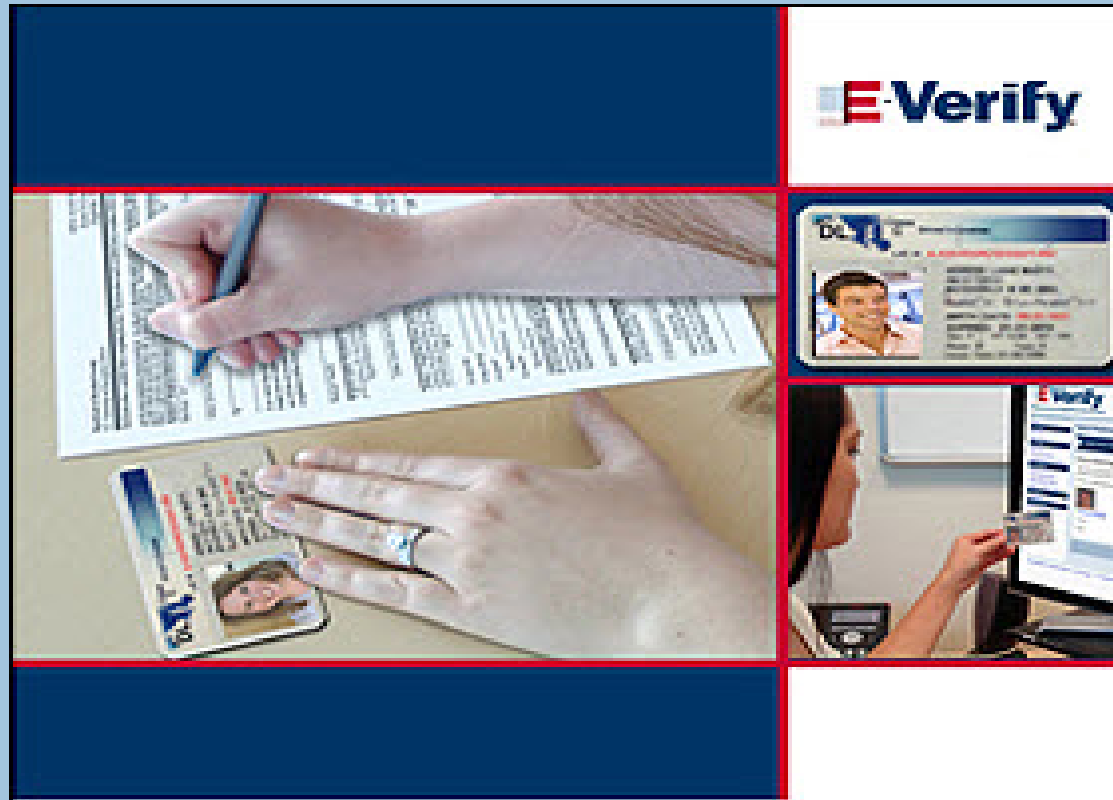


# What is E-Verify and how does it work?



# What is E-Verify



## What is E-Verify?

No cost Internet based system

Fast and easy to use

Electronically verifies the employment eligibility of

- Newly hired employees
- Existing employees assigned to work on a qualifying federal contract

Partnership between the **U.S. Department of Homeland Security** and the **Social Security Administration**



# What E-Verify is NOT



## What is E-Verify?

**E-Verify is not...**

- ...a system that provides immigration status.**
- ...used for prescreening.**
- ...a safe harbor from worksite enforcement.**

# Form I-9 and E-Verify



## Form I-9 and E-Verify

- **Form I-9 and E-Verify work together.**
- **Information from the Form I-9 is entered into E-Verify.**
- **You must continue to update Form I-9 as required and reverify employment authorization even if you use E-Verify.**
- **Make sure to use the most current version of the Form I-9 (Rev. 02/02/09 or 08/07/09 Exp. 08/31/2012).**



## Form I-9 and E-Verify

- Form I-9 must include the employee's social security number before the case can be created in E-Verify.
- If employee chooses to present a List B document, it must contain a photograph.
- For additional information relating to Form I-9 see the *M-274 Employer's Handbook* at <http://www.uscis.gov/files/form/m-274.pdf>.





## Employment Eligibility Verification

Welcome  
Jason Goodman

User ID  
JG006407

Last Login  
02:35 PM - 03/15/2010

[Log Out](#)



- Home
- My Cases**
- New Case
- View Cases
- My Profile**
- Edit Profile
- Change Password
- Change Security Questions
- My Company**
- Add New User
- View Existing Users
- Edit Company Profile
- Close Company Account
- My Reports**
- View Reports
- My Resources**
- View Essential Resources
- Take Tutorial
- View User Manual
- Contact Us

### Verify Employee

Employee Name  
Lin, Su

Case Verification Number  
2010074160135AM

[View/Print Case Details](#)

Enter Form I-9 Information

Verification Results

Close Case

### Photo Matching

Does the photograph below match the photograph on the Permanent Resident Card or Alien Registration Receipt Card (Form I-551) provided by the employee? [?](#)

NOTE: A watermark has been added to prevent unauthorized use of the photograph below.



[Click to Enlarge](#)

Yes

No

[Continue](#)



## An E-Verify case

Initial verification results will be:

**Employment  
Authorized**

The employee is  
authorized to work.

**SSA Tentative  
Nonconfirmation**

There is an  
information  
mismatch.

**DHS Verification  
in Process**

DHS will usually  
respond within 24 hours  
with either:

**Employment  
Authorized**

or

**DHS Tentative  
Nonconfirmation.**



## Handling a TNC

- **Inform** the employee of the TNC.
- **Print** the TNC Notice and **review** it with the employee.

**CONTEST**

**Refer** employee to appropriate agency.

**NOT  
CONTEST**

You may terminate the employee and close the case in E-Verify.



## Handling a TNC

- The employee has **eight federal government workdays** from the referral date to visit or call the appropriate agency and resolve the discrepancy.
- The **employee continues to work** during the TNC resolution process.
- During the TNC process, **DO NOT** take any adverse action against the employee.



## Handling a TNC

Once the employee resolves the record discrepancy, he or she should inform you.

You should check E-Verify periodically for one of the following responses:

**Employment Authorized**

**Review and Update Employee Data**

**Case in Continuance**

**DHS Verification in Process**

**DHS No Show**

**Final Nonconfirmation**



## How to enroll

Go to [www.dhs.gov/E-Verify](http://www.dhs.gov/E-Verify)  
Under **Start Here** click **Enroll in E-Verify**

A screenshot of the E-Verify website homepage. The page is titled 'U.S. Citizenship and Immigration Services' and 'E-Verify'. It features a navigation menu with categories like 'FORMS', 'NEWS', 'RESOURCES', 'LAWS', 'OUTREACH', and 'ABOUT US'. A 'Start Here' section is highlighted with a red box, containing links for 'Enroll in E-Verify', 'Log in to E-Verify', 'Sign up for a Webinar', 'Contact E-Verify', and 'What's New'. Other sections include 'Other USCIS Links', 'Multimedia', and 'Add Our RSS Feed'. The page also includes a search bar, a printer-friendly option, and a 'Last updated' date of 05/03/2010.

# After You Enroll in E-Verify



## When to verify

You must enter Form I-9 information into E-Verify for all newly hired employees **no later than the third business day after the employees' start date.**



## Posters

**This Employer Participates in E-Verify**

This employer will provide the Social Security Administration (SSA) and its partner, the Department of Homeland Security (DHS), with information that will help them determine if you are authorized to work in the United States.

**NOTICE**  
Federal law requires all employers to verify the identity and employment eligibility of all persons hired to work in the United States.

**Employment Verification.** **It's the way.**

For more information on E-Verify, please contact DHS at: **1-888-464-4218**

**IF YOU HAVE THE RIGHT TO WORK, Don't let anyone take it away.**

If you have a legal right to work in the United States, there are laws to protect your legal status in the workplace.

**You should know that —**  
No employer can deny you a job or fire you because of your national origin or other legal status.

If your employer denies you a job or fires you because of your national origin or other legal status, you may have a claim under the law.

If you believe that your employer has violated the law, you should contact the EEOC for assistance in your own language.

Call 1-800-255-7688, TDD for the hearing impaired at 1-800-255-7557.

U.S. Department of Justice Civil Rights Division

Office of Special Counsel for Immigration-Related Unfair Employment Practices



## Employer responsibilities

- Unless you are a *federal contractor whose contract contains the FAR E-Verify Clause* you can only use E-Verify to verify new hires.
- Once you begin using E-Verify, you must verify new employees **no later than the third business day** after the employee begins working for pay.
- You must apply E-Verify procedures to **ALL new hires**, regardless of citizenship status.



## **Top E-Verify Dos**

- Promptly provide and review with the employee the notice of tentative nonconfirmation (TNC).
- Promptly provide the referral notice from SSA or DHS to the employee who chooses to contest a TNC.
- Allow an employee who is contesting a TNC to continue to work.
- Contact E-Verify if you believe a final nonconfirmation (FNC) has been issued in error.
- Accept any Form I-9 List B document with a photo from an employee who chooses to provide a List B document.



**Employer Hotline 1-800-255-8155**

**Employee Hotline 1-800-255-7688**

**Office of Special Counsel for Immigration Related Unfair Employment Practices**



## **Top E-Verify Don'ts**

- Do not use E-Verify to pre-screen employment applicants unless you are a State Workforce Agency.
- Do not influence or coerce an employee's decision whether to contest a TNC.
- Do not terminate or take adverse action against an employee who is contesting a TNC.
- Do not ask an employee to provide additional documentation of his or her employment eligibility after obtaining a TNC for that employee.
- Do not request specific documents in order to activate E-Verify photo matching.

**Employer Hotline 1-800-255-8155**



**Employee Hotline 1-800-255-7688**

**Office of Special Counsel for Immigration Related Unfair Employment Practices**



## Contact Information

**Customer Support: (888) 464-4218**

**E-Verify E-Mail: [E-Verify@dhs.gov](mailto:E-Verify@dhs.gov)**

**E-Verify Website: [www.dhs.gov/E-Verify](http://www.dhs.gov/E-Verify)**

# E-Verify Audit Triggers



- **Untimely E-Verify Queries**
- **Multiple E-Verify Queries**
- **“Trying out” different names in E-Verify**
- **No follow up of TNC**
- **Fraudulent use of Alien numbers (A-numbers)**
- **Improper terminations based on TNC**
- **Continued employment after receipt of FNC**
- **Inconsistent verification of “wrong” category of individuals**

# E-Verify CTMS Audits



- Compliance Tracking and Management System (CTMS):
  - **Collects and uses information to support monitoring and compliance activities**
    - **Information will be retained for 10 years or longer**
- CTMS information will be shared with ICE, as well as the Office of Special Counsel in the Civil Rights Division at the Department of Justice
  - **Focus is directed to the system users, not individuals being verified**
  - **Information obtained is confidential, but released upon “legal necessity”**
- Per MOU wide discretion and authority to investigate
- Remedies
  - **Suspension or Debarment from E-Verify**
  - **Additional compliance and training requirements**
  - **Referral to OSC at Department of Justice**
  - **Referral to ICE**



## 1. External Audit of I-9 Compliance Completed by Experienced Auditor

- **Audit I-9 Forms**
  - Assess potential liability and perform recommended remediation
- **Compliance Program Audit**
  - Discrimination and Unfair Employer Practices
- **Civil and Criminal Liability Audit**
  - Document Review
  - Other suspect patterns
- **Flow Down Audit**

# What We've Seen in I-9 Internal Audits



- Completed by untrained personnel
- Limited Audit – misses critical elements to demonstrate good faith
- Improper I-9 Corrections
  - Use of “expired” or outdated I-9 forms
  - Backdating
  - Employer completion/correction of Section 1
  - Improper correction of Section 2
  - Use of white-out for corrections
  - Confusing notations on I-9’s or attached “audit results” sheets
- Improper re-verification of authorized aliens
- Lack of thorough follow up on audit findings



2. Establish and implement I-9 / E-Verify process standard operating procedures that provide guidance and show good faith compliance with applicable laws:
  - **Immigration Policy Statement**
  - **Proper Completion of Form I-9**
    - To copy or not to copy ID/EAD documents
    - Updating and Re-verification of Employment Authorization
    - Document Review Standards
  - **Dealing with Discrepancy Notices**
  - **Proper retention and destruction of records**
  - **Discrimination issues**
  - **E-Verify**
  - **Flow Down Controls**



## 3. Sign Up and Begin Using E-Verify

- Determine if you will sign up directly or through Designated Agent
- Are you thinking of going paperless?
  - Conduct due diligence with experienced counsel in the selection of Electronic I-9/E-Verify Vendor
  - Choosing to go paperless is not as easy as just scanning everything.
  - This is technically and legally complex.
  - Reliance on marketing materials of even well established vendors can be a costly mistake.



## 4. Implement Flow Down Controls

# Workforce Questions



- If you **know** your employee is not authorized to work in the U.S., you must terminate the employment
- Once an alien enters the U.S. illegally, the avenues for obtaining work authorization are very limited
  - **Most likely there is no avenue available for obtaining work authorization or legalizing status in U.S.**
  - **Process may take many years, 12-20 years not uncommon**



- Limited to 66,000 annual visas
- Nonagricultural employment which is seasonal, intermittent, a peak load need, or a one-time occurrence. The job must be temporary in nature and the need is for one year or less. The employer's need may not be ongoing or continuous.
  - *Step 1: Employer Submits Temporary Labor Certification Application to the Department of Labor.*
  - *Step 2: Employer Submits Form I-129 to USCIS.*
  - *Step 3: Prospective Workers Outside the United States Apply for Visa and/or Admission*
- USCIS may grant H-2B classification usually for no longer than one (1) year. The maximum period of stay is three (3) years.
- Multiple and complex compliance requirements
  - Including notification to USCIS within 2 days if employee terminates, absconds, is a no-show, etc.
- Regulated by USCIS and Dept. of Labor and Dept. of State

# H-2A Visa Program

- Temporary agricultural jobs for which U.S. workers are not available
  - **Step 1: Employer Submits Temporary Labor Certification Application to the U.S. Department of Labor.**
  - **Step 2: Employer Submits a Form I-129 to USCIS.**
  - **Step 3: Prospective Workers Outside the United States Apply for Visa and/or Admission.**
- To qualify for H-2A nonimmigrant classification:
  - **Job offered must be of a temporary or seasonal nature**
  - **Employer must demonstrate that there are not sufficient U.S. workers who are able, willing, qualified, and available to do the temporary work**
  - **Employer must show that the employment of H-2A workers will not adversely affect the wages and working conditions of similarly employed U.S. workers**
- Multiple and complex compliance requirements
- Regulated by USCIS and Dept. of Labor and Dept. of State

**Thank You!**



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