their clients, who must then display the posters at their job sites. EEAs and clients were asked questions about the posters and how applicants were typically notified of the clients' participation in E-Verify.

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[26] Clients who allowed workers to continue their employment after receiving an FNC were violating E-Verify requirements, unless they notified USCIS of this decision through E-Verify. Of course, this should not occur very often, but there are situations in which this might be reasonable (e.g., employers that brought a worker into this country under an H1-B visa).

[27] Four EEAs were not sure what happened when a worker received an FNC. Sum does not add to total number reporting because respondents could choose more than one response.

As required by E-Verify, nearly all EEAs provided the E-Verify Participation and Right to Work posters to their clients. Twenty-eight out of 31 EEAs that responded to the question stated they gave their clients the two required posters when the clients began using the EEA's E-Verify services. Only one of these 28 EEAs said that "posters in both English and Spanish are given to the clients. Clients are told that the posters need to be posted where workers are applying for jobs." One EEA said they did not give their clients the two posters, and another did not know whether they provided clients with the E-Verify posters.

Four out of 18 EEAs that responded said that they verified that clients displayed the poster (through visits to their clients' job sites). The remaining 14 EEAs said that the "onus is on the client" to display the poster, although they instruct them to do so. One of the EEAs stated: "[We haven't] done site visits to verify that the posters are actually posted. [We] do send the clients e-mails that are strongly worded saying that it's required."

3.2.   Compliance With General E-Verify Requirements

The majority of EEAs who responded said that they only used E-Verify for newly hired employees (unless the client was a Federal contractor). Twenty-five out of 29 EEAs that responded said they only entered newly hired employees into E-Verify, unless the client was a Federal contractor, in which case existing employees were also possibly entered—an action that is allowed for most Federal contractors. One EEA (out of 29) said that they used E-Verify when a worker's documents had expired, which is against program requirements. Five clients (out of 49) reported verifying the person's work authorization before he/she was hired.

3.3.   Adverse Actions

As discussed in the E-Verify user's manuals, E-Verify requirements prohibit employers from using the Program to discriminate against newly hired employees who receive a TNC finding. Adverse actions that are prohibited include limiting work assignments, training, or issuance of uniforms or equipment, and withholding or reducing pay while the worker is contesting. Clients were asked about adverse actions taken against workers, and EEAs were asked what instruction they gave to clients regarding these actions.

The majority of clients reported that they did not take adverse actions against workers who were going through the contesting process. Thirty-seven out of 42 clients said that they did not take adverse actions, such as limiting work assignments, training, or issuance of uniforms or equipment, or withholding or reducing pay, against workers who were in the process of contesting a TNC. The remaining five clients reported not allowing the person to continue working until the TNC was resolved. Nineteen EEAs (out of 22 that responded) said that they explained to clients that they should not take adverse actions against workers. Two EEAs said they "do not get involved" in how clients handle the TNC process, and one other EEA said that they instructed clients to read the user's manual if they had questions about what they could and could not do while a worker was contesting.

3.4.   Protection of Information

EEAs and clients were asked what measures they undertook to protect worker information related to the verification process.

Respondents cited a variety of ways in which worker information was protected, the most common being that EEAs and clients used a password-protected system (either E-Verify or the EEA system) and that the EEA's and/or client's website or system was secure (e.g., encrypted). As shown in

Exhibit V-7, 18 EEAs (out of 33) said they used a password-protected system, and 12 said they used a secure website or system. Other ways in which EEAs protected information included electronic storage of worker information or forms (9), secure paper storage, such as in a locked cabinet (7), and limited access to worker's information related to E-Verify (3).

Clients reported similar methods of protecting worker information as EEAs: securing paper storage (21 out of 49), limiting access to worker information (19), using a secure website/system (16), and using a password-protected system (10). Some clients said that they put general security policies in place to protect worker information (though they did not elaborate on the policies (4) and that discussions with workers related to E-Verify were held in private (2).

Exhibit V-7. Methods of Protecting Worker Information as Reported by EEAs and Clients

Method	Number of EEAs reporting, by type of EEA		Number of clients reporting, by type of EEA accessed	
	Direct Connect	**Web Services**	**Accessed EEA through Direct Connect**	**Accessed EEA through Web Services**
Password-protected system	11	7	0	10
Secure website/system	8	4	1	15
Secure paper storage	2	5	4	17
Limited access	1	2	3	16
Electronic storage of forms	5	4	0	6
Not sharing passwords	3	6	0	0
Destroying documents	1	2	1	0
Security policies	0	0	0	4
Private discussions with workers	0	0	0	2
Logging out if away from computer	1	0	0	0
Backing data up	0	1	0	0
Other	5	3	1	5
Total number of respondents	**12**	**21**	**7**	**42**

NOTE: Sum does not add to total number reporting because some respondents provided more than one response.
SOURCES: Interviews of E-Verify Employer Agents and of Clients of E-Verify Employer Agents.

3.5 Workers' Understanding of Their Rights

A majority of clients of EEAs reported that they were responsible for explaining to employees their rights under the E-Verify Program. Twenty-five out of 34 clients responding to this question reported they alone were responsible for explaining rights to employees. Three clients said that both the client and the EEA were responsible for explaining rights to employees, one client said that the EEA alone was responsible, and five clients said that neither party was responsible. In a related but separate question, 18 clients that answered this question indicated workers were told by either the client or the EEA that they had the right to:

- Contest a TNC (5);

- Continue working while contesting, not have their pay reduced, and not have their assignments/training limited (i.e., no adverse actions) (3);

- Be notified of the TNC in private (3);

- Be notified that the company was using E-Verify (3); and

- Have the TNC process explained to them (3).

Even though a majority of clients indicated it was their responsibility alone to inform workers of their rights, clients were fairly evenly split regarding whether workers understood their rights under the E-Verify Program and some clients were unable to answer this question from the perspective of their workers. Fourteen clients (out of 48) believed that workers understood their rights well or very well, while 11 thought that workers' understanding was okay but could be better and two thought workers did not understand their rights well at all (Exhibit IV-8). Thirteen clients said they were not sure whether workers understood their rights, which may imply that clients were not informing workers of their rights under the E-Verify Program. Factors that impacted worker understanding of their rights were reportedly whether the worker had read the E-Verify poster, how well the worker spoke English, and if the worker had received a TNC, since it was thought that workers who had received a TNC had a better understanding of their rights.

Exhibit V-8. How Well Workers Understood Their Rights Under the E-Verify Program

Extent of workers' understanding	Number of clients reporting
Very well	5
Well	9
Okay, but could be better	11
Not well at all	2
Depends	8
Don't know	13
Total	**48**

SOURCE: Interviews of Clients of E-Verify Employer Agents.

4. CHALLENGES EEAs AND CLIENTS FACE IN MEETING E-VERIFY REQUIREMENTS AND HOW THEY ARE DIFFERENT FROM OTHER EMPLOYERS

E-Verify requires that I-9 information for all newly hired employees are entered into the system within three business days after the employee begins work for pay. EEAs were asked whether there were challenges in following this requirement for their clients.

The majority of EEAs said that they experienced challenges in following the three-day requirement for entering worker information into E-Verify. Twenty-four out of 32 EEAs reported that there were challenges in meeting the three-day requirement, and most held clients responsible for not meeting the requirement. Of the 24 EEAs reporting challenges, 11 said that clients did not always send worker information on time. One EEA stated, "I can always get it done here within three days, but getting it here takes longer. Sometimes companies send it three days after their hire date, so there is no way we can input all the stuff and do E-Verify in time." Six EEAs said that clients improperly filled out Form I-9s. Other reasons for not meeting the three-day requirement included technical problems with the EEA

system/website or E-Verify (5) and remote hiring locations (2).[28] There were no differences on this question by type of EEA (Direct Connect versus Web Services).

In contrast to what the EEAs experienced in adhering to the three-day rule, the majority of clients interviewed indicated that they were aware of and followed the three-day rule for processing workers through E-Verify, although some of these clients indicated they were not informed of the timeframe by their EEAs. Almost half or less of the clients (26 out of 49)[29] said their EEA had told them to send worker information within three days or less of the worker being hired or starting work. One client said that their EEA had given them a timeframe of five days, which exceeds the time allowed by the program. Seventeen additional clients (out of 49) said their EEA had not given them a timeframe, though nine of these 17 clients indicated they followed the three-day rule (because of either the client's internal policy or they were already aware of the Federal requirement). Five were unsure if their EEA had given them a timeframe.

EEAs and clients face more challenges than other employers in meeting the three-day requirement to verify new hires. The last two E-Verify surveys of users also found that the majority of employers (98 and 96 percent in 2008 and 2010, respectively) reported adhering to the three-day rule. However, some employers in 2008 indicated they faced difficulty verifying workers within three days of hire, especially when verification for several sites was centralized.[30] EEAs and clients face even more challenges in ensuring that clients send/submit I-9 information to EEAs in enough time for EEAs to verify workers within the required time period.

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[28] Sum does not add to total number reporting because some respondents could provide more than one response.

[29] Three clients reported that their EEAs had given them a timeframe of 24 hours, presumably to allow the EEA time to enter the data into E-Verify.

[30] *Findings of the E-Verify Evaluation*, December 2009 and E-Verify Survey of Users report, 2011.

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CHAPTER VI. SATISFACTION WITH E-VERIFY AND USING E-VERIFY EMPLOYER AGENTS

This chapter looks at the satisfaction level of E-Verify Employer Agents (EEAs) and their clients towards the EEA program, specifically:

- What is their overall level of satisfaction?

- What is their satisfaction with various aspects of the Program, including available training options?

- How satisfied are clients with the E-Verify services provided by their EEAs?

- What is the nature of and satisfaction with the communication between EEAs and their clients?

- What are EEAs' and clients' opinions about the certification of EEAs?

- What suggestions do they have for improving the process?[31]

1.   EEA SATISFACTION

1.1.   EEA Satisfaction With the Program and Communication With USCIS

EEAs were satisfied with the Program overall. When asked how well the E-Verify system worked for them as EEAs, the majority responded very well or well (26 of 33), while seven said their experience was fine, but could be better. In this section, the evaluation team supplements the findings with more quotes than other sections of the report to give readers greater insight into EEAs' and clients' experiences and opinions.

The majority of EEAs reported being satisfied or very satisfied with the level and quality of communication received from U.S. Citizenship and Immigration Services (USCIS) about E-Verify. Two-thirds of EEAs (20 of 31) reported being satisfied (13) or very satisfied (7) with the level and quality of communication received from USCIS about E-Verify.

Despite EEAs' satisfaction with the communication received from USCIS about E-Verify, when asked if they would prefer more, less, or about the same amount of information from USCIS, nearly half of EEAs would prefer more frequent communication. Twelve of 25 EEAs requested more frequent correspondence about E-Verify, while 13 were satisfied with the current level of communication. EEAs that wanted more correspondence explained "that would empower me in an easier way to provide and pass along to my customers the information they need." No EEA responded that they received too much communication about E-Verify.

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[31] Two respondents interviewed as EEAs identified themselves as Web Services software developers only (i.e., they sold their software to EEAs and did not interact with clients). They were excluded from the analyses in this chapter unless otherwise noted.

The majority of EEAs said USCIS has been responsive to their questions and answered them both thoroughly and in a timely fashion. Two-thirds of EEAs (17 of 27) said USCIS has been responsive (9) or very responsive (8) to their questions. EEAs that were less pleased, reporting that USCIS could be more responsive (7) or was not responsive at all (1), cited a lack of prompt response, especially to questions sent via e-mail, or explained they needed to reach the second tier operators to have their questions fully addressed.

The majority of EEAs (21 of 28) reported they received adequate notice for changes to the system, although several Web Services EEAs were less satisfied with the timing of notices. Satisfied EEAs explained, "They do a really good job of providing the information."A Web Services EEA agreed, "As long as you are on the web services list, [the contractor] is good about sending out new versions as soon as they are approved."A less satisfied EEA countered, "There's currently no proactive communication to the EEAs; the EEAs have to go into the system to see about any changes. DHS could be a lot more proactive." Additionally, some Web Services EEAs expressed that they were not always given sufficient notification of changes to properly update their systems:

> "There's currently no proactive communication to the EEAs. The EEAs have to go into the system to see about any changes."

> "Communication and planning for Web Services DAs could be better managed. [The contractor responsible for E-Verify operations] is understaffed, and they will sometimes announce outages only the day before they happen. I'd also like fewer E-Verify updates. Having to continually reprogram based on updates to the system is not a good experience."

When asked for their preferred communication mode from USCIS, EEAs overwhelmingly cited e-mail or other electronic correspondence. Twenty-eight of 29 EEAs preferred to receive updates by e-mail.[32] Less popular methods included the USCIS website ("It would be nice if you could find every upcoming change or notice at the EEA interface") (5) and printed newsletters (2).

1.2.   EEA Satisfaction With USCIS Training

EEAS were generally pleased with the EEA training materials provided by USCIS, although they did have some suggestions for improvement or expansion. When asked whether the tutorial and mastery test met their E-Verify training needs, 22 of 27 said their needs were fully met. One EEA said the materials did not meet their needs, and four gave mixed reviews. EEA suggestions for improvement and specific comments included the following:

- Provide more information about Form I-9s and acceptable documents[33] (3 respondents);

- Shorten the publications (3) (e.g., "I think the publications you have out, such as the summary for federal contractors, is a smaller, more digestible handbook that we rely heavily on.");

- Adapt for Web Services EEAs (2) (e.g., "When the newer versions are released, it's not always clear as to what the EEA needs to do from a technical and visual standpoint in order to make the appropriate changes to be able to hook into E-Verify.");

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[32] USCIS is planning to develop a system and policies for transmitting updates and other E-Verify information to employers via e-mail blasts which would supplement, rather than replace, the current broadcast messages.

[33] USCIS offers a webinar on the Form I-9, although the standard curriculum does not include details about specific types of documents.

- Include more detail (1) (e.g., "It's very basic and simple. I might make the initial tutorial more comprehensive and the mastery test more difficult."); and

- Provide more information on legislation (1) (e.g., "It's more designed for how to use the system than how to deal with policies and procedures.").

EEAs also were generally satisfied with the E-Verify user's manual. When asked whether it met their needs, 14 EEAs were satisfied with the user's manual, two were dissatisfied, and one offered a mixed review. Most EEAs that use the manual keep it as a reference for their staff, for example, "it will take DHS this amount of time to get back to you after the query goes through." Respondent suggestions for the user's manual included shortening the document so it could be transmitted electronically to clients and adding instructions for trickier errors that might occur. One EEA noted, "The manual comes off like you're the actual employer, but you're not. It should be more tailored to an EEA." [34]

Most EEAs agreed that it would be beneficial if USCIS offered web-based training targeted to EEAs. Even if they did not believe that they needed additional training, 25 EEAs agreed that USCIS should sponsor training that focused on the EEA perspective, while four did not believe this was necessary. When asked the ideal delivery method for this training, respondents overwhelmingly supported web-based training (20), such as interactive or archived webinars. Fewer EEAs favored training with video (3), printed materials (2), e-mail (1), or face-to-face meetings (1).

There was less unanimity on the ideal content focus of additional training. As shown in Exhibit VI-1, 10 EEAs requested more information on E-Verify requirements and procedures, ranging from basic information ("What's required, Dos and Don'ts" and "DAs for idiots") to detailed resources ("Beef up their materials on the technical end for those who really want the nuts and bolts") and how to handle specific incidents that may arise.

Exhibit VI-1. EEAs Preferred Content for EEA-Specific Training by USCIS

Preferred content area	Number of EEAs suggesting content area
E-Verify requirements and procedures	10
Legal issues (including EEA liability and audits)	5
Federal Acquisition Regulation clause	3
Form I-9 procedures	3
Legislative changes (both state and national)	3
Changes to E-Verify (including Photo Matching)	2
Communicating with clients	2
Issues specific to Web Services EEAs	2
Other	3
Total number of respondents	**25**

NOTE: Sum does not add to total number reporting because some respondents provided more than one response.
SOURCE: Interviews of E-Verify Employer Agents.

Most EEAs reported they were satisfied with the responsibilities of being an EEA. When asked whether the rules regarding their EEA obligations were clear, 25 answered positively, while three EEAs were less certain about the rules.

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[34] At the time of data collection for this study, the most recent version of the USCIS "E-Verify User Manual for Designated Agents" was published in December 2009 (http://www.uscis.gov/USCIS/ E-Verify/E-Verify/E%20Verify%20DA%20User%20Manual_Final_120409.pdf).

2.   CLIENT SATISFACTION WITH EEA SERVICES

Almost all clients were satisfied with the E-Verify services they received from their EEA. Clients that reported being either satisfied (13 of 48) or very satisfied (33) offered the following elaborations:

> "At the very beginning, it was an adjustment that we had to make. As an HR manager, [I know] that if we ever got into a situation where we have to really have somebody take a look at us for an audit or anything like that, I've got everything sitting there in their database…it's a warm and fuzzy feeling as an HR professional. I can go in at any time and pull that stuff up if asked by anyone externally. It's really nice to know that I have that right at my fingertips."

> "We have been able to accomplish so much without having to add extra staff. Our EEA has demonstrated subject matter expertise, and their technology has been very user-friendly and easy for us to use."

> "If there's ever an issue, the EEA has sent the paperwork to the client immediately. The first time we had a Tentative Nonconfirmation (TNC), our EEA helped us understand how to communicate it to the employee and what information was needed."

The two dissatisfied clients explained their EEA had poor customer service (1) or provided insufficient guidance to users (1).

Client satisfaction did not vary between clients that were mandated to use E-Verify and clients that used E-Verify voluntarily. As shown in Exhibit VI-2, equal proportions of both types of clients (22 of 32 mandated clients; 11 of 16 voluntary clients) were very satisfied with the services received from their EEA.

Exhibit VI-2. EEAs' Number of Clients Reporting Satisfaction With Their EEAs' E-Verify Services

Whether use of E-Verify is mandated	Very satisfied	Satisfied	OK, but could be better	Not satisfied at all	Total
Client mandated to use E-Verify	22	9	0	1	**32**
Client not mandated to use E-Verify	11	4	1	0	**16**
Total number of respondents	**33**	**13**	**1**	**1**	**48**

SOURCE: Interviews of Clients of E-Verify Employer Agents.

Almost all clients planned to continue using the services of their EEA. [35] Forty-two of 45 clients intended to continue working with their EEA, and continuing clients were satisfied with the performance of their EEAs:

> "They are experts with E-Verify and the I-9 service center that we use, and they're able to assist us when we have issues. We have a good process as to what we need to do to close out TNCs and how to handle these situations."

> "Doing the electronic I-9s is a really great way to manage the I-9s and a really great way to make sure that we're in compliance and they're done correctly. On paper, there's a lot more room for error [a paper Form I-9 System] than an electronic system that has checking options to make sure everything that needs to be filled out is filled out. With the E-Verify process being kind of seamless with the completion of the I-9, it makes it very user-friendly for us."

Other clients explained that they would continue to work with their EEA because they preferred to delegate E-Verify responsibilities:

> "If we had to do manual data entry on 6,000 cases per year, plus updates and resolving every single case, it would be crazy."

> "It's very reliable and it's what they do for a living, so they're connected with the updates, they have in-house attorneys… they're just so much more updated and so much more sophisticated in that area than I am. We're happy to have them."

3.   NATURE OF AND SATISFACTION WITH COMMUNICATION BETWEEN EEAS AND CLIENTS

EEAs and clients communicated about a variety of topics, most often about technical issues with the EEA's system/website or about TNCs. [36] Six EEAs and 19 clients reported communicating with each other about technical issues with the EEA's system or website (Exhibit VI-3). Ten EEAs and 14 clients discussed TNCs. Clients said that because workers rarely received TNCs, the EEAs would need to "remind [clients] what they need to do." Other topics discussed included changes or updates to E-Verify (15 EEAs and four clients) and the general E-Verify process (how to enter cases, three-day rule, etc.; nine EEAs and six clients).

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[35] Three clients that plan to continue using their EEA mentioned that they are in a co-employer relationship, so the decision is not primarily theirs to make. One client that plans to change their EEA is doing so for reasons unrelated to their E-Verify services.

[36] This includes communication that was initiated by either the EEA or client.

Exhibit VI-3. Topics Discussed by EEAs and Clients

Topic	Number of EEAs reporting topic, by type of EEA		Number of clients reporting topic
	Direct Connect	**Web Services**	
Technical issues	0	6	19
TNCs	3	7	14
Changes/updates to E-Verify	8	7	4
General E-Verify process	4	5	6
Case-specific (other than TNCs)	0	0	12
State/Federal laws	1	5	2
Training	0	2	2
Form I-9s	0	0	4
Other	4	2	7
Total number of respondents	**12**	**21**	**49**

NOTE: Sum does not add to total number reporting because some respondents provided more than one response.
SOURCES: Interviews of E-Verify Employer Agents and Clients of E-Verify Employer Agents.

The most common methods of communication between EEAs and their clients were by e-mail and phone. A majority of EEAs reported that they communicated with their clients most often by e-mail (26 out of 33) and phone (20 out of 33). Clients also indicated that e-mail and phone were the most common ways of talking with their EEAs (e-mail–29 out of 49; phone–38 out of 49). For example, clients were most often notified of changes to E-Verify by e-mail. Eight EEAs mentioned that they communicated with clients by posting messages or bulletins on their system/website. In-person communication was rare, as only six EEAs and one client said that they communicated this way.

The frequency with which EEAs and clients communicated varied, but less than half of respondents said that they communicated at least three to four times a year. As shown in Exhibit VI-4, two EEAs and nine clients communicated weekly, three EEAs and six clients said that they communicated with each other on a monthly basis, while three EEAs and seven clients said that they communicated three to four times a year. Nine clients said they rarely or never talked to their EEA. (All nine were clients that used a Web Services EEA.)

Exhibit VI-4. How Often EEAs and Clients Communicated

Frequency	Number of EEAs reporting frequency, by type of EEA		Number of clients reporting frequency
	Direct Connect	**Web Services**	
Daily	1	2	3
Weekly	1	1	9
Monthly	0	3	6
Three to four times a year	2	1	7
Rarely or never	0	0	9
Depends on whether there are issues, TNCs	1	2	3
Other non-specific times	5	8	4
Total number of respondents	**10**	**17**	**47**

NOTE: Sum does not add to total number reporting because some respondents provided more than one response.
SOURCES: Interviews of E-Verify Employer Agents and Clients of E-Verify Employer Agents.

Nearly all clients asked their EEA questions about E-Verify related to TNC cases or the E-Verify process and the majority said that EEAs answered their questions very well and promptly. Forty out of 48 clients said that they asked their EEA questions about E-Verify, and a majority (27 out of 37) said that their EEA answered their questions very well. Seven clients (out of 37) said that EEAs answered their questions well, and three clients said that their EEA was okay in answering questions, but their response could have been better. (Three clients did not respond to this question.) Slightly more than half of the clients (18 out of 34 that responded to the follow-up question) reported that their EEA answered their questions within 24 hours. Clients' other questions concerned Form I-9s, technical issues, and the federal contractor rule.

Some EEAs said that clients' questions were difficult to answer, in which case the EEA often contacted USCIS for guidance. Fourteen out of 30 EEAs indicated that their clients had asked questions they found difficult to answer. When this occurred, the majority of EEAs (nine out of 14) would "contact the EEA support e-mail or call the customer service center" to get more information. They occasionally referred their clients to attorneys (two out of 14).

Almost half of the clients said that their EEA notified them of changes to E-Verify, but some other clients did not specify who notified them of changes. Twenty out of 45 clients said their EEA told them when there were changes to the E-Verify system. Three clients said someone within their own company, such as a company attorney or the Human Resources department, notified them of changes. Two clients learned of changes from USCIS, two clients from law firms, and one client from another EEA. Seventeen clients did not specify who notified them of changes to the E-Verify system.

Most clients were satisfied with the level and quality of communication they had with their EEA. Twenty clients were satisfied, and 22 were very satisfied with communication with their EEA. They explained:

> "The few questions we've had, they were very quick to answer. They were very clear. If I didn't understand it and asked them to explain it again, they would."

> "There's never a situation that comes up where I'm left unsure what to do. They get back to us within an hour, usually faster, to walk us through or help with questions."

> "We contacted [an executive with our EEA] and said we would appreciate better communication. They realigned the way that they do things, and we actually have a devoted account rep. I know that when I have an issue, I have a direct line to somebody that will respond to me immediately."

A less satisfied client responded, "If they had personnel who speak Spanish [my native language], it would be better for me."

4.   OPINIONS OF EEAS AND CLIENTS ON THE CERTIFICATION OF EEAS

Both EEAs and clients were asked about whether they thought there should be a certification process for becoming an EEA and if so, what kind of process they would recommend.

The majority of EEAs and nearly all clients thought there should be a certification process for becoming an EEA. Nineteen EEAs (out of 32) and 46 clients (out of 49) believed that companies should

be certified before becoming EEAs, with respondents saying that certification would ensure that EEAs were trained, knowledgeable, legitimate, and providing quality service.[37] For example, respondents said:

> "As a client, I would like to know that they have a certain level of certification or certain standards that they have to perform to in order to be [an EEA]." (Client)

> "There are a ton of them out there and I guess you really don't know how many of them really know how to follow the rules and regulations to the letter. If there was some certification, it would just be one more little guarantee." (Client)

> "I think in the future, especially if E-Verify becomes mandatory, it needs to be better monitored. We're very experienced in providing HR software and technology solutions, and we have smart people who have spent the time to really understand E-Verify, but a certification process will be important to ensure quality service." (EEA)

Also, a few clients said that a certification program would ensure that the EEA is compliant with laws and E-Verify procedures, and a few EEAs said that it would give them a competitive advantage. Two clients said they thought EEAs were already certified; one added, "I wasn't aware there were some that weren't certified."

Seven out of 32 EEAs said that they did not think a certification process was necessary. These EEAs thought that the current tutorial and mastery test were adequate (4), and that a certification process may discourage companies from signing up to become EEAs (3). The remaining six EEAs (out of 32) were not sure whether there should be a certification process.

When asked what types of qualifications EEAs should have, several EEAs added companies should pass a test or certification from USCIS, have experience using E-Verify, and have security procedures in place to protect worker information. EEAs said that qualified EEAs should pass a test (similar to the current test; 6 out of 28 EEAs that responded to the question), have experience using the E-Verify system (5 out of 28), and have procedures in place to ensure that "information [is] handled securely." Other common responses EEAs mentioned were they should be knowledgeable about the Form I-9 process (3 out of 28) and be required to complete the EEA-specific tutorial (3).

When asked how a certification process might be helpful to their clients, some EEAs indicated that certification would help clients feel more comfortable about hiring an EEA for their E-Verify needs and would result in more knowledgeable EEAs. Eight out of 16 EEAs said that a certification process would help clients feel more comfortable about hiring another company to complete their E-Verify queries. Four EEAs said that a certification process would help EEAs become more knowledgeable about E-Verify and Form I-9 procedures. One EEA said that it would ensure that both EEAs and clients receive accurate information regarding E-Verify.

The majority of clients also said that a list of certified EEAs would have made it easier for them to locate an EEA. Thirty-five out of 46 clients said that having a list of EEAs that were certified would have

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[37] Three clients out of 49 were unsure of whether there should be a certification process for becoming an EEA.

made it easier to find one.[38] For example, one client said: "It would have been easier for me because I would know that they all are certified, and are therefore all doing it right. When I searched, I'm sure there were a lot of companies that only wanted money, but I had no way to know whether they were using it the way it was supposed to be done." Another client said: "If we have a list to choose from, it takes the research away from you. You can call [an EEA], and if you didn't click with them or didn't feel comfortable, you could always have a backup."

5. PROGRAM CHALLENGES AND CHALLENGES OF WORKING WITH EEAS

EEAs described an assortment of challenges in their role as an EEA, from ensuring clients comply with E-Verify requirements to experiencing difficulties with the client registration process. Eleven EEAs cited clients' compliance as a challenge, reporting that they had difficulty ensuring clients followed E-Verify procedures correctly, such as sending paperwork or entering new hires into the Web Services EEA interface within 3 days; entering workers into E-Verify only after they have been hired; entering all, rather than a selected subset of, new hires into E-Verify; and clearly communicating the TNC process to workers (Exhibit VI-5). Four EEAs had difficulty with client registration if their client had been previously enrolled with E-Verify, either with their own account or as the client of a competing EEA.

Four Web Services EEAs were frustrated by the frequency or inaccurate communication surrounding changes to the E-Verify system, **which they need to apply to their customized software platforms within a set period of time**. One EEA explained, "The biggest challenge is when there are version changes. It's frustrating to understand what the changes are because EEA support says that it's a contractor issue and the contractor says that it's a DHS issue, and you can't get an answer from anyone." As a solution, one Web Services EEA suggested that in addition to receiving an interface control document about changes, they could also receive a document targeted for nontechnical people, for example, describing screens from the end user's point of view.

Exhibit VI-5. EEAs' Challenges

Challenge	Number of EEAs reporting challenge
Ensuring client compliance	11
System changes	5
Client registration	4
Keeping apprised of E-Verify legislation	3
USCIS Help Desk unable to answer questions	2
Entering high volume of new hires	2
E-Verify password requirements	1
Lack of direct contact with workers	1
Tailoring system to client base	1
Other	10
None	6
Total number of respondents	**33**

NOTE: Sum does not add to total number reporting because some respondents provided more than one response.
SOURCE: Interviews of E-Verify Employer Agents.

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[38] Five of these 35 clients noted that they had already been using their EEA for other services when they began using them for E-Verify, but said that a list would have been helpful had they not already had a relationship with their EEA.

Most EEAs resolved nontechnical problems in using E-Verify by contacting USCIS. Twenty-two of 23 EEAs contacted the UCSIC Help Desk or Customer Service Center that resolved their E-Verify problems. Additionally, EEAs worked with their clients to resolve their problems (4), conducted independent research on the matter (3), resolved the challenge internally (3), or consulted the USCIS website (1), their legal council (1), or a professional association (1).

The majority of EEAs did not experience E-Verify system-related problems. Eighteen of 28 EEAs said they did not notice any system or technical problems with the E-Verify system. The few technical problems reported included the system being down for maintenance or over a weekend (3), the system being slow on Mondays (1), and the inability to remove an EEA's contact information from a referral letter (1). One Web Services EEA lamented a lack of cohesion between the technical and legal issues surrounding E-Verify, explaining, "The technologists are building technology and web services to accommodate data transmission, data, and the data flow. There's a big disconnect between how they approach it and people that have more of the legal background and what needs to be done."

The majority of clients reported no challenges in working with their EEA on the E-Verify Program. Thirty-five of 47 clients said they faced no challenges, while clients who faced E-Verify challenges with their EEA described a variety of issues:

- Web Services EEA's system was down (3);

- EEA was unable to answer questions satisfactorily (2)
  (e.g., "They have a limited amount of people that are considered experts in the area");

- Case status was inaccurate in the Web Services EEA's platform (1);

- Language barrier encountered with EEA (EEA not fluent in Spanish) (1);

- Photo Matching was not properly integrated with the EEA platform (1);

- Client was unable to enter rehired workers into the Web Services EEA's platform (1); and

- Client was unable to immediately enter J-1 student visas (1).

6.   SUGGESTIONS FOR IMPROVING THE PROCESS

Most EEAs had no difficulty registering with E-Verify as EEAs, and they consequently had few suggestions for improving the registration process. One EEA suggested reducing the materials they needed to review, and another EEA suggested more clearly labeling which resource materials are targeted to general employers and which are targeted to EEAs. A third EEA recalled that his initial registration was unsuccessful, and the USCIS Customer Service line could only recommend that he complete the registration process again. While that EEA found the registration process to be "the most frustrating and daunting part of the system," he conceded that "my problems reeked of a new process having glitches," rather than a consistent systematic problem.

EEAs offered a variety of suggestions for changing the Memorandum of Understanding (MOU). Recommendations included:

- Allow MOU to be submitted in formats other than TIF files (e.g., PDF) (4);

- Simplify language (2);

- Include specific references to EEAs, clients, and their unique relationship (2);

- Allow users to edit company names, rather than requiring clients submit a new MOU (1);

- Shorten (1);

- Automatically send signed copy of MOUs received (1);

- Add references to Federal contractor rule (1);

- End pre-population of names (1); and

- Emphasize penalties of noncompliance (1).

When asked how USCIS could help support the work of EEAs, all 33 EEAs reacted positively towards a compilation of best practices. One EEA explained, "We like to learn and do things better, so any information that we can glean from other organizations would be great." One EEA thought this proposal was feasible since "USCIS put out a Federal contractor supplement, because there were so many questions. It was the most awesome government-created document I have ever seen; it was thorough and explained every part of the complicated program. Something like that would be extremely welcome."

All EEAs thought a USCIS helpline or resource desk dedicated to EEAs would be beneficial.[39] The 32 EEAs responding to this question explained, "It would be nice to be talking to somebody who is more familiar with the process from our viewpoint."

The majority of EEAs were supportive of there being a list of registered EEAs. Most (23 of 33) EEAs supported USCIS providing a public list of registered EEAs that would be accessible to employers. Some EEAs thought a list would be an unequivocally positive resource that would "bring us business" and "give people a place to go to if they had questions." Others were in favor of a list but believed it would have drawbacks, explaining, "You would know your competition. That's a double-edged sword." Respondents who opposed a list of registered EEAs gave responses ranging from, "I don't think it would be very useful to just have a list out there [of all EEAs without a certification process], because there are schlocky operators out there, and I don't want to be next to them," to "That's an advertisement, and government money shouldn't be used to advertise."

The majority of EEAs supported the development of an EEA network. EEAs (22 of 33) that supported a network explained, "I think that would help people learn the process better, and perhaps solve problems before it ever went up to the government to take care of," and "It might be a way to disseminate best practices information," but acknowledged they were "wary of each other," which might be exacerbated by a network. Disinterested EEAs generally thought an EEA network wouldn't be beneficial to them, because "I'm too busy for that, and I don't think anybody would want to really be involved," though one insisted, "We are private vendors and are in competition; we won't help each other."

EEAs offered their own suggestions of how the E-Verify process could be improved. As shown in Exhibit VI-6, six Web Services EEAs recommended that USCIS better recognize how their needs differ from Direct Connect EEAs and regular users. They recommended that USCIS create training materials

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[39] The two Web Services software developers were included in this analysis.

and frequently asked questions specifically for Web Services EEAs, and clearly communicate relevant changes and promote Web Services EEAs as partners. Five EEAs suggested USCIS provide additional training materials related to E-Verify, such as acceptable Form I-9 documents and consequences of client noncompliance, and increase the training materials relevance to EEAs.

Exhibit VI-6. EEAs' Suggestions for USCIS Support of Improvements to the E-Verify Process

Suggestion	Number of EEAs making suggestion
Special consideration by users for Web Services EEAs	6
Expand training materials	5
Fewer changes to E-Verify system	3
Simplify (I-9 document rules, E-Verify system, TNC process)	3
Accept Help Desk questions via e-mail	2
Create integrated feature for high-volume users to upload and manage cases	2
Improve USCIS Help Desk	2
Promote EEA program	2
Provide webinars for EEAs	2
Revise EEA handbook	2
Other	15
Total number of respondents	**26**

NOTE: Sum does not add to total number reporting because some respondents provided more than one response.
SOURCE: Interviews of E-Verify Employer Agents.

Clients were generally pleased with their experiences and had little advice to USCIS regarding EEAs. Specific suggestions included certifying or otherwise ensuring that advertising EEAs are legitimate companies (3), promptly notifying EEAs of changes to the E-Verify system or programmatic requirements (2), and regulating EEA fees (1). One client asserted that if the USCIS system were as easy to use as their EEAs interface, clients might choose to save money by using E-Verify directly.

Clients offered a wide range of suggestions to companies that are considering using an EEA for their E-Verify needs. Ten interviewed clients cautioned that potential clients ensure EEAs fully understand and comply with E-Verify (Exhibit VI-7). They gave detailed advice, such as, "Ask the prospective EEA what measures they take to make sure their staff is fully aware of all of the laws and the changes to the laws, and that their processes are always extremely up to date."

Six clients cautioned that companies should understand E-Verify requirements before trusting the process to an EEA. Clients explained that understanding the E-Verify process would help new clients choose a compliant EEA and ask informed questions, rather than be wholly dependent on an EEA. "A company needs to understand what E-Verify is about, the process, and why it's done."

Five clients recommended that companies clarify the duties of each party in the EEA/client relationship. They expanded, "Get an idea of exactly how they will communicate with you, how quickly you'll hear back from them, and find out what the process would be if there's a problem or a TNC." Clients also suggested companies clarify the EEA's role in the event of an audit. One client would tell companies to carefully consider whether an EEA is appropriate for their needs. This client acknowledged that they had not personally used E-Verify, but would tell companies considering hiring an EEA to "just do it directly and save some money."

Exhibit VI-7. Clients' Suggestions to Employers Considering Using EEAs

Suggestion	Number of clients making suggestion
EEA is compliant	10
Understand E-Verify	6
Clarify roles and responsibilities	5
EEA integrates E-Verify with other services, e.g., e-recruiting, electronic I-9s	4
EEA provides comprehensive training	4
EEA is affordable	3
EEA is responsive to clients	3
Current clients are satisfied with EEA	2
EEA communicates well with clients	1
EEA handles majority of processes	1
EEA is easy to use	1
EEA plans to continue delivering services	1
Use E-Verify directly, rather than through EEA	1
Total number of respondents	**33**

NOTE: Sum does not add to total number reporting because some respondents provided more than one response.
SOURCE: Interviews of Clients of E-Verify Employer Agents.

The majority of clients in states that mandate the use of E-Verify recommended that companies that are required to use E-Verify hire an EEA. These clients (13 of 17) cited the EEA program as an efficient option that reduces the burden on companies. Two clients explained that their recommendations would depend on companies' circumstances—"If [companies] have a high volume [of new hires], I think it's a godsend"—and one of these clients told companies to closely consider potential EEAs, rather than make a blanket endorsement. Additionally, two clients in mandatory environments recommended that companies consult their attorneys regarding E-Verify compliance and any potential EEAs.

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CHAPTER VII. FINDINGS AND RECOMMENDATIONS

This exploratory case study of E-Verify Employer Agents (EEAs) and their clients was conducted to gain a better understanding of how they work together to implement the E-Verify process and to identify strengths of the program and ways in which the program could be enhanced. Generally, EEAs were satisfied with the E-Verify Program and clients were satisfied with the E-Verify services they received from their EEA. Nevertheless, the responses received from EEAs and clients identify certain areas in which improvements could be made.

This chapter is organized into four categories of findings and related recommendations for each: training, communication, compliance, and certification.

1.   TRAINING

USCIS has been creating materials and training targeted at EEAs and has established solid working relationships with some EEAs. U.S. Citizenship and Immigration Services (USCIS) has recently developed some reference materials that contain the information needed by EEAs and their clients. These materials are the *E-Verify User Manual for E-Verify Employer Agents*, September 2010, and *E-Verify Quick Reference Guide for Employer Agents*, September 2010. It has also established solid working relationships with Web Services EEAs. While current resources for EEAs provide considerable detail on many aspects of the E-Verify process, more materials tailored to EEAs are needed, because in the words of one of the EEAs, "The users' manuals are written … as if we were a direct user."

EEAs would like additional customization of available materials, especially information on E-Verify requirements and procedures. EEAs identified additional information on E-Verify requirements and procedures as their highest priority training topic. For example, the EEA user manual states that EEAs must obtain Form I-9 information from their clients to initiate cases in E-Verify (and that clients must still complete Form I-9s for new workers within three days of hire), but the user manual does not state *how* information should be obtained—through e-mail, mail, fax, or secure website—or whether all of these methods are acceptable. Similarly, there is no specific instruction in either the EEA tutorial or the user manual on how Tentative Nonconfirmation (TNC) forms (including workers' Form I-9 documents in the event the photo-matching step occurs) should be transferred between EEAs and clients, or the extent to which EEAs should explain the TNC process to clients.

Gaps in knowledge about E-Verify requirements were also identified by a minority of clients of EEAs. Clients' suggestions for other employers' considering using EEAs were designed to help other companies gain a solid understanding of the E-Verify process rather than remaining dependent on the EEA. Information needs reported by clients focus on understanding their responsibilities under the MOU in such areas as the following areas:

- The requirement for entering worker information into E-Verify within three days of hire, including the time needed to get the information to the EEA;

- Information on the TNC process, including who is responsible for informing the worker of a TNC, the need to inform workers of TNCs promptly and to explain how to contest a TNC if the worker wishes to do so, and what the worker's rights are while contesting a TNC; and

- Prompt termination of a worker's employment when a Final Nonconfirmation (FNC) is received.

1.1. Recommendations

USCIS should use a multi-pronged approach for addressing the information gaps of some client companies:

- **Revise the EEA manual to tailor it more specifically to EEAs and involve EEAs in the revision process.** More information on the interaction between EEAs and their clients, as well as the responsibilities of both parties, should be included in the revised materials. Involving EEAs in this process will help ensure that the materials meet their specialized needs.

- **USCIS should send an e-mail to all EEAs informing them of resource materials and a separate e-mail to clients of EEAs.** Since some of the issues raised in the interviews of EEAs and their clients indicate that they may not be aware of all the relevant training materials, especially those recently issued, they should be made aware of the existing resources and of relevant new resources as they are produced.

- **USCIS should further expand and formalize its relationships with EEAs and use information from meetings to revise its materials.** Expanded USCIS relationships with EEAs should include Web Services and Direct Connect EEAs of various sizes. It would also make sense to convene a stakeholders' meeting and/or smaller working groups of EEAs and clients to help USCIS further identify their specific information and training needs. USCIS could then develop webinars and other materials to address these needs, which could then be pilot tested by the EEAs.

- **Just-in-time information on how to handle TNCs should be provided to EEA clients.** Since handling TNCs can be challenging for clients who rarely have workers receiving them, the first time a TNC occurs for a particular client, the client should be provided information on this process. This information should also be provided again if there has been a gap of more than three months between TNCs. For instance, a pop-up box and/or an e-mail with a link to USCIS' online video on how to handle TNCs could be generated.

2.   COMMUNICATION

Even though EEAs were generally pleased with the quality and level of communication they received from USCIS, almost half wanted more proactive communication.

Frequent updates requiring new programming are difficult for Web Services EEAs, who stated that they do not always have sufficient time to do the new programming needed to address certain types of changes. In addition, Web Services EEAs reported that they need more reliable technical support when they have questions about the interface control documents.

2.1.   Recommendations

Establish a mechanism for ongoing two-way communication between EEAs and USCIS. Some options include establishing an EEA electronic communication network or, as mentioned above, convening periodic EEA working groups on various topics through the use of an electronic communication system.

Web Services EEAs should be given sufficient advance notice of any E-Verify changes that will require reprogramming. E-mail is the preferred mechanism for providing this information. The e-mail blast capability that USCIS is currently implementing might be a strong candidate for communicating important programming updates to Web Services EEAs. Additionally, USCIS could consider assigning one or two helpdesk staff to handle more complicated technical questions or concerns from EEAs.

3.   COMPLIANCE

3.1.   Review MOU and Require Mini-Tutorials

EEAs offered a variety of suggestions for improving the MOU for clients of EEAs in part to emphasize compliance. EEAs reported having difficulty ensuring that clients correctly followed E-Verify procedures such as sending paperwork or entering new hires into the Web Services EEA interface within three days; entering workers into E-Verify only after they have been hired; entering all, rather than a selected subset of, new hires into E-Verify; and clearly communicating the TNC process to workers.

3.1.1   Recommendations

Continue the periodic review of the MOU for EEAs and clients to ensure the language and responsibilities for compliance are clear and properly emphasized, and pilot-test the revised MOU on a group of clients and EEAs.[40]

Compliance also should be reinforced through a required mini-tutorial (10 to 15 minutes) for Direct Connect EEAs and their clients emphasizing their shared responsibilities.[41] EEAs and clients would be denied access to E-Verify until they successfully completed the mini-tutorials. Additional efforts to help both parties understand E-Verify requirements would include developing webinars and videos targeted for EEAs and clients based on a needs assessment, as discussed above.

3.2.   Extend the Three-Day Rule[42]

Many EEAs reported experiencing difficulty entering information for new workers within the three-day time period. The 2008 study of the E-Verify Program found that companies with centralized verification for several sites had particular difficulty with the three-day rule, even though they were entering the information into E-Verify themselves. The additional step of transferring information from the client employer to the EEA compounds this problem.

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[40] The evaluation team understands that USCIS is preparing a new manual and MOU that will include a liability clause that the EEA can be held liable for failing to train client staff properly on E-Verify.

[41] It is understood that some clients of Web Services EEAs do not have Internet access, so an alternative mechanism for providing tutorials to them would need to be explored.

[42] Changing the three-day rule would need to be done by Congress.

3.2.1. Recommendation

Extend the three-day rule to five days for EEAs and their clients. Changes in employment, such as an increased use of telecommuting, may require additional time for workers to provide their documentation in person. Although expanding the rule to five days would require a change in the implementing legislation, more employers are choosing to outsource E-Verify and other human resources functions, and the work environment is becoming more complex (e.g., use of off-site, temporary, and part-time workers). Therefore, an expansion of the three-day rule would likely improve compliance and make the Program more appealing to all types of employers.

3.3. Encourage Use of Electronic I-9s

Although the study did not specifically ask clients or EEAs about their use of electronic I-9s, many of them reported positive experiences in using the forms in that format. Several clients listed the use of the electronic I-9 as one of the main reasons they chose their current EEA. And several EEAs described it as one of the best ways to help clients complete the forms correctly.

3.3.1. Recommendation

Encourage greater use of electronic Form I-9s to help minimize data entry errors, especially on name and document numbers, through edit checks and on-screen help and instructions.

4. CERTIFY AND DISSEMINATE INFORMATION ABOUT EEAS

4.1. Certify EEAs

The majority of EEAs and nearly all clients thought there should be a certification process for becoming an EEA. In their opinion, certification would provide potential clients with greater confidence that an EEA had been adequately trained, was knowledgeable about the Program, and was legitimate. At the present time, USCIS does not approve, certify, recognize, or authorize any EEA other than verifying that software is in the correct format for electronic transmission to E-Verify. Nevertheless, the website review revealed that some of the interviewed EEAs described the E-Verify services being provided as "federally approved," "certified," "federally recognized," or an "authorized third party." This information is misleading.

4.1.1. Recommendation

A process for certifying EEAs should be established, if feasible from a legal perspective. Similar Federal programs might serve as models for resolving these problems. For example, the new Internal Revenue Service requirement for tax preparers could be tailored to the needs of both USCIS and EEAs.[43] A certification process should include tutorials, mastery tests, and completion of an annual training requirement specifically designed for Web Services and Direct Connect EEAs. EEAs that have passed the mastery test could be given a certification number indicating that they have done so and they would use this number on the materials they submit to USCIS and publicize to potential clients.

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[43] See http://www.irs.gov/taxpros/article/0,,id=221009,00.html, updated March 2011.

4.2. Develop a Public Database of EEAs

The majority of clients said that a list of certified EEAs would have made it easier for them to locate an EEA. Such a list would be helpful in assisting employers to find an EEA meeting their needs.

4.2.1. Recommendation

A searchable public database of EEAs should be established to help companies identify one to use. This database may become increasingly helpful as the E-Verify Program continues to expand and more states and locales mandate its use. It should include EEAs that have registered and passed the mastery test and have, therefore, been approved to serve as an EEA. The list could include the type of services the EEA has been approved to offer. Like the IRS program for tax preparers, the database could be phased in over two to three years, preceded by a pilot.

4.3. Develop a Best Practices Document

All EEAs responded favorably to developing a best practices document describing effective ways in which EEAs and clients should work together.

4.3.1. Recommendation

Until a certification process can be developed, USCIS should compile a best practices document with EEAs and clients that identifies key challenges and highlights effective practices. The document could be updated periodically and disseminated to current and potential EEAs via e-mail and online posting.

5. FUTURE RESEARCH

The evaluation team believes that the following recommendations for future research should be given priority in light of the findings of the case study of EEAs and their clients.

Conduct and evaluate a pilot program for certifying EEAs. The number of employers using EEAs has grown considerably during the past five years and it would be expected to continue to expand as more employers use E-Verify due to state and local requirements. The majority of EEAs and nearly all clients thought there should be a certification process for becoming an EEA. In their opinion, certification would provide potential clients with greater confidence that an EEA had been adequately trained, was knowledgeable about the Program, and was legitimate. As a beginning, USCIS could establish a specialized mastery test and registration process for EEAs, and look to IRS and similar government agencies as models. Whatever approach is used should be pilot tested and evaluated before implementation.

Conduct and evaluate a pilot program of a just-in-time information process on how to handle TNCs. Since handling TNCs can be challenging for clients of Direct Connect EEAs who rarely have workers receiving them, the first time a TNC occurs for a particular client, the client should be provided information on this process. This information should also be provided again if there has been a gap of more than three months between TNCs. For instance, a pop-up box and/or an e-mail with a link to USCIS' online video on how to handle TNCs could be generated. Various approaches could be tested and evaluated, and a determination should be made regarding whether this information was useful and if so, what mechanism(s) for providing the information worked best.

Conduct in-person interviews with Direct Connect EEAs and their clients to learn first-hand about their challenges and experiences interacting with EEAs, identify compliance issues, and determine their level of satisfaction with their EEA and the Program. While a great deal of detailed information was obtained during the case study, these and other topics could be explored further, particularly prior to the development of a survey of EEAs.

Conduct a survey of both Direct Connect and Web Services EEAs to obtain nationally representative data that can be generalized to all EEAs. As more states and local jurisdictions mandate the use of E-Verify, the proportion of employers that hire EEAs is expected to grow substantially. It is, therefore, important to continue to study this population and conduct a national survey of EEAs and their clients. Data from this exploratory case study and the above-mentioned in-person interviews can be used to develop questions and response categories for the survey. The survey topics should cover the main subject areas of this study: use of EEAs, training, compliance, how EEAs and their clients work together to implement the E-Verify process, and satisfaction with E-Verify. The survey could also potentially explore how responses vary by client size, industry, and mandatory or voluntary status.

USCIS should continue its practice of evaluating E-Verify periodically as long as major changes continue to be made. Among other things, these evaluations should look specifically at satisfaction with the new materials and processes implemented and to compare responses of EEAs and their clients with those of other users.

APPENDIX A

DESIGN OF E-VERIFY

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DESIGN OF E-VERIFY

This appendix discusses the E-Verify Program as it existed as of June 2010. For the sake of simplicity, the process described is for "regular employers" that constitute approximately 90 percent of E-Verify users.

1. ENROLLING IN E-VERIFY

The first step toward using the E-Verify Program is to enroll online. During this enrollment process, the employer prints out a copy of a Memorandum of Understanding (MOU) agreeing to adhere to E-Verify program requirements.

Once the employer has signed and submitted the MOU electronically, the employer's program administrator must complete an online tutorial and pass a mastery test before being granted access to the verification system or being able to enroll additional users.[44] All other E-Verify users must also complete the tutorial and pass the mastery test before their user names and passwords will be issued to grant them access to the system.[45] The tutorial covers both how to use the online verification system and the employer's responsibilities under the Program, including the proper ways of handling the various verification outcomes and the need to post a notice of the employer's participation in E-Verify where job applicants can see it.

2. THE FORM I-9 VERIFICATION PROCESS

The starting point for verifying cases under E-Verify is the existing Form I-9 process used by all employers, including those *not* enrolled in E-Verify. When workers are hired, they are required to complete Section 1 of the Form I-9 and provide the employer with documentation of their identity and work-authorization status. Depending on the worker's citizenship or immigration status, a wide variety of documents are acceptable for these purposes. However, when workers present List B and C documents, employers participating in E-Verify may only accept documents from List B that have a photograph. In Section 1 of the Form I-9, the worker records personal information, attests to citizenship status, and signs the form.

The employer completes Section 2 of the form, recording the type of documents presented as proof of identity and work authorization, the document number(s), and any expiration dates on immigration documents. It is mandatory for workers hired by employers participating in E-Verify to provide a Social Security number (SSN) on the Form I-9. After reviewing the documents presented by the worker, the employer records the date of hire. The employer also signs the Form I-9 to certify having examined the documents presented by the worker and finding them to appear valid and to appear to belong to the person presenting them. Under the Form I-9 process, the verification responsibility rests solely with the employer. Depending on the employer's familiarity with various immigration and other documents and skills in the detection of fraudulent identity and employment eligibility documents, a worker without employment authorization may or may not be denied employment; similarly, an employer unfamiliar with

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[44] The program administrator is the person who has responsibility for handling passwords and other administrative tasks related to E-Verify for the employer.

[45] The mastery test consists of 31 multiple-choice and true/false questions about the requirements and correct procedures for using E-Verify. Users must answer 22 questions correctly (71 percent) to pass the test. Once the mastery test has been successfully completed, the employer is granted access to the verification system.

a particular document may erroneously assume that the worker presenting the unfamiliar document is not work authorized.[46]

Finally, employers must retain completed Forms I-9 for all workers for three years after the hire date or one year after the date the worker is terminated, whichever is later. For more detailed information about the Form I-9 process, see the *Handbook for Employers, Instructions for Completing Form I-9.*[47]

3. THE E-VERIFY VERIFICATION PROCESS

This section provides an overview of the E-Verify verification process. The process is presented as a series of phases that cases <u>may</u> go through.[48] Where appropriate, differences between processes for workers claiming to be citizens and those claiming to be noncitizens are specified.

3.1. Phase 1—Data Entry

The first step in the E-Verify process consists of employers' inputting workers' information from the Form I-9 into the E-Verify system.[49] The Form I-9 data entered include the worker's name, date of birth, and SSN; attested citizenship status; Alien or Nonimmigrant Admission Number (for noncitizens); type of document(s) presented with the Form I-9 and certain document numbers; and any document expiration dates for immigration documents. If an immigration document with a photograph is used by the worker for verification purposes, the employer is also required to photocopy it. After the employer electronically submits the information, all cases go to the automatic verification step.

3.2. Phase 2—Automatic Verification

Immediately after the employer submits the Form I-9 information to E-Verify, the E-Verify system automatically sends the information to the Social Security Administration (SSA) to compare the employer-input information against the information in SSA records. The first step of the automatic verification process is the same for all workers—the Form I-9 information is checked against SSA information to determine if a valid SSN was submitted and, if so, if the SSN, name, and date of birth match SSA's records. If the case information and SSA information *are not* consistent, the case is sent to Phase 3 (Pre-Tentative Nonconfirmation check, or Pre-TNC check). If the case information and SSA information *are* consistent, the next step is determining whether Federal records show that the worker has employment authorization. This employment-authorization check differs for workers attesting on the Form I-9 to be citizens and those attesting to be noncitizens.

3.2.1. Workers Attesting to Be Citizens

For workers attesting to be U.S. citizens, the SSA database is checked to determine the worker's citizenship status as recorded in SSA records. If SSA records *can* confirm that the person is a U.S. citizen or permanent legal resident, the E-Verify system issues a finding that the worker is work authorized. If

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[46] The employer is prohibited from asking the worker for additional documentation than provided, assuming that the worker has provided documentation consistent with the Form I-9 process and the documentation appears to be valid and to belong to the worker.

[47] http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=31b3ab0a43b5d010VgnVCM10000048f3d6 a1RCRD&vgnextchannel=7d316c0b4c3bf110VgnVCM1000004718190aRCRD.

[48] A case refers to a specific hiring event, i.e., a query sent by a specific employer to check the employment eligibility of a specific worker at a specific point in time. During the database cleaning process, multiple records for a given case are merged or deleted.

[49] The description here assumes manual data input, which is, by far, the most common input process; however, there are also options available for electronic abstractions from electronic Forms I-9 or employer databases.

SSA records *cannot* confirm U.S. citizenship or permanent legal resident status, E-Verify checks U.S. Citizenship and Immigration Services (USCIS) and Department of State databases[50] to determine whether the worker is a naturalized citizen. If these databases confirm that the worker is a naturalized citizen, the system issues a finding that the worker is work authorized.

If E-Verify issues a finding that the citizen is work authorized, the employer is electronically notified and no further effort on the part of workers, employers, or Federal staff is required other than the requirement that employers close these cases and retain the required verification information with their Form I-9 files. If the E-Verify system cannot confirm work authorization, the case proceeds to Phase 3 (Pre-TNC check).

3.2.2. Workers Attesting to Be Noncitizens

If the worker attests to being a noncitizen on the Form I-9 and his or her SSN, name, and date of birth match SSA's records, the case is sent to USCIS to be electronically checked against the USCIS Verification Information System (VIS) database. The VIS database contains information from several Department of Homeland Security (DHS) databases. If USCIS can confirm that the worker is work authorized and DHS files contain a copy of a document used by the worker that contains a photograph of the worker, the case proceeds to Phase 5 (Photo Matching Tool). If USCIS can confirm that the worker is work authorized but DHS files do not contain a copy of a document used by the worker that contains a photograph of the worker, the employer is immediately notified electronically through the E-Verify system that the worker is authorized to work. If USCIS cannot verify that the worker is employment authorized, the case proceeds to Phase 3 (Pre-TNC check) described below.

3.3. Phase 3—Pre-TNC Check

If the automated match cannot confirm that Form I-9 information is consistent with Federal information and that the worker is employment authorized, the system immediately asks the employer to recheck the data input. This is referred to as a pre-TNC check (see Exhibit I-1). If the employer submits changed information, the revised information is checked, using the same automated procedures described above. The next step immediately following the pre-TNC check may differ for workers attesting on the Form I-9 to be citizens and those attesting to be noncitizens, as described below.

3.3.1. Workers Attesting to Be Citizens

If the employer does not submit changed information or if the changed information still does not permit verification of the worker's employment-authorization status, an SSA Tentative Nonconfirmation (TNC) is issued and the citizen case goes to Phase 6 (TNC).

3.3.2. Workers Attesting to Be Noncitizens

If SSA information and Form I-9 information for a noncitizen are not consistent after the employer has had an opportunity to revise the information input into E-Verify, an SSA TNC is issued to the noncitizen. If the case has already been transferred to USCIS for verification and USCIS cannot confirm work authorization after the employer has had an opportunity to revise the information, E-Verify indicates to the employer that the "verification is in process" and the case is automatically sent to Phase 4 (USCIS Secondary Review).

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[50] U.S. passport data are checked only if the worker presents a U.S. passport.

3.4.   Phase 4—USCIS Secondary Review

The USCIS secondary check is performed by a Management Program Assistant (MPA). The MPA searches DHS databases to determine whether work-authorization status can be confirmed using additional information—a process that typically takes a day or less from receipt of the electronic information to a decision on whether USCIS can confirm work-authorization status without requiring worker action. If the MPA is able to confirm work authorization, the employer is notified that the worker is employment authorized. If the MPA does not have sufficient information to confirm work-authorization status, a TNC is issued and the case proceeds to Phase 6 (TNC).

3.5.   Phase 5—Photo Matching Tool Check

When a case enters the Photo Matching Tool phase, a copy of the DHS document with the photograph is provided electronically to the employer. In cases where the employer finds that the photo on the immigration document matches the photo provided in the E-Verify response, the E-Verify system confirms to the employer that the worker is employment authorized. If the employer finds that the photo on the immigration document presented by the worker does not match the photo provided in the E-Verify response, the case is sent to Phase 6 (TNC).

3.6.   Phase 6—TNC

When neither the automated check or, for noncitizens, a secondary review, is able to confirm that the worker is employment authorized, a TNC is issued. Employers are then required to provide the affected worker with a system-generated written notification of the finding and give the worker the opportunity to contest it. Workers are required to indicate on the written notification whether or not they wish to contest TNC findings and to sign the notification letter. Employers are supposed to retain a copy of the signed notice in the file.

When workers say they do not want to contest the TNC, the case goes directly to Phase 7 (Final Nonconfirmation, or FNC). When workers say they wish to contest TNCs, employers are instructed to record the referral date in E-Verify by selecting the "referral" button. The E-Verify system then provides a referral form that explains the worker's rights and responsibilities during the contesting period and includes case-specific information about how to correct the discrepancy. Workers then have eight Federal working days to contact SSA or USCIS to resolve the discrepancy. If an SSA TNC is issued, workers other than certain naturalized citizens must go to an SSA field office. If a USCIS TNC is issued, the worker is instructed to contact USCIS by telephone and, if requested to do so, fax copies of documents to USCIS.[51] As of May 2008, naturalized citizens who have received an SSA TNC because Federal records could not confirm their citizenship status may either visit an SSA field office or call USCIS to resolve the TNC.

If the worker contacts SSA or USCIS within eight Federal working days but the Federal government cannot resolve the case within 10 Federal working days, SSA or USCIS places the case "in continuance" until it can be resolved. This may happen, for example, when SSA needs to see an original birth certificate to confirm citizenship but the worker needs to request a copy of the birth certificate by mail from the issuing source.

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[51] Although workers are given eight Federal working days to resolve TNCs, in accordance with the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), workers who contact USCIS on the ninth or 10th day after referral may be able to resolve their cases before an FNC is issued.

While the TNC is being contested, employers may not take adverse actions against workers based on the issuance of the TNC. Prohibited adverse actions include not hiring the worker, firing the worker, not allowing the worker to work until the TNC is resolved, delaying training, assigning different work, or reducing pay while contesting.

If the worker successfully resolves the TNC, the employer is informed that the worker is employment authorized. If the worker does not successfully contest the TNC, the case proceeds to Phase 7 (FNC).

3.7.   Phase 7—FNC

If workers indicate they do not wish to contest TNC findings, their cases are classified as Final Nonconfirmations (FNCs). If they indicate they want to contest but do not follow through by contacting SSA or USCIS to correct the discrepancy in their records, their cases are considered "no shows" after 10 Federal working days and FNCs are issued.

When the system issues FNCs, employers then must terminate the employment of these workers to comply with the law. If employers do not terminate the employment of workers who cannot be verified as work authorized, they are required by law to notify USCIS that they are continuing to employ the worker.

The major steps of the E-Verify verification process are illustrated in Exhibits I-1 and I-2.

Exhibit I-1. Verification Process for Persons Attesting to Be U.S. Citizens on Form I-9 [52]
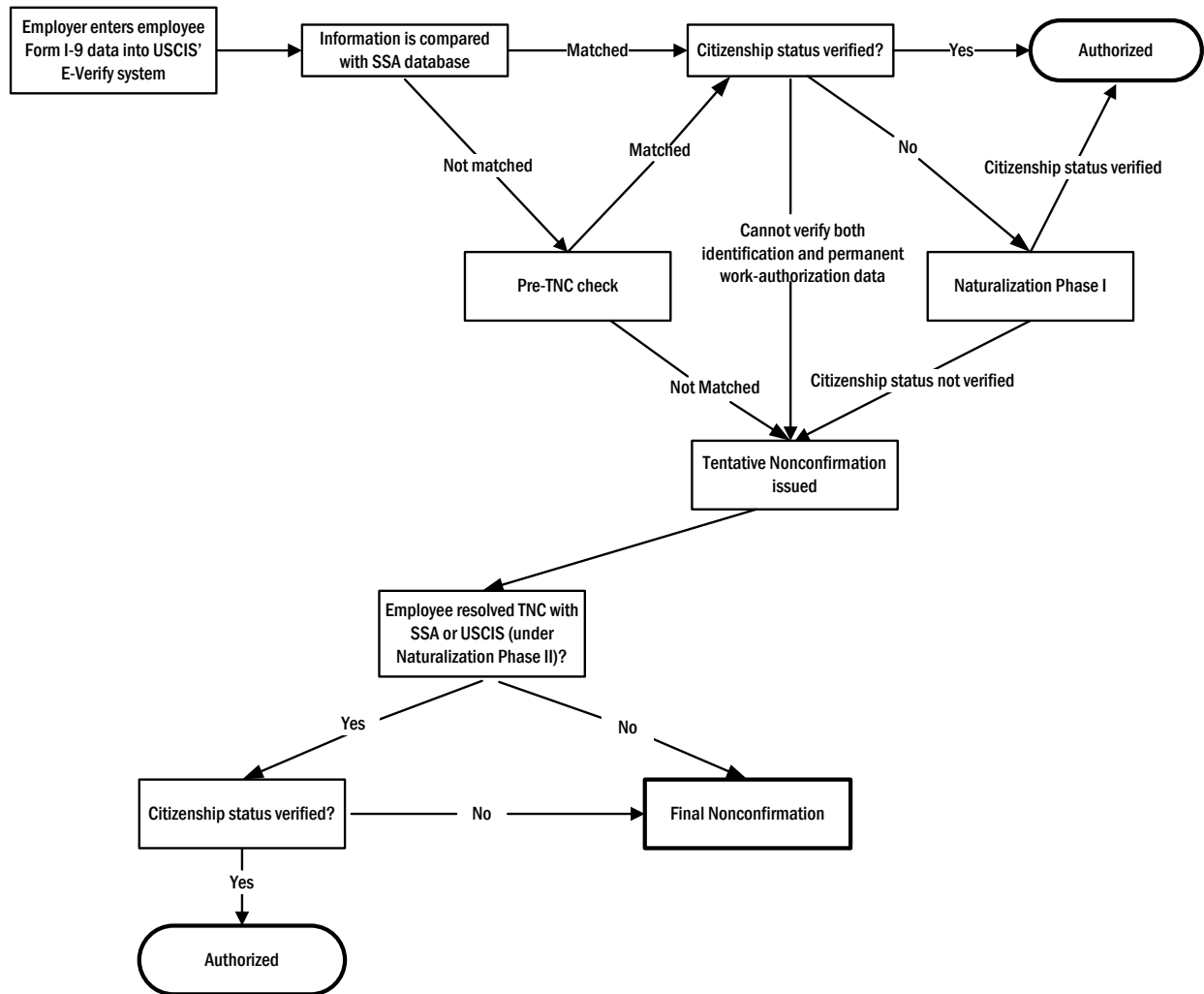
NOTE: This is the process that was in effect on June 30, 2010.

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[52]This chart does not include the passport check.

**Exhibit I-2. Verification Process for Persons Attesting to Be Noncitizens on Form I-9**
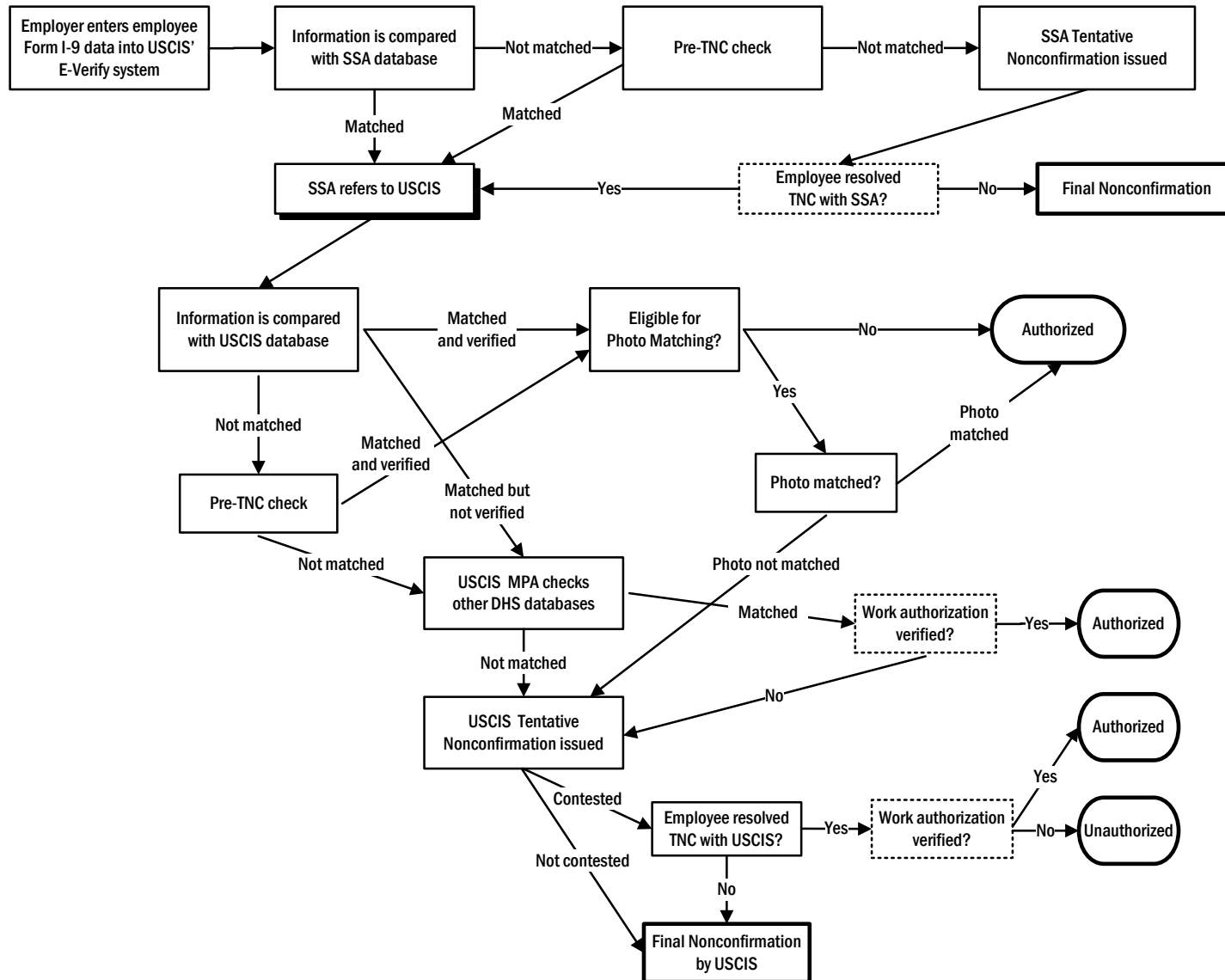
NOTE: This is the process that was in effect on June 30, 2010.

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APPENDIX B

INTERVIEW PROTOCOL FOR DESIGNATED AGENTS
(NOW CALLED E-VERIFY EMPLOYER AGENTS)

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Interview Questions - Designated Agents

INTRODUCTION: Hello, my name is _____. I work for Westat, a social science research company in Rockville, Maryland. I am calling to conduct the interview with you (DAs) on behalf of the U.S. Citizenship and Immigration Services, to better understand how designated agents and clients implement the E-Verify process. We anticipate that the telephone interview will last approximately 60 to 80 minutes. As mentioned in the confirmation letter, Westat has put into place safeguards to help keep confidential all the information that you provide. These safeguards include storing all responses in secured/password-protected files and excluding all identifiable information from study reports that we release to the government. By participating in the interview, you are giving Westat permission to audio-tape the discussion. We also have a note-taker on the call as a backup.

[IF DA IS ALSO A WEB SERVICES DA]: The focus of this interview is on "regular" DA services, that is, making queries for clients, not on Web services.

Do you have any questions before we begin?

First, let's talk about how you advertise your services and the type of services you offer.

1. How do you advertise your E-Verify services? *[Probe on the following, if not mentioned]:*

    - Do you market your E-Verify services to certain industries? Companies of a certain size? What size? Companies in specific geographic states or regions? Which states/regions?

    - What marketing strategies or media do you use (e.g., market only to existing clients, flyers, radio/television/newspaper ads, word-of-mouth, association networking meetings, etc.)?

    - How have your clients learned about your services?

        1a.   Do you have any suggestions for increasing awareness of DA services?

2. Does your company provide other HR or payroll/accounting services to clients? If so, what services do you offer? *[Probe, if not mentioned]:*

    - Payroll or accounting services

    - Management support (What specific services are provided?)

    - Electronic record keeping for I-9 forms and related documents

    - Background investigations

    - Legal expertise (how: in-house; referral; retainer?)

    - Record retention, storage, destruction

    - Other (please specify)

2a.   About what percentage of your clients use your E-Verify services?

3.   How does your company work with clients to administer the E-Verify functions (e.g., do you assign a program administrator to each client? Are clients assigned randomly or based on other characteristics such as size, industry, etc.)?

Motivations for and Costs of Using DAs

Now, let's briefly discuss reasons clients choose to hire a DA and how you charge for your services.

4.   What are the main reasons companies tell you they want to hire a designated agent to perform E-Verify services? *[Probe, if not mentioned]:*

- E-Verify rules/procedures are too complex; the company won't need to learn rules/procedures

- Assures them they are complying with Federal or state laws

- No need to learn how to use the system

- Don't have the appropriate computer equipment

- Don't hire often enough

- Don't have enough staff

- Don't have enough time

- Other (please specify)

5.   What was the main reason your company began offering E-Verify services?

5a.   *[FOR MANDATORY STATES ONLY]:* Did legislation in some states requiring some or all employers to use E-Verify affect your decision to become a DA? Did it affect the timing of your decision?

5b.   *[FOR ALL DAs]:* When did you begin offering E-Verify services—before or after you offered other services?

6.   How do you charge for your services? *[Probe if not mentioned]:*

- Do you charge a flat fee, a fee per transaction, or a combination of these options? Please explain.

    — *[If charge a flat fee, ask]:* Are all your clients charged the same flat fee? If not, what is it based on (e.g., company size, number of other HR services provided)?

                    OR

    — *[If charge per transaction, ask]:* Is the transaction fee the same for all your clients? If not, how does it differ?

- How much do you charge?

Education and Training of DAs and their Staff

We'll now turn our attention to the education and training of your staff relating to E-Verify.

7.   What is the size of your staff? How many of them work on E-Verify services?

8.   What is the typical education and experience of your staff who provide E-Verify services? *[Probe on each of these]:*

   - Specific HR education, experience, and/or certifications (e.g., degrees and/or certifications such as Professional in Human Resources, Senior Professional in Human Resources; years of experience in HR)

   - Legal training/experience (i.e., law degree, paralegal degree or certificate)

   - Other education and training (e.g., degrees in business administration, etc.)

9.   Did you provide the E-Verify tutorial and mastery test? How many have taken it? Who (staff positions) has taken it?

   9a.   Does the tutorial and mastery test meet your E-Verify training needs as a DA? If not, what, if anything, is missing or needs changing?

   9b.   How do you use the E-Verify users' manual? Does it meet your needs? If not, how can it be improved?

10.   Do you offer any other types of Form I-9 and E-Verify-related training to your employees other than USCIS-provided materials? *[If yes, ask]:*

   10a. What does the training cover (e.g., technical steps of how to use the E-Verify system, use of the Form I-9, E-Verify program procedures and requirements, etc.)?

   10b. How is the training delivered (online, written manual, in person, etc.)?

   10c. What staff receive this training—all or only those providing E-Verify services?

11.   Do you think USCIS should offer specific training for designated agents? *[If yes, ask]:*

   11a. What should the content cover?

   11b. What is your preferred delivery method (e.g., web, video, print, combination)?

E-Verify Training Provided to Clients

Next, we'll discuss what, if any, types of E-Verify training are provided to your clients.

12.   What type of training, if any, do you provide to clients that use your E-Verify services? *[Probe, if not mentioned]:*

   - Review of the E-Verify users' manual [*Required by MOU*]

   - Review of the E-Verify tutorial or mastery test content *[Not required by MOU]*

- How to transmit information to your company; use of the Form I-9; TNC notice or referral letters to their workers

- Other training (please describe)

13. Do you develop your own training materials for clients or rely solely on USCIS' materials?

   13a. How much time does this training usually take?

How the E-Verify Process Works

In the next set of questions, we will focus on how you implement the E-Verify process with your clients.

14. *[Ask only if the DA did not provide this info. before the actual interview]:* Do you have any documentation of your processes, especially how you work with clients to conduct queries and share relevant E-Verify forms and letters or other documents (e.g., flow charts, brochures)? May we have a copy?

15. How are E-Verify responsibilities divided between you and your clients?

   15a. Who verifies documents provided on the Form I-9, you or the client?

   15b. Do your clients provide you with copies of the documents? How?

   15c. At what point in the hiring process do your clients typically provide you with worker information (e.g., before or after the employee has been hired, before or after the employee starts work, etc.)?

16. Do you have any difficulty meeting the three-day requirement for initiating an E-Verify query for your clients' new hires/applicants?

   16a. *[If yes, ask]:* Under what circumstances have you not been able to meet this requirement? What did you do?

   16b. *[FOR ALL DAs]:* Are any of your clients temporary/staffing agencies?

17. Have you had an occasion to use the Photo Tool? How has it worked for you? What do you think of it?

18. How is a tentative nonconfirmation (TNC) communicated to the worker? Do you or does the client give the worker the TNC notice and referral letter?

   18a. *[If the client informs the worker, ask]:* How is this typically done (e.g., by e-mail, phone, in person, fax, etc.)? What instructions, if any, do you give the client on how to inform the worker (e.g., to inform in private, to inform about the option to contest, etc.)?

   — How do you know if your client has taken the appropriate action in informing the worker?

   — How long does it typically take your client to inform the worker?

OR

18b. *[If the DA informs the worker, ask]:* How is this typically done (e.g., by e-mail, phone, in person, fax, etc.)? Do you provide workers with any other information on how to contest?

19. Whose name and phone number appear on the TNC notice and referral letter, your company's or your client's?

19a. Are you using the system-generated pre-populated TNC notices and referral letters?

19b. Have you had an occasion to use the TNC notice and referral letter in languages other than English or Spanish?

19c. *[If yes to 19b, ask]:* In what language(s)?

19d. *[If no to 19b, ask]:* Were you aware that these documents were available in other languages?

20. What happens when there is a final nonconfirmation finding? Do you know if the client has taken appropriate action? If so, how?

21. How are workers' civil rights and civil liberties protected?

21a. Do you ask your clients to post or include in the job application materials the right-to-work and E-Verify posters? If yes, how do you know if this is done?

21b. Do you ensure your clients do not take adverse action against workers who receive a TNC? How?

21c. Do you use E-Verify for new hires only, unless your client is a Federal contractor? If not, I-9 information on what types of workers are entered into E-Verify (i.e., existing workers, job applicants)?

22. What measures, if any, do you take to protect worker information? *[Probe, if not mentioned]:*

- Storing of passwords
- Not sharing passwords
- Securing paper records

23. Are you or is the client responsible for the retention, storage, and destruction of E-Verify-related documents? Where are they stored?

Communication Between DA and Client

We're over half finished with the interview, so now we'll talk about communication between you and your clients.

24. Other than routine transmission of cases, what type of communication typically occurs between you and your clients? *[Probe on the following, if not mentioned]:*

- How often are you in contact with your clients about E-Verify?
- Do you communicate only when there are problems with a worker's documents?

- Do you have regular calls/meetings with your clients when there are changes or updates to E-Verify? How often?

- What form does this communication take (i.e., phone, e-mail, in person, etc.)?

25. What are some of the most common questions you receive from clients about E-Verify?

   25a. Are they case-specific questions, content-related questions, or technical questions, or a combination?

   25b. Did they ask any questions you thought were difficult to answer? If so, how have you responded in those situations? Think of the most recent situation in which this arose.

   25c. Has USCIS been able to help you answer any difficult questions? Do you consult an attorney or other expert?

26. Describe any challenges you have experienced as a designated agent. *[Probe if not mentioned]:*

   - Challenges with the designated agent process

   - Problems registering with E-Verify as a designated agent

   - Challenges working with clients

   - Challenges working with workers or ensuring the client handles E-Verify correctly with workers

   26a. How did you handle these challenges?

   26b. What or who has been able to help you with these problems? *[Probe on the following]:*

   — DA notified USCIS technical help desk

   — DA notified USCIS Customer Service Center

   — Both

   — Not sure which number I contacted.

Satisfaction with the E-Verify Program

Finally, I'd like to wrap up by asking you some questions about your satisfaction with the E-Verify and DA programs.

27. Based on your experience, how well does the E-Verify system work for you as a designated agent (i.e., very well, well, OK—could be better, not well at all)?

   27a. Do you think the E-Verify process could be improved for designated agents? How?

   27b. Do you think the E-Verify process could be improved for your clients? How?

28. How satisfied are you with the level and quality of communication you receive from USCIS about E-Verify (i.e., very satisfied, satisfied, OK—could be better, not satisfied at all)? *[If OK or not satisfied at all, ask]:* How could it be improved?

28a. How responsive has USCIS been to your questions (i.e., very responsive, responsive, OK—could be better, not responsive at all)? Are they answered in a timely fashion? Have they answered questions thoroughly?

28b. Are you given enough advance notice regarding changes to the system to adequately integrate them into your procedures?

28c. Would you prefer more, less, or about the same amount of information about E-Verify? What type of communication do you prefer (e-mail, mail, fax, USCIS website, regular newsletters, just timely news or alerts, etc)?

28d. Are the rules regarding the responsibilities of being a designated agent clear to you? If not, what is unclear to you?

29. Do you have any recommendations for:

29a. Improving the designated agent registration process?

29b. Improving the Memorandum of Understanding (MOU) between USCIS and designated agents?

30. Do you feel that there should be a certification process for becoming a designated agent?

[If yes, ask]:

30a. What makes you say yes?

30b. What sort of certification process would you recommend?

30c. What types of qualifications, if any, should a designated agent have?

30d. How would a certification process be helpful to you or to your clients?

OR
[If no, ask]:

30e. What makes you say no? Should any company be able to register as a designated agent?

31. Are there any other ways that USCIS could help support the work of designated agents? *[Probe, if not mentioned]:*

- Provide an online list of registered designated agents in each state

- Provide information on best practices

- Convene a designated agent network

- Establish a designated agent help line or resource desk

- Other types of outreach

32. Have you had any E-Verify system-related problems or concerns? If so, what were they?

33. Is there anything else you would like to share with us about the DA process or E-Verify that we haven't already discussed?

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APPENDIX C

**INTERVIEW PROTOCOL FOR
CLIENTS OF DESIGNATED AGENTS
(NOW CALLED E-VERIFY EMPLOYER AGENTS)**

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Interview Questions – Clients of Designated Agents

INTRODUCTION: Hello, my name is _____. I work for Westat, a social science research company in Rockville, Maryland. I am calling on behalf of the U.S. Citizenship and Immigration Services, to conduct the interview with clients of DAs to better understand how they work with DAs to implement the E-Verify process. We anticipate that the telephone interview will last approximately 60 to 80 minutes. As mentioned in the confirmation letter, Westat has put into place safeguards to help keep confidential all the information that you provide. These safeguards include storing all responses in secured/password-protected files and excluding all identifiable information from study reports files that we release to the government. By participating in the interview, you are giving Westat permission to audio-tape the discussion. We also have a note-taker on the call as a backup.

Do you have any questions before we begin?

First, let's talk about the reasons you decided to hire a DA and how you located your current DA.

1. Had your company ever registered with E-Verify prior to hiring a designated agent? *[If yes, probe]:*

    - What motivated your company to sign up for E-Verify at that time?

    - Did your company take and complete the E-Verify tutorial and/or mastery test? Who (position) took the tutorial and mastery test?

    - Did your company enter any worker cases into E-Verify?

2. What were the main reasons your company decided to hire a designated agent instead of using E-Verify in-house? *[Probe on each, if not mentioned]:*

    - E-Verify rules/procedures are too complex; would not need to learn rules

    - Assures we are complying with Federal or state laws

    - No need to learn how to use the system

    - Don't have the appropriate computer equipment

    - Don't hire often enough

    - Don't have enough staff

    - Don't have enough time

    - Other (please specify)

        2a. What are the advantages of using a designated agent instead of doing verifications in-house?

        2b. Are there any disadvantages to using a DA? What are they?

3. When did you begin using a designated agent? *[month and year]*

   [FOR MANDATORY STATES ONLY]

   3a. *[If company used E-Verify through a DA before they were required to]:* What motivated your company to use E-Verify through a designated agent before you were required by law to use E-Verify?

   OR

   3b. *[If company did NOT use E-Verify through a DA before they were required to]:* Why didn't your company use E-Verify through a designated agent before you were required by law to use E-Verify?

4. How did you locate your designated agent? *[Probe on sources if not mentioned]:*

   - Already using DA for other services

   - Advertisement (where—newspaper, radio, TV?)

   - Referral (from a company, friend or professional organization, other source?)

   - Internet search

   - Professional organization

     4a. How easy was it to find one?

     4b. What criteria, if any, did you have for choosing a DA? Did you have references?

     4c. Did you interview any DAs? How many?

     4d. What made you decide to use this particular DA?

Process for Deciding on a DA and Services Offered/Fees Charged by DA

Next, we have more questions to ask you about the services provided and fees charged by DAs.

5. Does your company use any other human resources (HR) or payroll/accounting services offered by your DA other than E-Verify services? Which ones? *[Probe if not mentioned]:*

   - Payroll or accounting services

   - Management support (What specific services are provided?)

   - Electronic record keeping for I-9 forms and related documents

   - Background investigations

   - Legal expertise (how: in-house; referral; retainer?)

   - Record retention, storage, destruction

   - Other (please specify)

[If answer to question 5 is yes, ask]:

6. How satisfied are you with the services (other than for E-Verify) that your designated agent provides (i.e., very satisfied, satisfied, somewhat satisfied, not satisfied at all)? How long have they been providing these services to your company?

7. When you signed an E-Verify Memorandum of Understanding (MOU) did you understand your responsibilities under the MOU or did your designated agent explain what they were?

   7a. *[If they did not understand what it meant, ask]:* What was it that you did not understand?

   7b. *[FOR ALL CLIENTS]:* Did anyone else on your staff review the MOU? *[Probe]:*

      • Legal department or attorney?

8. On what basis does the DA charge for their services? *[Probe if not mentioned]:*

   • A flat fee

   • A fee per transaction

   • Part of a package of services

   • A combination of the above (Which ones?)

      8a. How much do they charge? Do they charge extra for training and/or training materials?

      8b. How do the charges for E-Verify services compare with costs of other services offered by your DA?

      8c. Do you know how their fees compare with other DAs?

Training on E-Verify

Let's now discuss any E-Verify training you might have received.

9. How would you rate the level of your knowledge about E-Verify (i.e., very knowledgeable, knowledgeable, somewhat knowledgeable, not knowledgeable at all)?

   9a. Do you use any resources other than your DA to increase your knowledge about E-Verify?

10. Has anyone at your company received any training on the E-Verify program from your designated agent?

   10a. Did your DA review the E-Verify users' manual with you? Did anyone at your company read or review it on their own? Who at your company read or reviewed it? *[If the respondent read it, ask]:* Did it meet your needs?

   10b. Did anyone at your company take the USCIS E-Verify tutorial or mastery test? *[Not required by MOU.]* Who *[position]?* *[If the respondent took it, ask]:* How satisfied were you with the tutorial and mastery test (i.e., very satisfied, satisfied, somewhat satisfied, not satisfied at all)? *If somewhat satisfied or not satisfied at all, ask]:* How could it be improved?

[If answer to question 10 is yes, ask 10c and 10d:]

10c. What other type of E-Verify-related training, if any, was offered by your DA? Describe topics covered and who *[position]* received the training. *[Probe on the following]:*

- Which positions were trained?
- Topic: Use of the Form I-9
- Topic: E-Verify rules/procedures
- Topic: Worker rights

10d. How would you describe the quality of the training provided by your DA (i.e. excellent, good, fair, or poor)? *[If fair or poor, ask]:* How could it be improved?

11. Did you participate in the Webinars or any other training provided by USCIS? *[If yes, ask]:*

11a. What type of training?

11b. What was the topic?

11c. How did you hear about it?

11d. How would you describe the quality of the training (i.e., excellent, good, fair, poor)? *[If fair or poor, ask]:* How could it be improved?

12. Has anyone at your company received any training on E-Verify from a source other than USCIS or your designated agent? *[If yes, ask]:*

12a. From what organization? *[Probe if not mentioned]:*

- Trade or professional organization
- Chamber of commerce

12b. What kind of training did you receive?

12c. How would you describe the quality of this training (i.e., excellent, good, fair, or poor)? *[If fair or poor, ask]:* How could it be improved?

13. Is there any information or training on E-Verify that you did not receive from either your designated agent or the state/Federal government that you would like to have received? Please describe.

How the E-Verify Process Works

In the next set of questions, we will focus on how you work with your DA to implement the E-Verify process.

14. Does anyone at your company have an E-Verify user name and password and, if so, who?

[If yes, ask]:

14a. Was the username and password given to you by your designated agent or did you sign up on your own?

14b. How often do you sign into E-Verify? What do you typically do in E-Verify? *[Probe if not mentioned]:*

- Check cases

- Close cases

- Print notices/referral letters/case details, etc.

15. Now let's talk about how E-Verify responsibilities are divided between you and your DA.

15a. Who verifies documents provided on the Form I-9 process, you or the DA?

15b. Do you enter Form I-9 information onto a website or do you mail/fax/e-mail the I-9 or worker information or copies to your designated agent?

15c. What information do you enter/send to your designated agent?

15d. [If they use a website:] Is the website managed by your designated agent? How easy is it to use? How secure is it? Do you do anything else on the website other than enter worker information?

15e. What measures, if any, do you undertake to protect worker information related to the verification process?

15f. At what point in the hiring process do you enter/send workers' information to your designated agent? *[Probe]:*

- During application/hiring process

- AFTER they are hired but before beginning work

- ON or AFTER their first day of work

16. Does your designated agent give you a timeframe for sending or entering worker information from the Form I-9? *[If yes, ask]:*

16a. What do they tell you?

16b. Do you have any problem submitting information to them within this timeframe? If so, what were the circumstances (e.g., broken fax machine at either end, etc.)?

17. How is a tentative nonconfirmation or a TNC (i.e., the worker's information is checked and does not match) communicated to the worker? Does someone from your company inform the worker of the problem or does your designated agent inform the worker?

17a. *[If the client informs the worker, ask]:* How do you do this (e.g., in person, by phone, mail, e-mail, fax, etc.)? What do you tell them? Does your DA send you pre-filled TNC notices and letters for you to give your workers?

<u>**OR**</u>

17b. *[If the DA informs the worker, ask]:* How do they do this (e.g., in person, by phone, mail, email, fax, etc.)? What do they tell them?

17c. *[FOR ALL CLIENTS]:* Do you know how long it typically takes to inform a worker about a TNC?

18. If the worker contests a TNC (i.e., decides to correct the problem), who provides the worker with information on how to contest?

   18a. *[If the client informs the worker, ask]:* How do you do this (e.g., in person, by phone, mail, e-mail, fax, etc.)? What do you tell them about what to do and when?

   OR

   18b. *[If the DA informs the worker, ask]:* How do they do this (e.g., in person, by phone, mail, e-mail, fax, etc.)? What do they tell them about what to do and when?

   18c. *[FOR ALL CLIENTS]:* Do you limit work assignments, training, issuance of uniforms or equipment, or withhold or reduce pay until you are certain they are authorized to work?

19. What happens if a worker chooses NOT to contest a TNC?

20. What happens when there is a final nonconfirmation finding (i.e., worker is not authorized to work)?

21. Did your designated agent offer any choices regarding which of the above services (e.g., communication with the worker about the TNC) would be provided?

22. Do you inform your new employees that you have hired a designated agent who verifies work authorization of your employees? *[If yes, ask]:*

   22a. How do you inform them (e.g., during interview, on application, on job posting, E-Verify posters in the office, etc.)?

23. How well do you think your workers understand their rights under the E-Verify program (i.e., very well, well, OK—could be better, not well at all)?

   23a. Do you or does your DA explain their rights to them? What do you (or the DA) tell them? *[Probe on each, if not mentioned]:*

   - Employee must be told about TNC in private.

   - Employees have the right to contest the TNC and correct their paperwork with Social Security or USCIS.

   - Employer cannot deny or reduce pay, delay or cancel training, or fire employee while they are contesting a TNC.

24. Are you familiar with the Photo Tool? What do you know about it?

25. Are there any other Form I-9 or verification services provided by your DA that we have not discussed? *[Probe if not mentioned]:*

   - Legal consultation

   - Legal representation if company is audited by Immigration and Customs Enforcement

Communication Between Client and DA

We're well over half finished with the interview, so now we'll talk about communication between you and your DA.

26. Now let's talk about the type of communication that typically occurs between you and your designated agent.

   26a. How often are you in contact with your DA about E-Verify? Typically, what type of information is discussed?

   26b. Do you communicate primarily when there are problems with a worker's verification? What form does this communication take (phone, e-mail, in person, etc.)?

   26c. How are you notified of changes to E-Verify?

   26d. How satisfied are you with the level and quality of communication that you have with your designated agent (i.e., very satisfied, satisfied, OK—could be better, not satisfied at all)?

   26e. **[If not satisfied *or could be better]:*** How could the communication be improved?

27. Have you asked your designated agent questions about the E-Verify process?

   27a. *[If yes, ask]:* How well have they answered your questions (i.e., very well, well, OK— could be better, not well at all)? How quickly have they answered your questions?

<div align="center">**OR**</div>

   27b. *[If no, ask]:* Who, if anyone, have you contacted to ask questions about E-Verify? *[Probe on following if not mentioned]:*

   - USCIS

   - E-Verify help line

   - State/Federal government agency

   - Employer groups

   - Others (please specify)

28. Have you encountered any challenges working with your designated agent on the E-Verify program? *[If yes, ask]:*

   28a. What were they? How were they handled?

Satisfaction With DA re E-Verify Services

Finally, I'd like to wrap up by asking you some questions about your satisfaction with the E-Verify services provided by your DA.

29. In general, how satisfied are you with the E-Verify services you receive from your designated agent (i.e., very satisfied, satisfied, somewhat satisfied, not satisfied at all)?

   29a. What makes you say that?

29b. How satisfied are you with the division of labor regarding the E-Verify process between you and your designated agent (i.e., very satisfied, satisfied, somewhat satisfied, not satisfied at all)?

29c. Does your company plan to continue using the services of your designated agent in the future? What makes you say that?

[If no, ask]: Will you look for another designated agent?

30. Based on your experience as a client of a designated agent, what specific suggestions or advice would you offer to employers who are considering using a designated agent for their E-Verify needs?

30a. *[FOR MANDATORY STATES ONLY]:* What specific advice would you offer to other employers whose states might require them to use E-Verify? Would you recommend using a designated agent? Why or why not?

31. What advice, if any, would you offer to USCIS about using designated agents?

32. Do you think designated agents should be certified? What makes you say that? *[If yes, ask]:*

32a. What criteria should be used?

32b. Do you think having a list of certified DAs would have made it easier to locate a DA? In what ways?

33. Do you have any other comments or suggestions you would like to share about DAs or the services they provide?

APPENDIX D

**STATUS OF STATE LEGISLATION RELATED TO E-VERIFY
AS OF OCTOBER 31, 2010**

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Status of State Legislation Related To E-Verify as of October 31, 2010

State[1]	2010 Requirement		
	State employees	State contractors	All employers
Arizona			✔
Arkansas			
Colorado		✔	
Georgia	✔	✔	
Idaho	✔		
Minnesota	✔	✔	
Mississippi			✔
Missouri	✔	✔	
Nebraska	✔	✔	
North Carolina	✔		
Oklahoma	✔	✔	
Pennsylvania			
Rhode Island	✔	✔	
South Carolina			
Tennessee			
Utah	✔	✔	✔
Virginia	✔		

[1] Four states adopted legislation that influences the use of E-Verify without mandating participation: Arkansas' legislation forbids state agencies and contractors from hiring illegal workers. Pennsylvania's legislation forbids state agencies and contractors from hiring illegal workers and provides that E-Verify participation protects public contractor employers from prosecution. South Carolina's legislation requires that contractors and their subcontractors seeking to do business with state agencies must register for E-Verify or only employ workers with a valid South Carolina driver's license or an out-of-state driver's license issued by a state as strict as South Carolina; it also requires all employers with more than 100 employees (and their contractors and subcontractors) to, by July 1, 2009, either use E-Verify or timely and properly complete Form I-9 documents on each employee (which is already required under current Federal law). Tennessee's legislation suspends an employer's business license if they knowingly hire an unauthorized alien and provides that E-Verify participation protects public contractor employers from prosecution.

SOURCE: USCIS, Verification Division, E-Verify State Legislative Updates, October 2010.

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APPENDIX E

GLOSSARY

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Glossary

Alien. Any person who is not a citizen or a national of the United States. Because the term is found objectionable by some people, it is not generally used in this report.

Authorized worker. An individual who is allowed to work legally in the United States. (Also see employment authorized).

Basic Pilot Program. The first of three pilot projects for employment verification mandated by Congress in the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. The Basic Pilot Program is now referred to as E-Verify.

Case. A case consists of one or more Transaction Database records associated with a specific employer and worker for a particular hiring event.

Citizen. A person owing loyalty to the protection of a particular nation state, usually by virtue of birth or naturalization. Generally used in the report to mean a U.S. citizen.

Client of E-Verify Employer Agent. The type of E-Verify access that employers designate for themselves when registering, if they plan to have an E-Verify Employer Agent conduct part of the E-Verify process on their behalf.

Contest. The option available to workers when they receive a Tentative Nonconfirmation (TNC) and disagree with the finding to contact SSA or USCIS to resolve the problem in their records that led to the TNC.

Database. An electronic catalogue of information.

Direct Connect E-Verify Employer Agent. A type of E-Verify Employer Agent that uses the web browser that was built and is maintained by USCIS to process E-Verify cases for a client. (Also see E-Verify Employer Agent.)

Discrimination. Adverse treatment of individuals based on group identity. In employment situations, discrimination is defined as differential treatment based on individual characteristics, such as race or gender, that are unrelated to productivity or performance.

Employment authorized. The designation that a worker is authorized to work in the United States. Persons authorized to work include U.S. citizens and nationals and noncitizens in various employment-authorized statuses. (Also see authorized worker.)

Employment verification. Process of verifying authorization to work in the United States.

E-Verify. E-Verify is the name currently used in referring to the Basic Pilot Program initially authorized in 1996. The Program electronically verifies the employment-authorization status of newly hired employees based on Form I-9 information input by employers.

E-Verify Employer Agent (EEA). An individual or company that processes E-Verify cases on behalf of employers. Formerly known as Designated Agent or DA. (Also see Direct Connect E-Verify Employer Agent and Web Services E-Verify Employer Agent.)

E-Verify users. Employers that are actually using the E-Verify system.

Final Nonconfirmation (FNC). A result on the Transaction Database indicating that the worker's employment authorization was not established because the worker or the employer did not take the necessary action to resolve a Tentative Nonconfirmation (TNC). This result is only issued by the E-Verify system after the employer has been notified of a TNC response and the time the worker has for contesting the finding has elapsed.

Form I-9. The USCIS form employers must use to verify the identity and employment-authorization status of all newly hired employees in the United States. The form was developed following passage of the Immigration Reform and Control Act of 1986.

Fraudulent documents. Identity and/or employment-authorization documents that are counterfeit or are legitimate but have been altered to change the identifying information or images to represent another person.

Hire date. According to the USCIS website, "The earliest the employer may initiate a query is after an individual accepts an offer of employment and after the employee and employer complete the Form I-9. The employer must initiate the query no later than the end of three business days after the new hire's actual start date."

Illegal alien. A noncitizen who has not been lawfully admitted to the United States or who has, after a lawful admission, violated the terms of his or her lawful admission, usually by working or staying longer than authorized. (Also see undocumented immigrant.)

Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA). A major immigration law enacted on September 30, 1996. Among other things, IIRIRA mandated that the then Immigration and Naturalization Service conduct and evaluate three pilot electronic employment verification programs, including the Basic Pilot Program now called E-Verify.

Immigrant. A noncitizen who has been granted lawful permanent residence in the United States. Immigrants either obtain immigrant visas at consular offices overseas or, if a visa number is immediately available or unnecessary, adjust status at USCIS offices in the United States. (Also see lawful permanent resident.)

Instantly verified. A term to indicate that the worker is verified almost immediately as work authorized based on the automatic E-Verify checks without the need for human intervention.

Lawful permanent resident (LPR). A noncitizen who has been admitted as a legal permanent resident of the United States. A "Green card" holder. (Also see immigrant.)

Legal Arizona Workers Act (LAWA). LAWA, 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 Program to verify the employment authorization of all new employees hired after December 31, 2007.

Management Program Assistants (MPAs). The group of USCIS field office staff that verify immigration status for benefit and licensing agencies and E-Verify employers. One of their functions is to verify the status of individuals receiving a Tentative Nonconfirmation from USCIS. Formerly known as Immigration Status Verifiers or ISVs.

Memorandum of Understanding (MOU). A signed document in which an employer choosing to participate in E-Verify agrees to abide by the provisions of E-Verify and that specifies USCIS and SSA's provision of certain materials and services.

New hire. According to USCIS, for E-Verify purposes a new hire is a person who has been offered and accepted a job offer. (Also see hire date.)

No show. A result on the Transaction Database indicating that a worker referred to SSA or USCIS to resolve a Tentative Nonconfirmation (TNC) did not contact the appropriate agency to resolve the TNC within the allotted timeframe.

Nonimmigrant. A noncitizen admitted to the United States with a nonimmigrant visa or under the nonimmigrant visa waiver program for a specified temporary purpose and time period. Common examples are tourists, students, temporary workers, and foreign government officials.

Notice of Tentative Nonconfirmation. The printed form an employer provides notifying a worker that a Tentative Nonconfirmation (TNC) has been issued by the verification system and informing the worker of his or her rights and responsibilities with respect to resolving the TNC. The worker must sign the form, indicating whether he or she wishes to contest the finding.

Photo Matching (Photo Tool). Photo Matching permits employers to compare photographs on worker documents with digital photographs stored in government systems to detect existing valid documents that have been altered to include a new photograph or that are counterfeit documents that have been created with valid information but have a photograph not belonging to the individual whose valid information is being used. The only documents currently available in Photo Matching are Permanent Resident ("green") cards, Employment Authorization Documents (EADs), and U.S. passports.

Prescreen. To evaluate the employment-authorization status of an individual before hiring him or her. This practice is prohibited by E-Verify.

Professional employer organizations (PEOs). Companies that enable clients to cost-effectively outsource their management of human resources, employee benefits, payroll, and workers' compensation. A PEO provides integrated services to effectively manage critical human resource responsibilities and employer risks for clients by establishing and maintaining an employer relationship with the workers at the client's worksite and contractually assuming certain employer rights, responsibilities, and risk.

Query. The action of keying information and accessing the verification database to verify employment eligibility. A single employment case may involve multiple queries. (Also see case.)

Referral letter. The official notice an employer provides to a worker who wishes to contest a Tentative Nonconfirmation finding in the verification process. It explains what procedures the worker must take to resolve his or her case.

Sampling frame. The list from which a sample is selected.

Social Security Service Representative. Service representatives at SSA who provide assistance by answering a wide variety of questions by interviewing the individual, investigating the situation, and resolving the problem. This includes assistance to workers with Tentative Nonconfirmation notices.

Stakeholders. Individuals and organizations with an interest in a program or issue.

Target population. The individuals or groups of interest to a study.

Tentative Nonconfirmation (TNC) (of work authorization). The initial response from E-Verify when a worker's employment authorization cannot be immediately confirmed. There are many possible reasons that a worker may receive a TNC, ranging from employer keying errors to a worker's lack of employment authorization.

Transaction Database. The administrative database that captures all E-Verify transactions by employers, SSA, and USCIS.

U.S. citizen. An individual who is born in the United States or attains U.S. citizenship by being born abroad to at least one U.S citizen parent, by being naturalized, or by deriving citizenship following his or her parents' naturalization.

Unauthorized employment. Employment of workers without work authorization. (Also see unauthorized worker.)

Unauthorized finding. An E-Verify finding that is issued by USCIS for workers who contest a Tentative Nonconfirmation and are not found to be authorized to work in the United States.

Unauthorized worker. A noncitizen who does not have legal permission to work in the United States because of his or her immigration status or because he or she has applied and been found ineligible for work authorization. This category includes unauthorized workers who are in the country legally (e.g., visitors) but do not have authorization to work in the United States. (Also see undocumented immigrant.)

Undocumented immigrant. A noncitizen who does not have permission to enter or reside in the United States. (Also see illegal alien.)

Unintentional discrimination. Discrimination against a protected group that occurs as a result of someone's actions without an intent to discriminate. For example, since foreign-born workers with employment authorization are more likely to receive erroneous Tentative Nonconfirmations (TNCs) than U.S.-born workers, adverse actions of an employer, such as refusing to employ workers receiving TNCs, disproportionately hurts foreign-born workers and is considered unintentional discrimination.

Verification. A process by which a case is entered into E-Verify for determination of work-authorization status.

Web Services E-Verify Employer Agent. A type of E-Verify Employer Agent that builds and maintains its own interface with the E-Verify Program. The compatibility of the software the Web Services E-Verify Employer Agent wishes to use must be reviewed by the USCIS contractor responsible for system operations prior to use to ensure it is compatible with the E-Verify Program interface. (Also see E-Verify Employer Agent.)